

**CEW**

DEDICATED NEWSLETTER

## CBD Claims – What Brands Can Legally Say in This Hazy New Zone

CBD and hemp products are arguably the “it” ingredients of 2019. As The Benchmarking Company reported in part 1 of its September 2019 Beauty by the Numbers Infographic series, 25% of U.S. beauty consumers<sup>1</sup> have used CBD-based beauty products as of August 2019, up 7% from six months earlier in February 2019, when that figure was 19%.

In fact, the U.S. market for hemp-derived CBD in skincare is expected to reach \$7 billion by 2023, according to *Hemp Industry Daily*. Independent brands and beauty industry giants are scrambling to include these ingredients in every format from isolate, to full spectrum, to broad spectrum CBD in every imaginable product.



<sup>[1]</sup> From The Benchmarking Company's primary research study of 7,500+ US females, conducted online.

### MAKING CLAIMS FOR CBD

The Benchmarking Company's consumer in-home use testing (I-HUT) methodology for consumer claims and risk mitigation has become the bedrock for brands looking to carve out their place in the robust beauty market, while providing insights that can help to avoid multi-million dollar mistakes.

But what about claims for beauty products containing hemp and CBD?

“Consumers are looking for proof points that these ingredients work,” says Denise Herich, co-founder and managing partner at The Benchmarking Company. “Given that many clinical laboratories don’t test products with these ingredients, brands will need to look to I-HUTs as their source for independent third-party testing and proof of efficacy.”

Brand managers often have questions about the *types* of claims they can garner from an I-HUT with brands containing these ingredients.

The answers, however, are surprisingly straightforward. According to Herich, “If the product containing CBD or hemp oils is classified as a cosmetic, it will have cosmetic claims. Period.”

The question about claims becomes complicated due to CBD’s *other perceived* benefits: relaxation, calming, a feeling of well-being, pain relief, and even healing. In The Benchmarking Company’s August consumer study, 58% of consumers believe a skincare product containing a cannabis-derived ingredient will reduce irritation and 68% say it will soothe sore muscles.

“Those are no-no words as it relates to cosmetics claims,” says Herich. “Although there may be evidence of those types of benefits when applying these cosmetics, these aren’t claims that a brand can use because they’re medical in nature. Otherwise, they’re inviting regulatory warning letters and possibly fines.”

But what about testimonials from consumers?

There may be times when consumers leave a testimonial for the brand saying that the product “healed” them or other medical-related claims. “We tell our brands that this is a nice-to-know bit of information, but you cannot use it on your website or anywhere else. When anything appears on your site stating a medical claim for a cosmetic product, you’re asking for regulators like the FDA, NAD and FTC to come down on you.”

## HOW CBD-BASED CLAIMS TESTING IS DIFFERENT

Jennifer Stansbury, Benchmarking Company co-founder and managing partner explains that there are some nuances involved in testing CBD beauty products compared to others.

“When we test cannabidiol beauty products, we require a Certificate of Analysis that shows the products contain less than 0.3% THC,” explains Stansbury. “This is a standard requirement that tells us this product is not a Schedule 1 drug, and is a requirement shared by most shippers such as UPS. And, as with all of our skincare tests, for example, we’ll also need to know that the products have gone through RIPT and stability testing, so they’re safe for human subjects.”

