Company Description

Q Sciences (or the “Company”) is a direct selling company founded in 2012 that markets a line of health-related and wellness products. The Company is headquartered in Pleasant Grove, Utah.

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.

DSSRC identified the following representative product performance claims disseminated by independent salesforce members on social media. DSSRC was concerned that the representative claims below communicated that the Company’s products can treat and protect against serious health-related conditions including, but not limited to, COVID-19.

Product Claims:

- “Who wouldn’t want a spray that boosts their immune system during a pandemic??? Give me all the sprays 😊”
- “Helps with pain, inflammation, feelings of sadness, sleep issues, IMMUNITY-just to name a few”
- “There are several different sprays including immune system boosting (which is a great thing when we are living in a Pandemic and have so many other sicknesses we want to protect ourselves from).”
- “I have everything you need to keep yourself and your family healthy during the CrAzY CoRoNa times!”
- “Now more than ever it is important to boost you immune system!”

Additionally, during the pendency of this inquiry, DSSRC identified several additional social media posts that referenced the efficacy of Q Sciences’ products to address several health-related conditions as well as claims on the Q Science website promoting the Company’s “Financial Freedom Movement (“With the introduction of the Financial Freedom Movement, we are excited to help you pay off debt, contribute to your retirement
plan, and teach you to transform and own your financial future") and the promise of earning full-time income ("Whether to cover a few bills each month or replace your full-time income completely, Q Sciences is the vehicle to create some financial breathing room for you and your family.").

**Company’s Position**

Q Sciences initially questioned the jurisdiction of DSSRC to inquire into the Company’s basis for the posts and claims at issue. More specifically, Q Sciences informed DSSRC that because Q Sciences is not a member of either the Direct Selling Association (DSA) or the Better Business Bureau that it is not subject to DSSRC’s Policy and Procedures. Notwithstanding its contention regarding DSSRC’s jurisdiction in this matter, Q Sciences explained that it was previously aware of some of the social media posts that DSSRC identified in its Notice of Inquiry to the Company. Q Sciences indicated that it would address the posts with the Company’s wellness ambassadors that were responsible for disseminating the posts pursuant to Q Sciences’ own internal Policy and Procedures.

The Company contended that DSSRC goes to great lengths to ensure the propriety of its product quality and branding and noted that it is fully cognizant of the Food and Drug Administration’s (FDA) Rules and Regulations governing its products, particularly that the Company’s products may not be mischaracterized as medical products.

Moreover, Q Sciences stated that the Company puts significant emphasis on its own messaging as well as the communications of its independent wellness ambassadors. Q Sciences noted that it has a compliance department with a full-time, dedicated staff that monitors and educates the Company’s independent wellness ambassadors regarding appropriate and compliant communication. The Company maintained that it also takes a very proactive and ongoing approach to compliance training. For example, the Company stated that it conducts compliance training at every regional, national, and international convention and provides specific compliance training to its sales leaders so that they can proactively monitor and educate their own sales teams.

The Company also disputed DSSRC’s characterization of Q Sciences’ independent wellness ambassadors as “salesforce members” noting that Q Sciences does not have a salesforce that acts under the direction of the Company but rather act on their own initiative in furtherance of their own wellness business. Q Sciences emphasized that the Company has no control over the nature and substance of their efforts, except to

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enforce the terms of its involvement with the Company as set forth in the independant wellness ambassador agreement and the related policy and procedures.

Although Q Sciences did not substantively respond to the DSSRC inquiry, DSSRC learned that during the course of the inquiry three of the social posts at issue were disabled and another was modified to remove language that was of concern to DSSRC.

Case Disposition

I. Jurisdiction

The jurisdictional purview of DSSRC includes any product or earnings claim communicated by any national direct selling company and/or its independant salesforce members, irrespective of whether the direct selling company is a member of the DSA or an accredited business with the Better Business Bureaus.

More specifically, pursuant to Section B of the DSSRC Policy & Procedures (a copy of which was provided to Q Sciences at the commencement of this inquiry):

DSSRC shall consider matters related to earnings claims (including income or lifestyle representations) and product claims made by any direct selling company (i.e. companies who sell their products and services directly to consumers through an independent salesforce) and their salesforces regardless of membership in DSA.²

Accordingly, as the subject inquiry specifically involved the dissemination of product efficacy claims disseminated by salesforce members for a national direct selling company, DSSRC concluded that its jurisdiction was proper and appropriate.

Regarding DSSRC’s characterization of Q Sciences’ independent wellness ambassadors as “salesforce members,” DSSRC did not dispute the Company’s assertion that such individuals are considered independent contractors. Notwithstanding, the term “salesforce members,” is commonly used in the direct selling industry to refer to individuals (e.g. “distributors,” “consultants,” “ambassadors,” “IBOs”, etc.,) that sell and promote a company’s products. DSSRC noted that the Federal Trade Commission (FTC) similarly uses the term “salesforce” in its Business Guidance Concerning Multi-Level Marketing³ in a manner that is synonymous with the context in which DSSRC used the term in its correspondence to Q Sciences.

¹ Participation in all of the self-regulatory programs administered by BBB National Programs is completely voluntary and any company or individual who receives an inquiry from BBB National Programs are not compelled to participate in the organization’s forum of advertising self-regulation. Non-participation in a DSSRC inquiry is addressed in section III (9) of the DSSRC Policy & Procedures which states that “If a company does not respond to DSSRC, or declines to participate in the DSSRC process, DSSRC will issue a case decision indicating the company was unresponsive or declined to participate in the DSSRC process. DSSRC may publish an announcement on the DSSRC website and refer the matter to appropriate government agencies.”

