

The Direct Selling Self-Regulatory Council  
(DSSRC)

A division of BBB National Programs, Inc.

# 2019 Year-End Report

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## **I. Purpose & Scope**

On January 9, 2019, the BBB National Programs (f/k/a Council of Better Business Bureaus, Inc.) and the Direct Selling Association (DSA) announced the creation of a new, third-party, self-regulatory program called the Direct Selling Self-Regulatory Council (DSSRC) that is funded by DSA. DSSRC was established to monitor claims disseminated by the entire United States direct selling industry and its review of such claims is based upon the following principles:

- clear industry standards on product and earning claims;
- incorporation of best practices from other successful self-regulatory models;
- creation of a process that proactively monitors and enforces program standards, with particular emphasis on monitoring social media platforms used by company's salesforce members as well as the websites and social media channels of the direct selling company; and
- implementation of measures to improve the advertising and marketing practices for both DSA members and the entire direct selling industry.

Among other objectives, DSSRC strives to:

- enhance consumer confidence in the direct-selling industry;
- offer the industry a fast and efficient forum for review of express and implied earning and product claims in advertising and marketing;
- discourage advertising and marketing in the direct-selling industry that contains unsubstantiated claims or that conflict with Section 5 of the Federal Trade Commission Act and/or the DSA Code of Ethics; and
- demonstrate to the Federal Trade Commission (FTC) and other governmental regulatory or legislative bodies the strong commitment of the industry to effective self-regulation

## **II. DSSRC Policies & Procedures**

In the first quarter of 2019, DSSRC published a codified set of policies and procedures designed to establish a process for review of income claims (including lifestyle representations) and product claims (including services) made by direct selling companies and their salesforces to ensure the accuracy and adequate substantiation of those claims. These Policies & Procedures aim to promptly resolve DSSRC inquiries ideally within sixty (60) business days.

## **III. Ongoing Industry Education**

In an effort to familiarize the direct selling industry with this new self-regulation program, the DSSRC participated in a number of in-person meetings with direct selling companies throughout 2019. In addition, DSSRC presented several webinars about the DSSRC program and self-regulation generally and spoke at a number of industry conferences about the program. Moreover, since January 2019, the DSSRC staff engaged in telephone conferences with numerous direct selling companies, met in-person with eleven (11) direct selling companies, prepared and presented webinars designed for DSA members, non-DSA members; the New York City Bar Association, the American Bar Association and several local Better Business Bureaus.

