

Policies and Procedures for the Direct Selling Self-Regulatory Council

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I. Introduction

These Policies and Procedures describe the establishment of the Direct Selling Self-Regulatory Council (DSSRC) and the respective roles of the Direct Selling Association (DSA) and BBB National Programs. These Policies and Procedures also set forth the purpose and function of DSSRC as well as the scope and administration of the DSSRC self-regulatory program.

DSSRC was established in 2019 by the DSA in partnership with BBB National Programs. The mission of DSSRC is to enhance consumer and regulatory confidence in advertising and marketing in the direct selling marketplace through independent, third-party review of claims disseminated by or on behalf of direct selling companies.

DSSRC offers the direct selling industry a system for expeditious review of earnings claims (including lifestyle representations) and product claims (including services) communicated by direct selling companies and their salesforce members. The goal of DSSRC is to discourage the use of false and unsubstantiated claims and to enhance the truthfulness, accuracy, and adequate substantiation of all advertising and marketing claims made in the direct selling industry.

II. Definitions

- A. The "Company" shall mean the direct selling company whose advertising is the subject of a DSSRC inquiry or is the subject of a requested DSSRC inquiry.
- B. A "Challenger" shall mean a company and its employees or its salesforce members that provide DSSRC a submission in writing seeking a DSSRC inquiry regarding any earning claims or product claims disseminated by a Company and/or its salesforce members.

III. Jurisdiction

DSSSC reviews earnings claims and product claims made by any direct selling company and/or its salesforce members and evaluates the truthfulness, accuracy, and substantiation of such earnings claims and product claims. If necessary, DSSRC will make recommendations regarding the appropriateness of such claims in the context in which the claims are presented.

DSSRC also may provide industry-wide guidance intended to be instructive to the direct selling channel but not to be binding on any direct selling company or to create legal precedent on any particular issue.

IV. Standards

DSSRC evaluates earnings claims and product claims based on existing standards of truth and accuracy in advertising to ensure truthful and accurate earnings and product claims of direct selling companies and their salesforce members. When evaluating the truth and accuracy of a claim, DSSRC looks to, among other sources, statutes, regulations, judicial precedent, self-regulatory decisions from BBB National Programs (including the National Advertising Division and/or the National Advertising Review Board), and the DSA Code of Ethics.

V. Procedures for DSSRC Inquiries

DSSRC inquiries shall be conducted according to the procedures set forth below. A Company's participation in DSSRC's self-regulatory process shall not constitute an admission of any wrongdoing and shall not be interpreted to constitute an admission by the company or a finding that the law has been violated. A DSSRC determination that a Company has or has not complied with DSSRC standards shall not constitute a legal finding. A Company participating in the DSSRC self-regulatory process shall not raise the independent contractor status of salesforce members distributing their products or services under its trademark or trade name as a defense against non-compliance with DSSRC standards; provided, however, that such action shall not be construed to be a waiver of a Company's right to raise such defense under any other circumstance.

A. Sources of an Inquiry

- Written Submission: Any person or legal entity may provide to DSSRC a written submission regarding any earning claims or product claims disseminated by or on behalf of a direct selling company which such person or legal entity believes should be modified or discontinued. Such persons or entities include, but are not limited to, a Challenger (see definition of "Challenger" in Section II of these Policies & Procedures), consumers, other users of direct selling companies' products or services, and nongovernmental organizations (NGO).
- 2. A Challenger's submission must address claims related to one direct selling company only and must be submitted together with a check or electronic payment payable to "BBB National Programs" in the amount of \$5,000, if the Challenger is a DSA member company, or \$10,000 if it is not a DSA member company.
- 3. Independent Monitoring: DSSRC may also initiate an inquiry as part of its independent monitoring of the direct selling marketplace.

B. Commencement of an Inquiry

- 1. When DSSRC commences an inquiry, it will contact the Company in writing to identify the claims of concern and their source, as well as a statement explaining why the claims and/or content at issue are a concern to DSSRC (the "Notice of Inquiry"). In the event of an inquiry based on claims raised by a Challenger or an NGO, DSSRC will include with the Notice of Inquiry a copy of any written submission provided to DSSRC setting forth the claims at issue and the basis for the inquiry.
- 2. DSSRC shall review the submission from any source for an independent assessment and determination of whether to commence an inquiry. If in its discretion DSSRC determines that a requested inquiry is too broad or includes too many issues or claims to make possible a resolution within the time constraints prescribed herein, DSSRC may limit the issues or claims to be considered in the inquiry, or, in the alternative, require an extended schedule for review.

