

BBB NATIONAL PROGRAMS

THE DIRECT SELLING SELF-REGULATORY COUNCIL

Innov8tive Nutrition

Case No: 63-2022

Filed: March 18, 2022

MONITORING INQUIRY

I. Company Description

Innov8tive Nutrition (“Innov8tive Nutrition” or the “Company”), a direct selling company founded in 2016 and headquartered in Seattle, Washington, sells nutritional supplements delivered in patch form.

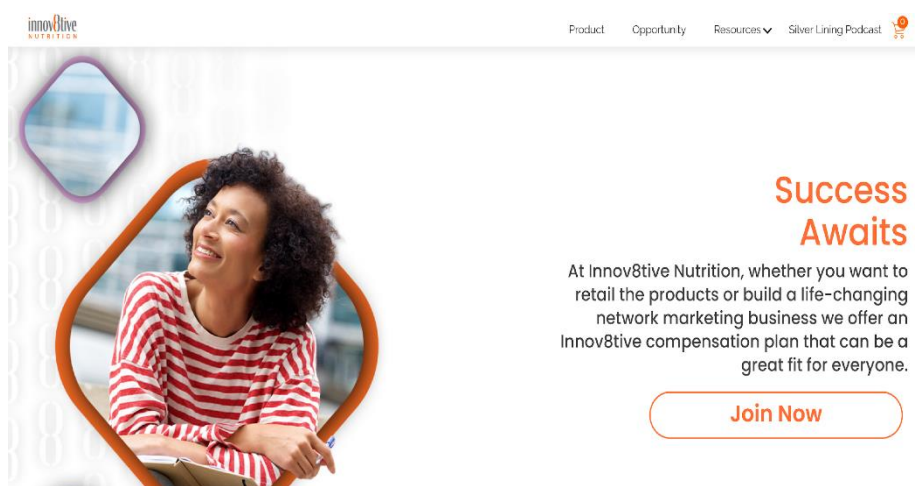
II. Basis of Inquiry

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. This inquiry was commenced by DSSRC pursuant to its ongoing independent monitoring of advertising and marketing claims in the direct selling industry.

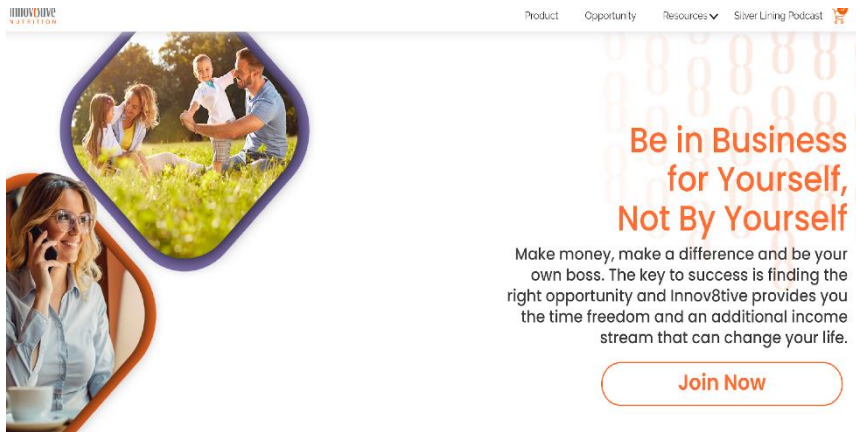
A. Earnings Claims

This inquiry concerns earnings claims disseminated by salesforce members for the Company and its salesforce members. The representative claims that formed the basis of this inquiry were disseminated on the Company’s website and Facebook. The earnings claims at issue are set forth below:

- Website testimonial that stated: “At Innov8tive Nutrition, whether you want to retail the products or build a life-changing network marketing business we offer an Innov8tive compensation plan that can be a great fit for everyone.”



- Website testimonial that stated: “Innov8tive provides you the time freedom and an additional income stream that can change your life.”



- Website opportunity that stated: “Uncapped earnings”

Why You'll Love It:



No Boss



Community



Pursue a Passion



Uncapped Earnings



Work from Anywhere

- Website video that stated: “It’s why people all across the country are earning part-time and full-time income”
- Facebook post that stated: “In 8 months we had enough extra income to buy a new home.”



- Facebook post that stated: “Buy a new car for the family [...] make fulltime income.”



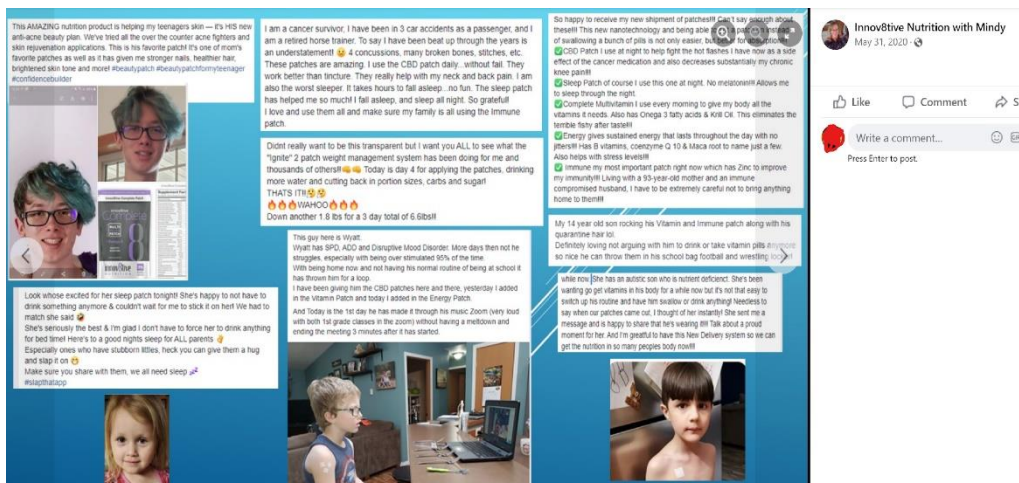
DSSRC informed the Company of its concern that such earnings claims may convey an unsupported message regarding the amount of income that can be typically earned through the Company’s business opportunity.