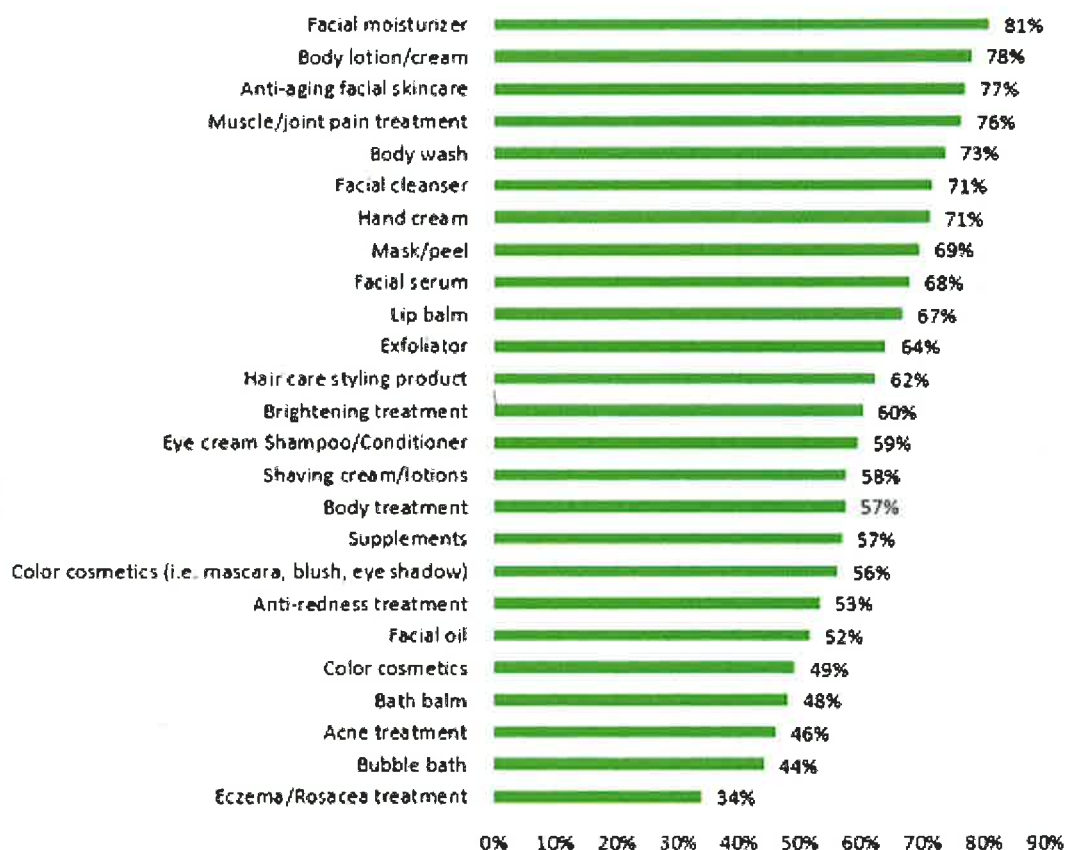
The Benchmarking Company has been testing a growing number of CBD-based beauty and personal care products for claims, including facial moisturizers, eye creams, masks, lip conditioners, scrubs, and hair products, says Stansbury. “Consumers are rating claims from the products just as high, if not higher, than products used without these ingredients.”

The Benchmarking Company participated in a panel discussion at Cosmoprof this summer, along with Ronie Schmelz, Esq., of Tucker Ellis, LLC, who suggested the following best practices for brands selling CBD-based beauty products:

- Work with reputable vendors. Demand appropriate documentation and a contract for indemnification. Get the seed-to-serum supply claim documentation.
- Test your finished products for CBD/THC levels; THC must be under 0.3%.
- Work with a consumer I-HUT company, like The Benchmarking Company, to garner claims that are not structure/function/medical in nature.

“With consumers, it’s all about proof,” says Stansbury. “CBD-based beauty products will continue to flourish if they work! Our testing can prove that to would-be buyers.”

### CBD-based Products that Consumers Want to Try



**Figure 1. Consumers who don't currently buy CBD-based beauty are curious to try them. Data from The Benchmarking Company's August 2019 study.**

## CBD & Beauty – Part 1

CBD is today's superstar beauty ingredient and with good reason. Powerful, intriguing, and continuing to make a mainstream splash with consumers, cannabis-based beauty products are everywhere. But CBD beauty is still not totally understood by consumers, and misperceptions abound. Find out what more than 7,000 US beauty consumers think of CBD beauty and its benefits, where they shop and for what, and how CBD beauty is becoming more mainstream in our two-part series.



### Usage is blossoming, up 7% in previous 6 months

	February 2019	August 2019
Have used cannabis or CBD based beauty	18%	25%

### Non-users are curious

- **68%** don't currently use cannabis or CBD based products but are willing to try
- **45%** of non-users are more willing to try CBD products now than a year ago. Why?
  - **49%** there is adequate proof they are safe
  - **47%** products are becoming more mainstream
  - **47%** evidence that CBD based products will work to solve my beauty/ personal care needs

### S/he's been using CBD Beauty for

- **34%** last 6 months
- **28%** 6 months – 1 year
- **20%** 1-2 years
- **3%** - early adopters, longer than 10 years



### Why s/he digs CBD beauty

- **61%** medical value is well-documented
- **58%** potent ingredient that will address my cosmetic concerns
- **57%** hemp/cannabis is a 'good for you' ingredient
- **50%** safe for sensitive skin
- **46%** chock full of vitamins & minerals



For more information on how The Benchmarking Company can help garner winning claims, contact [jenn@benchmarkingcompany.com](mailto:jenn@benchmarkingcompany.com) or [denise@benchmarkingcompany.com](mailto:denise@benchmarkingcompany.com).

To download part 1 of the Beauty by the Numbers Infographic series on CBD Beauty, or to sign up to receive part 2, please [click here](#).