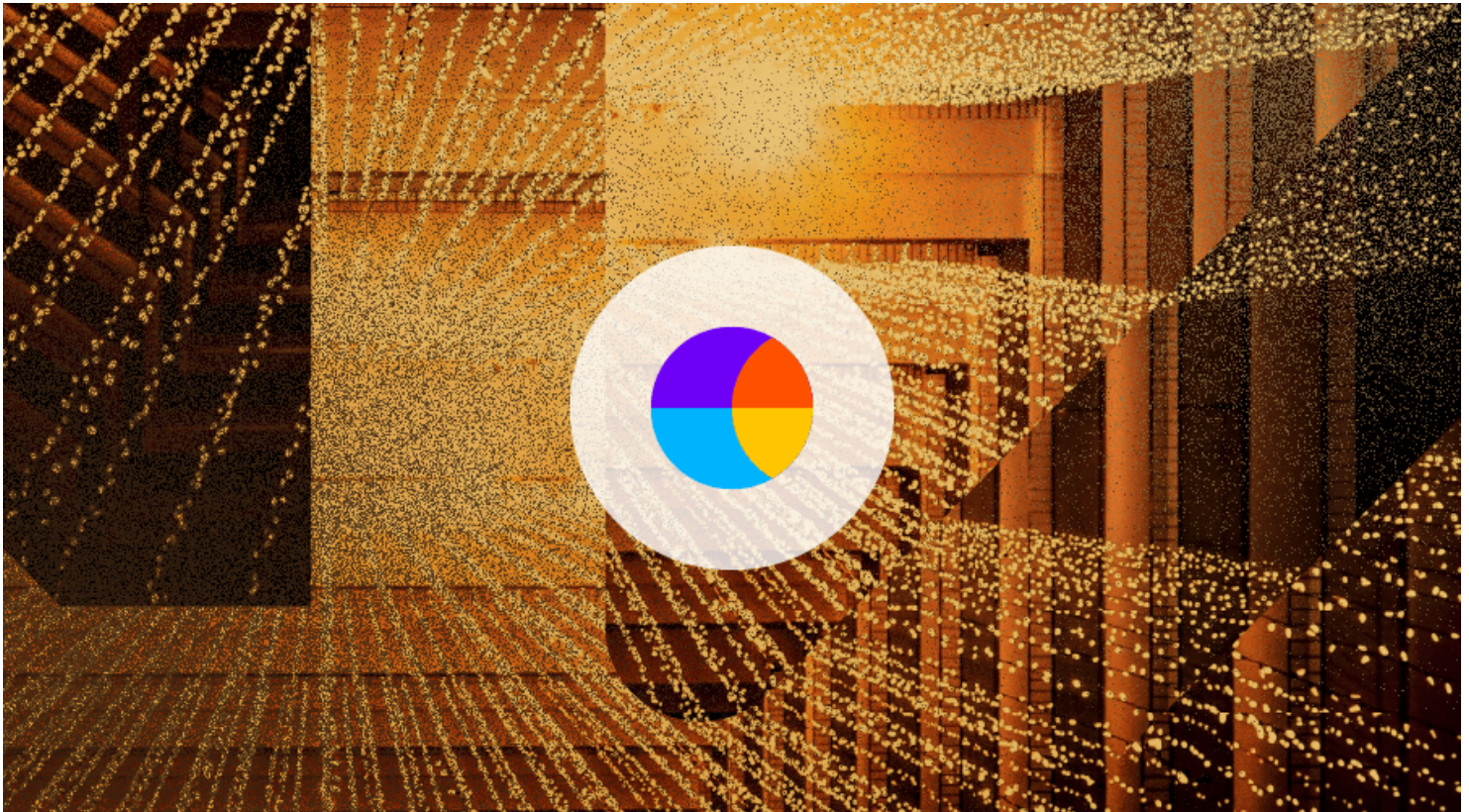


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# Case #102-2023: Compliance Inquiry – Innov8tive Nutrition, Inc.

## BBB NATIONAL PROGRAMS

The Direct Selling Self-Regulatory Council

Case Number 102-2023: Compliance Inquiry – Innov8tive Nutrition, Inc.

## Company Description

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

## Background

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. In June 2022, DSSRC resolved a compliance inquiry regarding a number of product performance and earnings claims that were disseminated by Innov8tive Nutrition salesforce members and communicated on the Company website. Innov8tive Nutrition did not dispute DSSRC’s concerns regarding the claims at issue in that inquiry and conceded that such claims should not have been disseminated. As a

demonstration of its commitment to advertising self-regulation, Innov8tive Nutrition removed all of the social media posts that were disseminated by its salesforce members and on Company websites.

The Company stated that it was committed to appropriate claim dissemination and that it expends significant resources on training and educating its salesforce members.