B. Product Claims

DSSRC identified certain claims that the Company’s products may cure or treat certain health-related conditions. The representative claims that formed the basis of this inquiry were disseminated by salesforce members via three Facebook posts that claimed that the Company’s products can treat and alleviate various health-related conditions ranging from skin conditions, neck and back pain to attention deficit disorder (ADD) and disruptive mood disorder. In addition, DSSRC determined that the posts implied and made express references to the efficacy of the Company’s CBD product to treat COVID-19.

The product efficacy claims that were the subject of the DSSRC inquiry are set forth below:

- Facebook post regarding use of the Innov8tive Nutrition patches to treat and alleviate various health related conditions ranging from skin conditions, neck and back to ADD and disruptive mood disorder.



- Facebook post regarding CBD study.



- Facebook post regarding CBD study.



III. Company's Position

Innova8tive Nutrition did not dispute that the claims DSSRC brought to its attention should be removed from circulation. The Company was responsive to DSSRC's inquiry and took immediate steps to address the claims at issue.

With respect to the earnings claims and products claims at issue that originated from Facebook and the Company's website, Innova8tive Nutrition removed all posts from circulation.

IV. Analysis and Recommendation

A. Earnings Claims

As stated in the DSSRC Guidance on Earnings Claims for the Direct Selling Industry, it is misleading for a direct selling company and/or its salesforce members to make any earnings claims unless the direct selling company and/or its salesforce members have a reasonable basis for its claim at the time the claim is made; and have documentation that substantiates the claim at the time the claim is made.¹ If the direct selling company does not have substantiation that the experience of the individual making the earnings claim or who is the subject of the claim is representative of what the audience will generally expect to achieve, the advertisement (e.g., social media post) should clearly and conspicuously disclose the generally expected results in the depicted circumstance. The direct selling company must possess adequate substantiation for the representation of the generally expected results.²

In addition, Section 5 of the DSSRC Guidance on Earnings Claims for the Direct Selling Industry lists several examples of terms and prohibited lifestyle claims when made to a general audience of prospective or current salesforce members, including the term “unlimited income.”³ Similarly, DSSRC has determined that phrases implying that salesforce members can earn career-level income should not be made to a general audience of consumers as such results from the Company’s business opportunity could not be generally expected by the typical Company salesforce member.

DSSRC appreciated Innov8tive Nutrition’s good faith actions to remove claims on social media sites which DSSRC determined communicated claims that participating in the Company business opportunity can result in financial freedom and unlimited earnings. DSSRC determined that the removal of such claims was necessary and appropriate.

B. Products Claims

It is well established that claims concerning the efficacy of health products should be supported by competent and reliable scientific evidence.⁴ The Federal Trade Commission (FTC) generally defines competent and reliable scientific evidence as: “test, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.”⁵

Innov8tive Nutrition recognized that the product claims at issue were not appropriate and did not attempt to provide evidence to support the claims.

DSSRC acknowledged Innov8tive Nutrition’s prompt actions to effectuate removal of the three Facebook posts claiming that the Company’s products are effective in treating certain serious health-

1 See section 7 of the DSSRC Guidance on Earnings Claims for the Direct Selling Industry; https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/dssrc/dssrc_guidanceonearningsclaimsforthedirectsellingindustry_2020.pdf?sfvrsn=4ecfcd36_6.

2 *Id* at section 12.

3 *Supra* at Section 5.

4 *VGH Solutions Inc. (Dr. Ho’s Circulation Promoter)*, Report #6404, *NAD/CARU Case Reports* (September 2020); *Molekule Inc. (Molekule MH1 Air Purifier)*, Report #6314, *NAD/CARU Case Reports* (October 2019); *Triumph Pharmaceuticals Inc. (SmartMouth Dry Mouth Products)*, Report #6190, *NAD/CARU Case Reports* (June 2018); *Good Health Naturally, LLC (Serranol Supplements)*, Report # 5441, *NAD/CARU Case Reports* (March 2012); *Nature’s Cure, Inc. (2 -Part Acne Treatment)*, Report #4797, *NAD/CARU Case Reports* (February 2008).

5 FTC Guide, *Dietary Supplements: An Advertising Guide for Industry*, www.business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry;

related conditions and COVID-19. DSSRC determined the removal of such claims to be necessary and appropriate.

V. Conclusion

DSSRC recognized Innov8tive Nutrition's bona fide efforts to remove the Facebook posts and website testimonials which DSSRC determined communicated claims that prospective participants in the Innov8tive Nutrition business opportunity can result in financial freedom and unlimited earnings. Similarly, DSSRC expressed its appreciation for the Company's prompt action to eliminate claims that the product is efficacious in treating COVID-19 and other health-related conditions. DSSRC determined that the removal of such earnings and product performance claims was necessary and appropriate. DSSRC will continue to monitor claims being disseminated by Innov8tive Nutrition and its salesforce members and will commence a compliance inquiry with the Company should DSSRC have additional concerns that unsupported earnings and product performance claims continue to be communicated by the Company.

(Case No. 63-2022, closed on March 18, 2022)

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