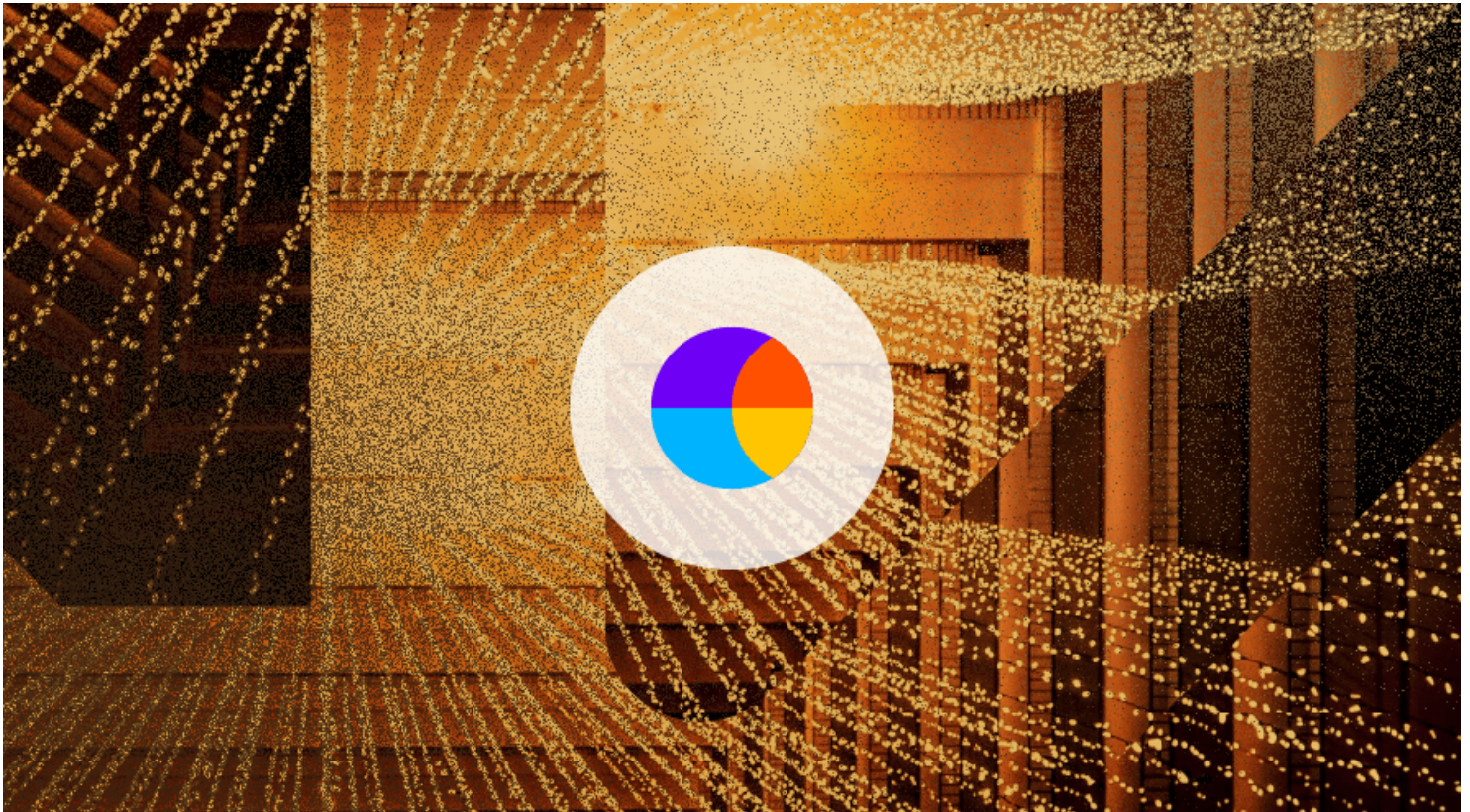


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# Case #119-2023: Government Referral – Wayal Health Sciences USA, Inc.

## BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council  
Case #119-2023: Government Referral – Wayal Health Sciences USA, Inc.

## Company Description

Wayal Health Sciences USA, Inc., (“Wayal Health” or the “Company”) is a multi-level direct selling company founded in 2016. The Company is headquartered in Salt Lake City, Utah and markets health and wellness nutritional supplements.

## 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 in the direct selling marketplace and concerns product performance claims disseminated by the Company and its salesforce members.

