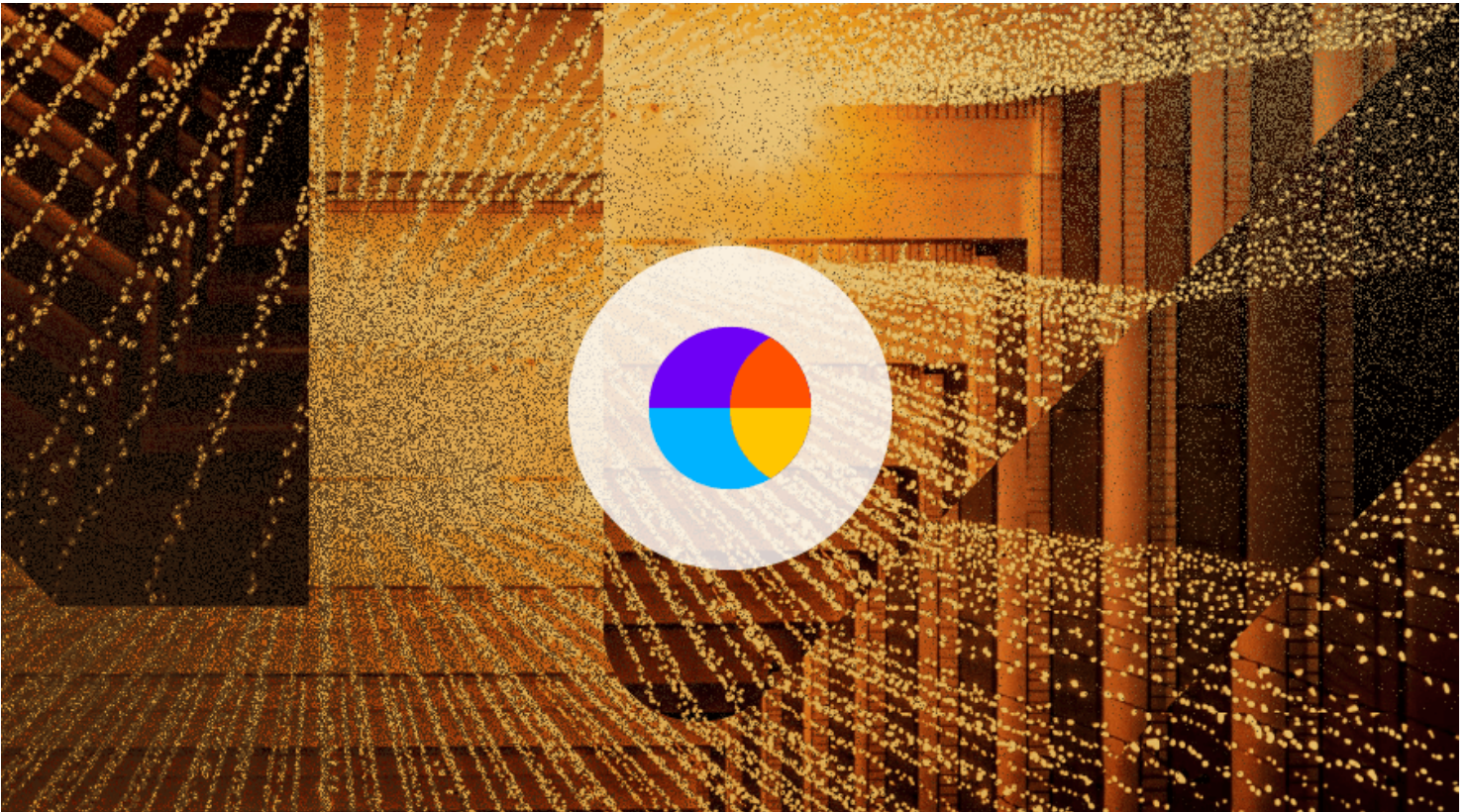


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1. [Home](#)
2. [Programs](#)
3. [Advertising Self-Regulation](#)
4. [Direct Selling Self-Regulatory Council \(DSSRC\)](#)
5. [Case Decisions](#)
6. [Case 116-2023: Administrative Closure – GelMoment, Inc.](#)

Case #116-2023: Administrative Closure – GelMoment, Inc.

BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council

Case #116-2023: Administrative Closure – GelMoment, Inc.