3. Exceptions

a. DSSRC reserves the right to refuse to open or to continue to handle an inquiry in which a party to a DSSRC inquiry publicizes or otherwise announces to third parties not directly related to the inquiry the fact that specific claims will be, are being, or have been, referred to DSSRC for resolution.

- b. DSSRC may decline jurisdiction if the matter at issue is:
 - i. the subject of pending litigation or an order by a court; or
 - ii. the subject of a matter pending before a state or federal administrative agency; or
 - iii. made moot because the claim(s) at issue has been permanently withdrawn from use prior to the date of the inquiry, and DSSRC receives the Company's assurance, in writing, that the claim(s) at issue, in the context presented or a similar context, will not be used by the Company in any future communication and/or advertising, and that the Company will use its best efforts to ensure that Company salesforce members will similarly refrain from communicating such claims.
- c. DSSRC may determine and advise any party seeking a DSSRC inquiry that the matter is not appropriate for a formal investigation in this forum. Upon making such a determination, DSSRC shall advise the party that a self-regulatory inquiry will not be opened. A matter for which DSSRC declines jurisdiction shall not subject to public reporting.
- d. If a self-regulatory inquiry has already been opened and DSSRC determines that such inquiry is no longer appropriate for investigation in this forum, DSSRC shall administratively close the inquiry.
- e. Where DSSSRC declines to open or proceed with an inquiry, DSSRC may provide the party requesting an inquiry with the name and address of any agency or entity with jurisdiction over the claims of concern.

C. Company's Initial Response to Notice of Inquiry

The Company will be given the opportunity to respond to the Notice of Inquiry in writing (the "Initial Response"). The Company shall provide its Initial Response to DSSRC within 15 business days after receipt of the Notice of Inquiry.

- 1. In its Initial Response, the Company may provide substantiation setting forth its basis for the claims at issue, including any supporting documentation.
- 2. In its Initial Response, the Company may also indicate that it has removed or significantly modified the claims at issue or is in the process of taking immediate steps to have such claims discontinued or significantly modified.
- 3. If the Company does not respond to the Notice of Inquiry within 15 business days, DSSRC will send the Company follow-up correspondence providing an additional 10 business days to respond (the "10-Day Notice").
- 4. If the Company does not respond to the 10-Day Notice, or declines to participate in the DSSRC process, DSSRC will issue a written decision indicating the Company was unresponsive or declined to participate. DSSRC shall publish such a decision on the BBB National Programs website, issue a press release, and refer the matter to an appropriate government agency for review and possible law enforcement actions. Before taking any of the steps enumerated in this section, DSSRC will take reasonable steps to ensure the Company, in fact, received the Notice of Inquiry or otherwise has been made aware of DSSRC's Inquiry. If DSSRC cannot locate the Company, DSSRC shall state in its written decision that it was unable to contact the Company.

D. Administratively Closed Inquiries

- Generally, DSSRC will administratively close an inquiry that involves social media posts
 that originate outside of the United States and/or involve a small number of social posts
 that a direct selling company takes immediate action to remove and which DSSRC
 determines are not indicative of a significant pattern of problematic behavior from the
 Company and/or its salesforce members.
- 2. Upon receipt of the Company's Initial Response, DSSRC has the discretion to administratively close an inquiry if the Company has provided assurance in writing that the claims that were the subject of the inquiry have been or are in the process of being removed or significantly modified.
- 3. DSSRC has the discretion to administratively close an inquiry when DSSRC determines that the Company has made a bona-fide, good faith effort to have claims that were disseminated by a salesforce member(s) of the Company removed from circulation and that the Company will use its best efforts to ensure that Company salesforce members will refrain from communicating similar claims in the future. DSSRC may request that the Company provide DSSRC with copies of its request(s) to its salesforce member(s) and/or its request(s) to the applicable forum including the social media platform on which such claim was disseminated.
- 4. When DSSRC has administratively closed an inquiry and DSSRC becomes aware that the direct selling company or its salesforce members later disseminate the same or similar claims that were the subject of the administratively closed inquiry, DSSRC may in its discretion open a compliance inquiry regarding such claims pursuant to Section VIII of these Policies and Procedures.