³ See https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing. It was also noted that in the Company’s letter objecting to the jurisdiction of DSSRC
II. Product and Earnings Claims

Although the Company did not substantively respond to the DSSRC inquiry, Q Sciences disabled three of the five posts at issue and significantly modified another post that had referenced staying healthy “during the CrAzY CoRoNa times!” DSSRC appreciated the Company’s good faith efforts to address its concerns and for taking actions which DSSRC determined were necessary and appropriate.

After being informed that DSSRC remained concerned with the one remaining post which included the claim that Q Sciences’ full spectrum hemp line of products “Helps with pain, inflammation, feelings of sadness, sleep issues, IMMUNITY—just to name a few” and that this line of Q Sciences products is “14X stronger than others of the market,” the Company requested and was granted an extension of time to address the remaining claim. However, despite several attempts to contact Q Sciences after the extension date, the Company failed to respond to DSSRC, provide substantiation for the claims communicated in the post, or have the post modified or discontinued.4

It is well established that claims concerning the efficacy of health products should be supported by competent and reliable scientific evidence.5 The 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.”6 Despite several requests, the Company failed to provide its support for the health-related and comparative efficacy claims communicated in the remaining social media post.

DSSRC also determined that for purposes of this self-regulatory inquiry, the fact that the remaining post was not authorized by Q Sciences and was disseminated by a Company independent wellness ambassador did not absolve the Company from any responsibility regarding the post.7 DSSRC received no indication from Q Sciences that it

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4 During the pendency of the inquiry, DSSRC became aware of several other social media posts which DSSRC was concerned communicated unsupported claims regarding the efficacy of Q Sciences to treat several health-related conditions including, cell reparation, attention deficit disorder and attention-deficit/hyperactivity disorder.

5 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).


7 Pursuant to Section (I)(D) of the DSSRC Policy & Procedures, a company shall voluntarily not raise the independent contractor status of salespersons distributing their products or services under its trademark or trade name as a defense against non-compliance with DSSRC standards, provided, however, that such
made a good faith effort to contact the independent wellness ambassador who disseminated the post or took any enforcement measures to reconcile the matter. As noted in his October 15, 2020, remarks to the DSA, FTC Commissioner Noah Philips stated that “claims made by salesforce members are attributable to direct selling companies themselves.”\(^8\)

Moreover, during the pendency of the inquiry, DSSRC identified several representations being made on the Q Science website including claims that tout the Company’s “Financial Freedom Movement (“With the introduction of the Financial Freedom Movement, we are excited to help you pay off debt, contribute to your retirement plan, and teach you to transform and own your financial future”) and the promise of earning full-time income (“Whether to cover a few bills each month or replace your full-time income completely, Q Sciences is the vehicle to create some financial breathing room for you and your family”).

Accordingly, DSSRC recommended that in the absence of reliable and competent scientific evidence demonstrating that Q Sciences’ products effectively treat pain, inflammation, feelings of sadness, sleep issues and provides immunity against other health-related conditions and can reliably demonstrate that its products are “14X stronger than others of the market, that such claims should be discontinued. In addition, DSSRC requested that in the absence of reliable and competent evidence that would demonstrate the efficacy of Q Sciences’ products to treat the health conditions identified in the social media posts that were brought to its attention during the pendency of this inquiry, that the Company take the necessary action to remove those posts.

Further, DSSRC determined that earnings claims disseminated on Q Sciences’ website stating that “With the introduction of the Financial Freedom Movement, we are excited to help you pay off debt, contribute to your retirement plan, and teach you to transform and own your financial future” and “Whether to cover a few bills each month or replace your full-time income completely, Q Sciences is the vehicle to create some financial breathing room for you and your family” be immediately removed absent any evidence showing that the typical Q Sciences salesforce member can generally expect to receive such income form the Company’s business opportunity.

Conclusion

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DSSRC concluded that its jurisdiction in this inquiry was proper. Although the Company did not substantively respond to the DSSRC inquiry, Q Sciences disabled three of the five posts at issue and significantly modified another post that had referenced staying healthy “during the CrAzY CoRoNa times!”

DSSRC also determined that for purposes of this self-regulatory inquiry, the fact that the remaining social media post was not authorized by Q Sciences and was disseminated by a Company independent wellness ambassador did not absolve the Company from any responsibility regarding the post. Accordingly, DSSRC recommended that the remaining post should be discontinued in the absence of reliable and competent scientific evidence demonstrating that Q Science products effectively treat pain, inflammation, feelings of sadness, sleep issues and provides immunity against other health-related conditions and can reliably demonstrate that its products are “14X stronger than others of the market.” In addition, DSSRC requested that the Company take the necessary actions to remove the social media posts that were brought to its attention during the pendency of this inquiry which indicated that the Company’s products can relieve several health-related conditions.

Finally, DSSRC determined that earnings claims disseminated on Q Sciences’ website should be immediately removed absent any evidence showing that the typical Q Sciences salesforce member can generally expect to receive such income from the Company’s business opportunity.

Company Statement

The Company failed to provide DSSRC with a Company Statement.

(Case No.48-2021, closed on 08/06/21)

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