Company Description

GelMoment, Inc. (“GelMoment” or the “Company”) is a direct-selling company founded in 2014 and based in Montreal, Canada. The Company markets gel nail polish and other beauty products.

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 process, which monitors advertising and marketing claims disseminated by direct selling companies and its salesforce members.

This inquiry concerned seven earnings claims disseminated by Company salesforce members. The representative claims that formed the basis of this inquiry were communicated on Facebook and YouTube. Those claims are set forth below:

Earning Claims

- “Do this full time, part time, hobby job, the choice is yours!”
- “More flexibility. More financial freedom. More travel. More growth. More of what matters most to you. 🥰”
- “Turn your love of beautiful nails into your own income-making side-gig or full-time career as an Independent GelMoment Distributor.”
- “You think the way I make extra money is unique or "different" but there's actually a lot of us making extra money or a fulltime income from our phones or from anywhere we want to be that day & there's going to be many more”
- “It's a great time to join me on this GelMoment adventure!! Do you want to... 🎨 arn a second income or replace your current/lost income?”
- The GelMoment Business Opportunity With Endless Earning Potential”
- “Working from home with direct sales can be a great way to earn an income and take control of your financial future. It can be a bit intimidating at first, but with the right knowledge, resources, and support, it can be a great way to make some extra cash, or even replace your full time income.”

DSSRC was concerned that the above representative social media posts would imply to a reasonable consumer that the typical salesforce member of the Company could generally expect to earn significant or substantial income, earn a full-time income, and realize financial freedom from GelMoment’s business opportunity.

Company’s Position

GelMoment promptly responded to DSSRC’s Notice of Inquiry. The Company did not attempt to substantiate the representative claims at issue but rather informed DSSRC that four of the seven social media posts identified in DSSRC’s Notice of Inquiry had been removed from circulation on social media.

With respect to the remaining posts, the Company provided DSSRC with copies of the take-down requests that were sent to the individuals responsible for dissemination of the claims. In two instances, a post was made by an inactive distributor who has been unresponsive to GelMoment’s communication to remove the post. The Company reported the unauthorized posts to Facebook while noting that the content in the posts were in violation of the Company’s Policies and Procedures. As to the third remaining social post, GelMoment informed DSSRC that this was posted to the Company’s corporate account by an employee who has since passed away. The Company has tried to delete or edit the post, however the salesforce member used a social media tool called Planoly to have it posted and Facebook will not allow the Company to remove or modify the post. The Company informed DSSRC that no other GelMoment salesforce members used this application and the Company has been unable to access the account to have the post removed.

Administrative Closing Summary

DSSRC acknowledged and appreciated the Company's prompt removal and/or modification of several of the social media posts at issue, an action that DSSRC determined was necessary and appropriate.

Like all advertisers, direct selling companies are responsible for the accuracy of claims suggested or reasonably implied in advertising.¹

While DSSRC will evaluate any claim based upon the context in which the claim appears and the potential net impression of such claim to the audience, some words and phrases are prohibited when made to a general audience of prospective or current salesforce members. Such words and phrases include statements such as "quit your job," "be set for life," "make more money than you ever have imagined or thought possible," "unlimited income," "full-time income," "replacement income," "career-level income," or any substantially similar statements or representations. Other terms, such as "passive income" and "residual income," are prohibited when they convey that income can be continuously earned by salesforce members with little or no ongoing effort.²

GelMoment acknowledged that the claims at issue in this inquiry were inappropriate and although it was able to remove four of the social media posts at issue and despite its best efforts in reporting the matter to Facebook, it has been unable to facilitate the removal of the remaining posts identified by DSSRC.

Notwithstanding, based upon the genuine, good faith actions taken by GelMoment to address DSSRC's concerns, the inquiry was administratively closed. DSSRC reserved its right to commence a compliance inquiry regarding this matter should it continue to identify the dissemination of egregious earnings claims by the Company and/or its salesforce members.

(Case 116, closed on 5/15/23)
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[1] Novartis Corp., 223 F.3d at 787; Kraft, Inc., 114 F.T.C. 40, 121-22 (1991), aff'd, 970 F.2d 311 (7th Cir. 1992).

[2] See DSSRC Guidance on Earnings Claims for the Direct Selling Industry at <https://bbbprograms.org/programs/all-programs/dssrc>.

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