E. Reply to the Company's Initial Response

- 1. DSSRC shall provide the Company with a written reply addressing the Company's Initial Response (the "Reply") within 10 business days of receipt of the Initial Response.
- A Challenger shall be given an opportunity to submit a Reply to the Company's Initial Response. Such Reply shall be provided to DSSRC within 10 business days of its receipt of the Initial Response. DSSRC will promptly transfer such Reply to the Company. At its discretion, DSSRC may include additional questions or concerns for the Company to address.
- 3. Any other party that is the source of a DSSRC inquiry may, in DSSRC's discretion, be given an opportunity to submit a Reply to the Company's Initial Response. Such Reply shall be provided to DSSRC within 10 business days of its receipt of the Initial Response. DSSRC will promptly transfer such Reply to the Company.

F. Company's Final Response

Within 10 business days of its receipt of the Reply, the Company may submit to DSSRC a Final Response in writing addressing the issues set forth in the Reply. When appropriate, DSSRC will promptly transfer such Final Response to any party participating in the Inquiry.

G. Additional Information and Meetings with the Parties

1. If DSSRC deems it necessary and requests further comments or data from any party, the written response must be submitted within seven business days of the request

- via electronic format copy to DSSRC and any opposing party. Such opposing party will be afforded seven business days to submit its own response to the submission via electronic format copy to DSSRC and any party to the inquiry. Unless DSSRC requests further comments or data under this paragraph, no additional submissions will be accepted as part of the case record, and any unsolicited submissions received by DSSRC may be returned.
- 2. DSSRC may, in addition to accepting written responses, participate in meetings with either or both parties. These meetings may be held in person or via telephone or video conference as determined by DSSRC. If DSSRC participates in a meeting in which only one party participates, DSSRC will notify the other party that a meeting has been scheduled to take place. When feasible, upon request, a Company will be afforded the opportunity to schedule its meeting with DSSRC after the date of the other party's meeting. All meetings with the parties will be held within 15 business days of DSSRC's receipt of the Final Response.

VI. Final Decision, Case Reporting

- A. Within 20 business days of its receipt of the last document submitted in the inquiry, DSSRC will formulate its decision as to the truth and accuracy of the claims at issue and prepare the final case decision.
- B. A DSSRC decision shall set forth whether some or all of the claims at issue have been substantiated and/or DSSRC's recommendations that any such claims be discontinued or modified.
- C. DSSRC shall provide a copy of the decision to the Company and invite the Company to add a Company Statement within seven business days of the Company's receipt of the final case decision.
- D. If DSSRC decides that some or all of the claims at issue are not adequately substantiated, the Company Statement shall state whether the Company:
 - 1. Will comply with DSSRC's recommendations,
 - 2. Will not comply with DSSRC's recommendations, or
 - 3. Will appeal all or part of DSSRC's decision.
- E. The Company Statement shall be a concise supporting statement that does not reargue the merits of the case, mischaracterize the decision, or contain new facts. DSSRC reserves the right, following consultation with the Company, to edit a Company Statement for length or inappropriate material. Failure to submit a Company Statement or a Company Statement indicating that the party will not follow DSSRC's recommendation and will not appeal the decision will result in a referral of the matter to the appropriate government agency for review and possible law enforcement action.
- F. Publication of the Decision Upon receipt of the final version of the Company Statement, or upon completion of any appeal, DSSRC shall, within 15 business days, provide copies of the final case decision to the Company and any other party to the inquiry, and post the decision on the BBB National Programs website.

- 1. Each final case decision shall identify the Company, the Challenger (where applicable), the claims reviewed, each party's position, DSSRC's determination with respect to such claims, and the Company Statement. Any final case decision with respect to claim(s) at issue in an inquiry shall apply with full force and effect to the dissemination of the same claims in other forms of direct selling advertising.
- 2. With respect to DSSRC administratively closed inquiries, DSSRC may summarize such inquiries in writing, omitting any Company identifying information. Such written summaries shall be posted on the BBB National Programs website.