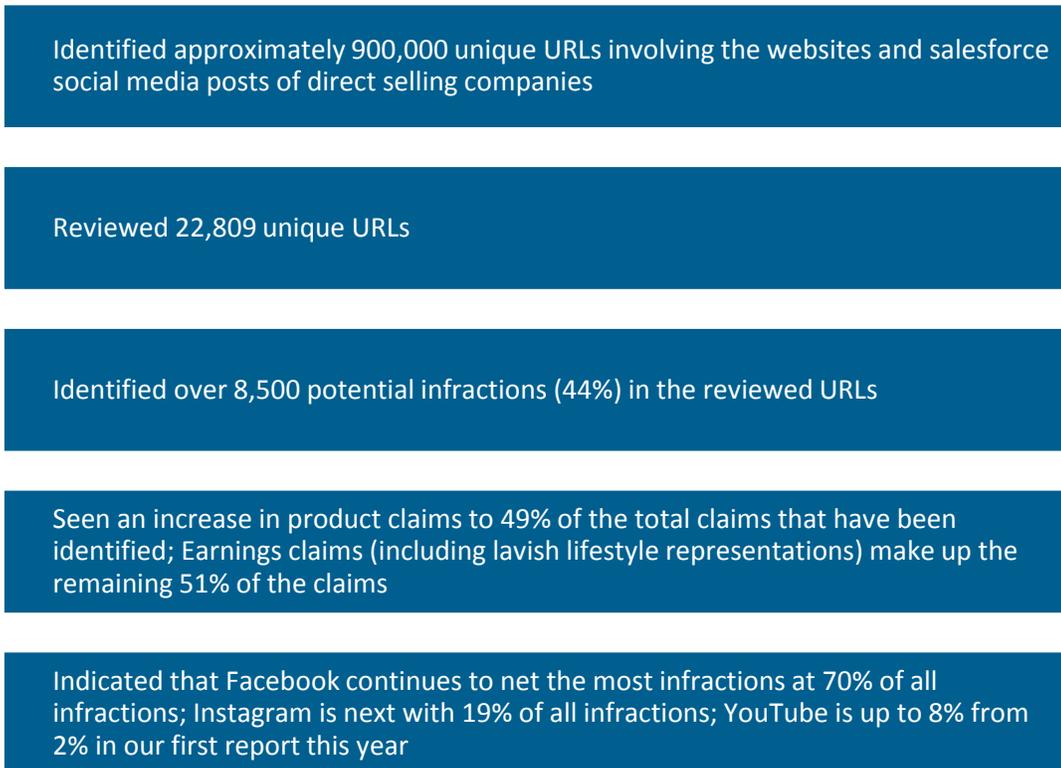
As part of its educational efforts, the DSSRC staff spoke at the at a number of events during the first twelve (12) months of 2019 including the DSA Companies In Focus event in Salt Lake City, the Direct Selling Legal and Compliance Summit; the SUCCESS Partners University, the 10<sup>th</sup> Annual Direct Selling News Global 100 Celebration, the National Advertising Division (NAD) West Coast Conference, the Conference of Western Attorney Generals (CWAG), the 2019 DSA Annual Conference and the 2019 DSA Legal and Regulatory Conference.

DSSRC has also been the subject of interviews by the Direct Selling News and Social Selling News and has been covered in online articles from a number of industry and legal professionals. In May 2019, DSA President Joe Mariano and BBB NP Executive VP for Policy and Program Development Lee Peeler were featured on a Facebook-Live broadcast to discuss the DSSRC.

#### **IV. DSSRC Monitoring**

The DSSRC independently monitors product, service and income representations by all members of the direct selling industry. DSSRC monitors and tracks earnings representations and product claims on various social media platforms (e.g., Facebook, Instagram, YouTube, etc.) from direct selling company salesforces, as well as the various websites of companies in the direct selling industry. DSSRC works with a third-party monitoring company that provides weekly monitoring reports to DSSRC which include analytical data with respect to the number of online URLs that are discovered and calls DSSRC's attention to potential claim infractions of pertinent FTC rules and regulations for further review by program staff.

In 2019, DSSRC monitoring:



In 2019, 49% of the total claims that have been identified have been product claims. Earnings claims (including lavish lifestyle representations) make up the remaining 51% of the claims.

#### **V. Administratively Closed Cases**

DSSRC may administratively close a monitoring inquiry if the direct selling company in its initial response (*i.e.*, within fifteen (15) business days from receipt of DSSRC's opening letter) commits to discontinue the claims at issue or provides adequate substantiation for the claims at issue. If DSSRC does not receive such a commitment, the matter will transition into a formal case review with the final decision posted on the DSSRC section of the BBB NP website (<https://bbbprograms.org/programs/dssrc/dssrc-decisions>).

The fifteen (15) administrative closures by DSSRC have included inquiries involving both DSA and non-DSA members. These inquiries have resulted in the removal of both product claims and income claims from direct selling company websites, the company's social media channels and the social media platforms of the direct selling company's independent sales force members, including Facebook, Instagram and YouTube.

In these matters, DSSRC has identified a number of express, atypical, unqualified income claims; unauthorized product performance claims; images of an extravagant/lavish lifestyle and atypical bonus and incentive claims.