Accordingly, in its compliance report, DSSRC recognized Innov8tive Nutrition's bona fide efforts to remove Facebook posts and website testimonials, which DSSRC determined communicated claims that participating in the Innov8tive Nutrition business opportunity could result in financial freedom and unlimited earnings, in addition to the removal of product performance claims. Similarly, DSSRC expressed its appreciation to the Company for its prompt action to eliminate claims communicating 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 and stated that it would continue to monitor claims being disseminated by Innov8tive Nutrition and its salesforce members and noted that it would commence a compliance inquiry with the Company should there be a determination that unsupported earnings and product performance continue to be communicated by the Company.<sup>1</sup>

## Compliance Inquiry

As part of its compliance process, DSSRC will independently review advertising that has been the subject of previous inquiries and determine if the direct selling company has made a good faith effort to abide by DSSRC's recommendations. DSSRC recently identified 10 social media posts through its monitoring that communicated the message that Innov8tive Nutrition products can treat serious health-related conditions and four posts claiming that salesforce members can typically earn significant income from the Company's business opportunity.

DSSRC contacted Innov8tive Nutrition and asked the Company to provide an update on the actions it had taken to adhere to the Company's commitment to comply with the recommendations made by DSSRC in its 2022 decision and to indicate the actions that the Company has taken to strengthen its compliance oversight of salesforce members. DSSRC also inquired about the 14 newly identified social media posts that were disseminated by salesforce members that included similar earnings claims to those that were the subject of the 2022 DSSRC inquiry as well as aggressive product performance claims.

More specifically, the social media posts at issue in this compliance inquiry included the following claims:

### Product Claims

- "I have been suffering from sleep issues, stress, depression, anxiety, pain, lack of energy, having low immunity, migraines, my hair thinning and so much more.

If you or you know of someone that is experiencing and/or suffering from any of these issues YOU have to attend this informational meeting!! This is a chance to learn more about our patch system. It is so easy, peel, stick and go♥. No more choking down pills💊, using powders, and drinks🍷 that taste yucky 🤢 and that cost so much💰👉."

- "Who is struggling with: ♥ Energy; ♥ Sleep; ♥ Pain; Anxiety; Depression; ♥ Overall Optimal Health; ♥ Hair; Skin & Nails; ♥ Immune System"

- "My daughter has some anxiety issues. She has used the Feel Gr8 patch and she likes it a lot!"

- "🔍 Did you know that for less than the cost of an energy drink, soda, or coffee you can use Innov8tive Nutrition Energy patch and not get jitters, crash or other side effects 🔍🤔."

🚫 There is ZERO artificial ingredients or sugar, just HEALTHY Good vitamins and antioxidants providing energy, stamina, and focus! Time released throughout your day♥

♥ ENERGY♥;🚫 Sugar;🚫 Fillers;🚫 Drinks;🚫 Capsules;🚫 Toxic Ingredients🚫 Crash🚫 Jitters;🔥 Vitamins, minerals & plant extracts!;🔥 Feel Good B Vitamins;🔥 Natural Sustained Energy;

May also help with:

🔥 Focus;🔥 Muscle Endurance & Recovery

🔥 Hormone/Thyroid Balance

This is not a caffeine patch!

SO much more than Energy from this patch! AND it costs LESS for ONE patch than an unhealthy energy drink that wrecks your adrenals or a fancy coffee!

It may also help with the following: 🍌 Blood Pressure Regulation; 🍌 Increasing muscle mass and strength; 🍌 Mood - depression, anxiety, stress; 🍌 Helps with cardiovascular and respiratory systems; 🍌 Increase longevity; 🍌 Improve skin elasticity; 🍌 Heart and brain health; 🍌 Fatigue; 🍌 Thyroid Balance; 🍌 Weight; management; 🍌 Blood Sugar stabilization; 🍌 Libido”

- “Innov8tive nutrition can help anxiety with vitamins instead of seeing a doctor every three months ❤️ .”
- “Health issues? Anxiety? Sleep? Weight loss? Energy without having to chug caffeine? Or just overall health and wanting to improve? Make sure your body is getting what it needs? I know I struggle with a few.... everything in these products are designed to help get your body back on track and check out the benefits for kids as well! Plus with 30 day money back guarantee what do you have to lose!? I know im excited how about you?!”
- “#Hormones #libido #moodswings #timeofthemothproblems #menopause #hysterectomy #estrogen #progesterone”
- “A good night's sleep is essential for body/brain repair, increased resilience to stress/injury, pain reduction, mood regulation, diminished anxiety, memory and learning and immune competence.” Innov8tive Nutrition Sleep Patches, for a good night's sleep”
- “Hormones.....they certainly can affect our body's in so many ways! Mood swings- low libido-weight gain-pms-fibroids-hot flashes-night sweats-unwanted hair growth/loss-brain fog! For me I don't want to take any hormone replacements, that's why I'm excited to start using this body app 😊 all natural ingredients.....stay tuned for my results!! Could you use any help with hormone issues?”
- “This was shocking to me. More reason to try Innov8tive Sleep Patch and ditch that melatonin !”

#### *Earnings Claims:*

- “WHY? Because we have an EXCLUSIVE and UNIQUE product line, with a compensation plan that PAYS like no other!  
We are creating financial FREEDOM!”
- “Financial Freedom - NO MORE worry about how the bills will get paid!”
- “... journey to financial freedom!”
- “I am so thankful I decided to join Innov8tive nutrition! It has given me time freedom and financial freedom!”