The representative claims that formed the basis of this inquiry are set forth below:

#### Product Performance Claims:

- “Andorra life's omega-3 supplement, helps fight cancer, depression, and attention-deficit hyperactivity disorder (ADHD)”
- “Being joyful boosts our immune systems, fights stress and pain, and improves our chance of living a longer life. Being joyful could quite literally add years to life.”
- “Improve cardiovascular health, joint function; - Skin care benefit; - Protect eyes and vision; - Powerful antioxidant, boosts immune system, anti-inflammatory; - Helps to reduce the risk of memory loss and Alzheimer's disease”
- “Why Choose Wayal NMN5G? - Activate Anti-aging genes - Energize mitochondria - Optimal all antioxidant - Trigger telomerase regenerate - Optimal science-based 300 mg per capsule Functions of Wayal NMN5G - Improves memory, reduces learning decline caused by aging, and increases vitality. - Activates stem cells to improve injury repair and regeneration. - Enhances immune system function. - Increases mitochondrial energy supply. - Improves anti-oxidation present in and outside of cells that reduces harmful free radicals, and reactivate telomerase.”
- “Wayal OPC Supreme
  - Top comprehensive antioxidant products
  - Whitening and spot removal, preventing skin cancer
  - Help improve cardiovascular function, help improve microcirculation
  - Improve immunity, improve allergic diseases, fight all kinds of acute and chronic inflammation Protect eyes and vision, improve cataracts, floaters
  - Anti-inflammatory and analgesic to promote wound healing and help protect bone and tooth health Prevent memory decline and reduce the risk of Alzheimer's, cancer and other diseases #OPC #antiaging”

DSSRC expressed its concern that such product performance claims convey the message that the Company's products could treat a series of health-related conditions, including but not limited to memory loss, Alzheimer's, and skin cancer.

#### Company's Non-Participation in the DSSRC Process

DSSRC made several attempts to contact Wayal Health requesting that the Company participate in the self-regulatory forum. A Notice of Inquiry was sent to Wayal Health by both email and two-day UPS mail on April 5, 2023, listing the social media posts identified by DSSRC and requesting that the Company provide support for the claims on or before Thursday, April 27, 2023. Although the Company sent an email to DSSRC through its automated system two days after the Notice of Inquiry was sent, Wayal Health failed to provide a substantive response addressing DSSRC's concerns.

Pursuant to DSSRC's Policies & Procedures, after DSSRC failed to receive a response to the inquiry, DSSRC mailed a 10-day notice to the Company (again both by email and two-day UPS mail) on May 1, 2023, indicating to the Company that DSSRC was prepared to refer this matter to the appropriate government agency if the Company did not respond to the inquiry. Accordingly, although DSSRC received an automated email confirmation of the 10-Day Notice from the Company's support team, Wayal Health again did not provide a substantive response regarding the claims at issue in the inquiry.

DSSRC also attempted to telephone the Company to advise Wayal Health about the inquiry and DSSRC's concerns. However, a representative of the Company hung up on DSSRC after being informed of the self-regulatory inquiry.

It is noted that all the social media posts that were the subject of the DSSRC inquiry remain unchanged and publicly available.

#### Referral to the Government

DSSRC determined that several aggressive product performance claims are being disseminated by Wayal Health salesforce members on social media, including claims communicating that its products are effective to treat a number of serious health-related conditions including cancer, depression, and ADHD.

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

The Federal Trade Commission (FTC) requires that advertisers substantiate express and implied claims, however conveyed, that make objective assertions about the item or service advertised. Objective claims for products or services represent explicitly or by implication that the advertiser has a reasonable basis supporting these claims.<sup>2</sup> Moreover, claims about the health benefits or safety of foods, dietary supplements, drugs, and other health-related products require substantiation in the form of competent and reliable scientific evidence.<sup>3</sup>

The Company provided no evidence to support the aggressive product performance claims being communicated by salesforce members and failed to address DSSRC's concern.

According to Section (II)(9) of the DSSRC Policies and Procedures, in the event the company whose marketing is the subject of a DSSRC inquiry fails to participate in the self-regulatory process, DSSRC may refer the matter to an appropriate government agency for review and possible law enforcement action. As such, based upon Wayal Health's failure to respond to the self-regulatory inquiry and address DSSRC's concerns, this matter has been referred to the FTC.

(Case No. 119 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 <https://www.ftc.gov/legal-library/browse/ftc-policy-statement-regarding-advertising-substantiation>.

[3] <https://www.ftc.gov/business-guidance/resources/health-products-compliance-guidance>.

June 05, 2023

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