The express and implied earnings claims that have been the subject of DSSRC administrative closures include:

- testimonials from salesforce members regarding income earned that was not the typical amount of income that would be generally expected by program participants and the omission of disclosures of generally expected results including images of large checks;
- video testimonials that communicated atypical income claims and/or company reward claims that did not:
  - a) disclose the amount of income that would be generally expected by program participants, or;
  - b) only disclosed the amount of income that would be generally expected by program participants at sporadic intervals during the video (*e.g.*, at beginning or end of the video) and not each time an atypical income claim was communicated; or
  - c) disclose the number or percentage of salesforce members that were eligible to receive the bonus or reward;
- images of extravagant company trips and luxury automobiles that did not include information regarding the number of program participants that would be eligible to receive such incentives;
- atypical earning claims that simply hyperlink to income disclosure statements without disclosing generally expected results;
- unauthorized product performance claims;
- atypical product performance claims from salesforce members (*e.g.*, before and after photographs) that did not include a disclosure of generally expected results; and
- disclosure language that was neither clear and conspicuous nor in close proximity to the triggering claim

In all of the inquiries that that have been administratively closed, the representative claims and/or social media posts at issue at have been removed in their entirety.

## **VI. Case Work**

DSSRC officially began opening cases on April 1, 2019. In 2019, thirty-four (34) inquiries were commenced by DSSRC. Eighteen (18) of the inquiries involve DSA-member companies and sixteen (16) involve non DSA-member companies.

Of the 34 inquiries commenced by DSSRC in 2019:

- 11 matters are currently pending

- 8 decisions have been posted on the DSSRC section of the BBB NP website, including 2 matters that have been referred to the Federal Trade Commission (FTC) because the direct selling companies failed to fully participate in the inquiry

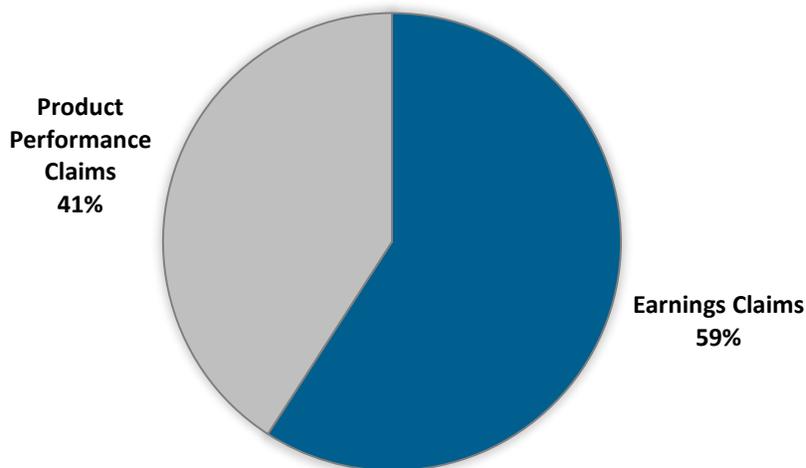
- 15 inquiries have been administratively closed, – based upon the immediate actions taken by the direct selling company to either withdraw or significantly modify the claims that were the basis of the DSSRC inquiry

Of the 34 inquiries that have been initiated by DSSRC, thirty-one (31) originated from program monitoring and three (3) have resulted from challenges received non-governmental organizations (NGO).

Cumulatively, the 34 inquiries that have been commenced by DSSRC include the review of approximately three hundred and twenty-nine (329) representative claims comprised of:

- One hundred thirty-five (135) product performance claims;
- One hundred ninety-four (194) earnings claims (including lifestyle, bonus, and incentive claims).

## INQUIRIES



## VII. DSSRC Appellate Board

The composition of the DSSRC Appellate Board is a critical component of DSSRC. Throughout 2019 DSSRC continued work on implementation of the DSSRC appellate process. DSSRC has worked closely with DSA to fill the position of the DSSRC Appellate Board Chairman and has also been involved in ongoing discussions with several industry professionals to serve as members on the DSSRC Appellate Board.