#### **Company's Position**

In its response to DSSRC's compliance inquiry, Innov8tive Nutrition reaffirmed its commitment to industry self-regulation and pledged to continue to actively monitor and remove non-compliant earnings claims from the marketplace.

More specifically, Innov8tive Nutrition attempted to contact the salesforce members and request that the social media posts at issue be removed. The Company was successful in removing 12 of the 14 posts that were brought to its attention by DSSRC, including all four of the posts that communicated atypical earnings claims.

With respect to the two posts that included product performance claims, which remain publicly available, Innov8tive Nutrition informed DSSRC that despite its best efforts, it was unable to facilitate removal of the posts. As a demonstration of its good faith efforts, the Company informed DSSRC that it terminated the accounts of the salesforce members responsible for the claims. In addition, the Company provided DSSRC with copies of the correspondence that was sent to the two salesforce members requesting that they remove the posts; copies of the correspondence sent to Twitter and Facebook (i.e., the platforms where the social media post appeared), and screenshots of the respective salesforce members' social media feeds in which Innov8tive Nutrition submitted comments indicating that the posts included unsupported product performance claims that were not authorized by the Company.

Additionally, Innov8tive Nutrition provided DSSRC with updated training materials that have been added to Innov8tive's resource center and information on additional compliance resources implemented since March. Innov8tive Nutrition also submitted copies of the Company's Compliance training manual to DSSRC as well as links to the social media guidelines and the testimonial guidelines. DSSRC determined that the actions taken by the Company were necessary and appropriate.

As DSSRC has noted in previous inquiries, health-related claims must be supported by reliable and competent evidence demonstrating that the product can perform as claimed. The Federal Trade Commission's ("FTC") standard of competent and reliable scientific evidence has been defined in FTC case law as "tests, 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."<sup>2</sup>

### **Compliance Determination**

DSSRC recognized and appreciated the good faith actions that were taken by Innov8tive Nutrition to address the social media posts at issue. The Company did not attempt to substantiate the earnings claims that DSSRC brought to its attention and acknowledged that the claims disseminated by the Innov8tive Nutrition salesforce members did not adhere to the Company's Policy and Procedures. While the Company was able to effectuate the removal of all but two of the posts at issue, Innov8tive Nutrition demonstrated that it had attempted to contact the salesforce members who were responsible for the remaining posts, as well as the platforms where the posts appeared.

As DSSRC has noted in previous self-regulatory inquiries, when a direct selling company is made aware of improper claims that were made by an individual that was an active salesforce member when such claim was made but that has since become an inactive salesforce member of the company, DSSRC acknowledges that the direct selling company may not be able to require such salesforce members to remove a social media post. In that instance, DSSRC nonetheless recommends that the direct selling company make a bona fide good faith effort to have the improper claim removed.<sup>3</sup> Accordingly, DSSRC has concluded that by facilitating the removal of twelve social media posts and making a due diligent effort to contact the social media platform and the individuals responsible for the two remaining posts who have since been suspended, the Company has made a good faith effort to adhere to DSSRC's recommendations from the 2022 decision.

With respect to the four earnings claims that were identified by DSSRC in this matter, according to section 6 of the DSSRC Guidance for Earnings Claims in the Direct Selling Industry, 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.

Based upon the actions of the Company, DSSRC closed its compliance inquiry pursuant to section VIII(D)(1) of the DSSRC Policies & Procedures.<sup>4</sup> Notwithstanding the efforts taken by Innov8tive Nutrition, DSSRC will continue to monitor the social media posts being disseminated by Company salesforce members.

### **Conclusion**

DSSRC recognized the good faith actions taken by Innov8tive Nutrition in the spirit of voluntary self-regulation and the appropriate and prompt steps resulting in the removal of 12 of the 14 social media posts at issue. DSSRC further concluded that the Company made a genuine, bona-fide attempt to contact the individuals responsible for the two posts that remain publicly accessible by consumers which resulted in the suspension of the salesforce members' accounts. DSSRC also recommended that Innov8tive Nutrition utilize Facebook's mechanism for reporting trademark or copyright violations and seek removal of the remaining posts and if such efforts are unsuccessful that the Company contact the website or platform in writing and request removal of the posts.

(Case No. 102-2023, closed on 01/24/23)

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[1] See <https://bbbprograms.org/programs/all-programs/dssrc/ccd/case-63-2022-monitoring-inquiry-innov8tive-nutrition>.

[2] Vital Basics, Inc., C-4107 (Consent April 26, 2004); see also *In Re Schering Corp.*, 118 F.T.C. 1030, 1123 (1994).



[3] Le-Vel Brands (Case#57-2021); Gano Excel USA, Inc. (Case #30-2020); Daxen, Inc. (Case #52-2021).

[4] DSSRC will continue to monitor the online and social media advertising for claims made regarding the income that can be expected by salesforce members who participate in the Innov8tive Nutrition business opportunity to ensure that the dissemination of unsupported earnings claims is not a systemic issue.

3.04.23

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