Direct Selling’s Future: Implementation of the Direct Selling Self-Regulatory Council

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The Advertising Industry’s Self-Regulatory System

• 1971 – The self-regulatory system formed as a response to consumer activists pushing for increased government regulation of the advertising industry

• Three major advertising trade associations along with the Council of Better Business Bureaus created the system
Today...

• FTC points to the portfolio of self-regulation programs administered by BBB National Programs (“BBB NP”) as an example of successful industry self-regulation in America
• BBB NP are leaders in developing, managing and enforcing self-regulatory programs for other industries.
• The BBB NP roster includes:
  • The National Advertising Division
  • The Children Advertising Review Unit
  • BBB Auto Line
  • The Electronic Retailing Self Regulation Program
  • Interest Based Advertising Accountability Program
  • Children’s Food and Beverage Advertising Initiative
  • EU Privacy Shield
  • Coalition for Better Ads
  • **The Direct Selling Self Regulatory Council**
What are Self-Regulation’s Benefits?

1. Prompt, flexible, and responsive
2. Adaptable
3. Increase compliance/helps level the playing field
4. Process and outcomes can be flexible to market
5. Increases confidence
Why Enhanced Self-Regulation for the Direct Selling Industry?

• Marketplace conditions:
  – FTC enforcement actions
  – Increased number of industry critics
  – Increasing risks arising from social media
• Cure real and perceived issues
• Elevate direct selling’s reputation
• Respond to the FTC recommendations regarding strong self-regulation enforcement
• Product Claims and Earnings Claims
What?

A new program
Building on DSA’s commitment to self-regulation

Fundamentals:
- Monitoring of products and earnings claims
- Engagement with the Company
- Corrections if needed
- Reporting of results
What is new—"Revolutionary"

• Monitoring by credible third-party
• Applicable to BOTH DSA members and non-members
• Incorporates Federal Trade Commission (FTC) input
Hallmarks of Effective Self-Regulation

- Objective standard of review
- Independent
- Transparent
- Accountable
- Support by industry
- Applicable to members and non-members
DSSRC Goals & Procedures

• Improve/restore consumer confidence in direct selling advertising

• Provide a quick and efficient mechanism for reviewing direct selling advertising claims with an emphasis on social media platforms

• Independent Monitoring

• Demonstrate to the regulatory agencies the direct selling industry’s commitment to meaningful and effective self-regulation
Issues & Claims

• Product Claims
• Earnings Claims (Express and Implied)
• Testimonials/Endorsements
• Before and After Depiction
• Health and Safety
• Disclosures

“Quit your job, replace your income”

“The Clinically Proven Weight Loss Supplement!”

“I Earned $35,000 After The First 60 Days”

“The #1 Doctor Recommended Joint Supplement”

“The World’s Fastest Weight Loss Solution”

“Part Time Work, Full Time Pay”

“Within 7 days my acne completely disappeared!”
Standards of the Program

• Truthful and substantiated product performance claims and earning claims

• Standards are rooted in statutes, regulation, judicial precedent, self-regulatory decisions of the National Advertising Division, the Electronic Retailing Self-Regulation Program, the DSA Code of Ethics and the BBB Code of Advertising
Jurisdiction of the Program

- Independent monitoring of the direct selling marketplace
- Matters referred by the DSA Code Administrator based on a pattern and practice of complaints identified, or pursuant to media reports, or matters identified by consumers
- Matters raised by competitor challenges
- Inquiries received from distributors, customers and other users of direct selling companies products or services
- Complaints from Better Business Bureaus directed to DS SRC
Independent Monitoring

- Review of direct selling companies and their salesforces of all available content including websites and social media. There will be focus on issues that appear to constitute a pattern.

- Problematic content will be identified for companies with the opportunity for the company to address issues.

- Companies who do not agree on corrective measures, ignore the entity or do not participate will be referred to law enforcement.
Challenges

• Companies can challenge the income representations and/or product claims of competitor companies with a submission addressing the content with reasonable level of specificity.

• Company is given opportunity to address content and the DSSRC issues a decision which is then reported (so long as it has not been appealed).

• DSSRC reserves right to reject the complaint as overly broad, if a party publicizes the case, if the matter is the subject of litigation or if the content has been withdrawn.
Case Decisions

- Case decisions which are completed after challenges or unresolved monitoring inquiries will include a summary of the claims at issue, a summary of each party’s position, an analysis of the issues and a statement indicating whether a party complied or was unresponsive.

- The company submits a response indicating whether it:
  1. Agrees to comply with DSSRC’s recommendations
  2. Will not comply with DSSRC’s recommendations
  3. Will appeal all or part of DSSRC’s decision

- Direct selling company will have an opportunity to review decision before it is posted.

- Case Reports will be available on a subscription basis for $550 (free of charge to DSA members).
Appeals

• Any party to a DS-SRC matter may appeal a DS-SRC Decision

• The Appellate Panel:
  – One member chosen by DSA
  – One member chosen by BBB NP
  – One member mutually chosen by DSA and CBBB
Reporting Aspects

• Resolved matters from monitoring are not reported

• What is Reported?
  – Unresolved matters, or a pattern of non-compliance from monitoring are reported
  – Referrals to government agencies are reported
  – Competitive challenge decisions are reported
Press Release

• Cannot locate direct selling company
• Direct selling company refuses to participate
• Direct selling company does not adhere to DSSRC recommendations
• After appeal
THANK YOU

Questions?

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