VII. Appeals

A. DSA and BBB National Programs shall select individuals to serve on the DSSRC Appellate Review Panel (the "Panel"), including a Panel Chairperson (the "Panel Chair"). A list of Panel members is available on the BBB National Programs website and shall be periodically updated. As set forth below, three members of the Panel shall be selected to hear an appeal of a DSSRC decision.

For each appealed decision, the three Panel members are selected as follows:

- 1. One Panel member shall be selected by DSA.
- 2. One Panel member shall be selected by BBB National Programs.
- 3. One Panel member shall be selected by mutual agreement of DSA and BBB National Programs.
- 4. No Panel member will participate in an appeal if that individual has an affiliation with a company that specifically competes with any party to the appeal.
- B. The Company may request an appeal in its Company Statement as set forth in Section VI (D)(3).
- C. A Challenger may request an appeal of a DSSRC decision but may not appeal a DSSRC decision by right. Such request must be made in writing to the Executive Vice President, Policy, BBB National Programs, within seven business days after receipt of the DSSRC decision and shall set forth the basis for the requested appeal.
- D. All requests by any party for an appeal must be submitted together with a check or electronic payment made payable to "BBB National Programs" in the amount of \$5,000. In the event a Challenger's request for an appeal is denied, such amount shall be returned to the Challenger.
- E. DSSRC shall send a copy of the decision being appealed and the entire case record to the Panel Chair with copies to all parties.
- F. The party appealing must, within 10 business days of receipt of the case record prepared by DSSRC, submit to the Panel Chair, with a copy to DSSRC, a letter not to exceed 20 double-spaced pages explaining its position. The appellant shall send a copy of the letter to the opposing party, if applicable, who shall have 10 business days after its receipt to submit a response, not to exceed 20 double-spaced pages, to the Panel Chair with copies to the other party and to DSSRC. No other submissions shall be made.

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- G. Once all submissions have been received, the Panel will hold an in-person, telephone, and/or videoconference hearing on notice to DSSRC and the parties. The Panel will complete its review and issue a written decision within 20 business days of the hearing or as soon thereafter as practicable.
- H. The Panel shall make its decision solely based on the case record in the DSSRC decision. A decision by the Panel is final and shall be promptly communicated both to the Panel Chair and the parties.

The Company shall, within seven business days of receipt of the Panel's decision, submit a Company Statement to be incorporated into the Panel's decision. The statement shall be a concise supporting statement, no longer than one-half of one double-spaced typewritten page (12-point type), which may not reargue the merits of the case, mischaracterize the decision, or contain new facts. The Panel Chair reserves the right, upon consultation with the Company, to edit for length or inappropriate material. BBB National Programs will draft a press release to be issued and the Panel decision will be posted to the BBB National Programs website.

If the Company does not provide a Company Statement within seven business days after receipt of the Panel's decision indicating that it will adhere to the decision of the Panel, DSSRC will publish a press release on the BBB National Programs website regarding the Company's non-compliance with the Panel decision and DSSRC shall refer the matter to the appropriate government agency for review and possible law enforcement.

VIII. Compliance

- A. At least 20 business days after a DSSRC decision requesting that certain claims be modified or discontinued is published, together with a Company Statement indicating the Company's agreement to comply with DSSRC's recommendations, DSSRC may notify the Company and request a report on the status of the claims at issue, which shall include an explanation about the steps the Company has taken to bring its advertising and the claims disseminated on its behalf into compliance with DSSRC's final case decision
- B. If, after reviewing the Company's response to a request for a status report on compliance or, if the Company fails to respond, DSSRC determines that the Company has not made a good faith attempt to bring its advertising into compliance with the recommendations in DSSRC's final case decision and/or the representations made in its Company Statement, DSSRC may refer the matter to the appropriate government agency and release information regarding the referral to the press, the public, and the media and shall report the referral on the BBB National Programs website.
- C. If DSSRC determines that the Company has made a reasonable attempt to comply with DSSRC's final case decision but remains concerned about the truthfulness and accuracy of the advertising as modified, DSSRC will notify the Company in writing, detailing its concerns. The Company will have 10 business days after receipt of DSSRC's notice to respond.
- D. Within 10 business days after receipt of the Company's response, DSSRC will make one of the following determinations regarding the Company's compliance, which will be communicated to the Company and reported on the BBB National Programs website:

- 1. If DSSRC concludes that the advertising is in compliance with DSSRC's final case decision, DSSRC will notify the Company and close the compliance inquiry.
- 2. If DSSRC recommends that further modifications be made to bring the advertising into compliance with DSSRC's final case decision, DSSRC will notify the Company of its findings and any further recommendations.
 - a. If the Company accepts DSSRC's compliance findings and agrees to discontinue the advertising at issue until it makes further modifications as recommended by DSSRC, DSSRC shall report this on the BBB National Programs website.
 - b. If the Company indicates that it disagrees with DSSRC's compliance findings and refuses or fails to make the further modifications recommended, DSSRC may document such non-compliance and refer the matter to the appropriate government agency, report this action to the press, the public, and the media, and shall report its findings on the BBB National Programs website.
- E. When a Company has made a good faith attempt to comply with DSSRC's decision, but has yet to fully implement the recommendations within the time parameters stated in this section, DSSRC reserves the right to make subsequent compliance inquiries of the Company and, depending upon the actions that the Company has taken to comply with the final case decision within a reasonable period of time, proceed with the enforcement mechanisms pursuant to Sections VIII(D)(2)(b).

IX. Confidentiality

- A. DSSRC proceedings are conducted in complete confidence and shall remain confidential except for:
 - 1. DSSRC publication of final case decisions and summaries of other DSSRC actions;
 - 2. Referrals by DSSRC to government agencies and the press releases announcing those referrals; and
 - 3. Press releases announcing any appeals of DSSRC decisions.
- B. Published DSSRC decisions and press releases are the only permanent records required to be kept by DSSRC.
- C. By participating in a proceeding, parties agree:
 - 1. To keep the proceedings confidential.
 - 2. Not to subpoen any witnesses or documents regarding the review proceeding from DSSRC, the Panel, or BBB National Programs in any future court or other proceedings (except for the purposes of authentication of a final, published case decision).
 - 3. To pay attorney's fees and costs if a subpoena is attempted in violation of these provisions.
- D. If a Company includes confidential or proprietary information in its submissions in a DSSRC inquiry, it shall provide a separate, unredacted copy of its response to DSSRC accompanied by a comprehensive summary of the redacted information that shall be provided to any other party.

X. Structure, Staffing, and Funding

- A. DSSRC is an operating unit of BBB National Programs, incorporated under the laws of Virginia.
- B. DSSRC is funded by DSA, pursuant to the Memorandum of Understanding entered into between DSA and the Council of Better Business Bureaus (predecessor in interest to BBB National Programs) on March 9, 2018, as it may be from time to time amended by DSA and BBB National Programs.
- C. DSSRC staff includes a program director, a staff attorney, and an advertising review specialist. DSSRC may use third-party monitoring services at its discretion and in consultation with DSA.

XI. Relationship Between DSSRC and DSA

- A. DSA may refer matters to DSSRC if it identifies a pattern or practice of complaint regarding a DSA company, and may also refer any matters related to non-DSA members to DSSRC for resolution.
- B. DSSRC will make an independent determination about whether to pursue any matter that is referred by DSA.
- C. DSA will not be involved in any substantive determinations regarding any DSSRC inquiries.
- D. DSSRC will make periodic written reports to the DSA President regarding the number of matters handled by DSSRC and their dispositions, ensuring that the information in such reports is aggregated so that individual participants are not identifiable.
- E. DSSRC may make recommendations to DSA regarding amendments to the DSA Code of Ethics regarding earnings claims and product claims based on DSSRC's case analysis and disposition.

XII. Amendment of Policies and Procedures

- A. The DSSRC program director may make recommendations to the DSA regarding amendments to any of these DSSRC Policies and Procedures.
- B. Any recommendation to amend any of these Policies and Procedures may be reviewed and approved by DSA, provided that the text of any proposed amendment has been given to DSA at least 15 business days in advance of such approval and effective date.