



DIRECT SELLING ASSOCIATION

# *Code of Ethics Administrator Report*



Second Edition for the Period of  
January–December 2016

March 2017

**[www.dsa.org](http://www.dsa.org)**

The Direct Selling Association (DSA) is the national trade association for companies that offer entrepreneurial opportunities to independent sellers to market and sell products and services, typically outside of a fixed retail establishment. More than 18 million Americans are involved in direct selling in every state, congressional district and community in the United States. In 2014, direct selling generated more than \$34 billion in retail sales. For more information, visit [www.dsa.org](http://www.dsa.org).

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## **DSA Code of Ethics**

Originally adopted in 1970, the Code of Ethics is a self-regulatory instrument and serves as the cornerstone of Direct Selling Association (DSA)'s commitment to ethical business practices and consumer protection. Every member company pledges to abide by the Code of Ethics' standards and procedures as a condition of admission and continuing membership in DSA. In order to ensure awareness about the Code of Ethics among consumers and the marketplace, DSA member companies are obligated to publish links to the Code of Ethics as well as the complaint handling process on their official websites. The Code of Ethics includes duties and requirements for ethical activity to protect both the consumer and the direct seller. The Code of Ethics holds member companies accountable with an ongoing, rigorous set of mandates and responsibilities in areas such as earnings representations, product claims, sales and marketing practices, order cancellation and return policies. Furthermore, the Code of Ethics prohibits statements or promises that might mislead either consumers or prospective salespeople.

## **Code of Ethics Administrator**

The DSA Code of Ethics Administrator ("Code Administrator") serves as an independent third party who enforces the Code of Ethics' requirements. The Code Administrator receives, reviews and responds to issues and inquiries arising under the Code of Ethics. In this capacity, the Code Administrator also acts as an arbiter between companies and individuals as well as issues among DSA member companies.

Code cases involving an alleged violation by a DSA member company are generated from a number of sources: a consumer, a direct seller, another DSA member company or directly from the Code Administrator. The procedure for filing a complaint is done electronically through the DSA website, [www.dsa.org/consumerprotection/filing-a-code-complaint](http://www.dsa.org/consumerprotection/filing-a-code-complaint).

In response to each issue, complaint, and/or inquiry, the Code Administrator conducts an investigation and reaches a conclusion. Member companies are required to comply with any determination and potential remedy the Code Administrator prescribes. Potential remedies include restitution of monies paid for an accused member company's products that are subject to the complaint, enjoining certain marketing practices, and ordering mandatory repurchase of inventory under the DSA buyback provision, among others.

Each member company and applicant company is required to designate a Code Responsibility Officer ("CRO"). The CRO is responsible for facilitating compliance with the Code of Ethics by the company as well as responding to inquiries by the Code Administrator. Additionally, the CRO serves as the primary contact to communicate the principles of the DSA Code of Ethics to the member company's independent salespeople, company employees, customers as well as the general public.

## **Code of Ethics Administrator Report**

The Code Administrator Report that follows lists areas of enforcement corresponding to the Code of Ethics. The mere presence of a Code of Ethics case does not constitute a finding of a violation of the Code of Ethics. This report represents matters that have been received by the Code Administrator in the past year encompassing January 2016 to December 2016. This report encompasses 217 complaints of which 199 (92%) were responded to in a timely fashion by the member company and 203 (93%) were deemed resolved.

Jared O. Blum, Esq.

# Areas of Code Enforcement

## 1 | Deceptive or Unlawful Consumer or Recruiting Practices

(107 cases comprising 50% of the total)

DSA member companies and their independent salespeople may not engage in deceptive, unlawful or unethical practices with regard to statements about products, earnings and income opportunities, recruiting and comparisons to other direct selling companies or salespeople.

The Code Administrator has the authority to make a determination of what is a deceptive, unlawful or unethical consumer or recruiting practice under the Code of Ethics using prevailing legal standards as a guide. Compliance with any particular law, regulation or Code of Ethics provision is not a defense to such a determination by the Code Administrator that a practice is deceptive, unlawful or unethical. Additionally, it shall be considered an unfair and deceptive recruiting practice for a member company or independent salesperson to require or encourage an independent salesperson to purchase unreasonable amounts of inventory or sales aids. (See also Category 9 of this report)

## 2 | Products, Services and Promotional Materials to Include Product Claims

(68 cases comprising 31% of the total)

Claims about products or services made by companies and their independent salespeople cannot be misleading and must be substantiated by competent and reliable evidence. Further, misleading or unsubstantiated comparisons of another company's direct selling opportunities, products or services are prohibited. To the extent claims are made with respect to products, independent salespeople shall make only those product claims authorized by the member company.

## 3 | Terms of Sale

(2 cases comprising 1% of the total)

Pursuant to Section (A)(3)(b) Terms of Sale of the Code of Ethics, member companies and their salespeople shall offer a written, clearly stated cooling off period permitting the consumer to withdraw from a purchase order within a minimum of three days from the date of the purchase transaction and receive a full refund of the purchase price.

## 4 | Warranties and Guarantees

(2 cases comprising 1% of the total)

The terms of any warranty or guarantee offered by the seller in connection with the sale shall be furnished to the buyer in a manner that fully conforms to federal and state warranty and guarantee laws and regulations. The terms of all warranties and guarantees offered to consumers must be honored.

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## **5 | Identification and Privacy** (20 cases comprising 9% of the total)

At the beginning of sales presentations, independent salespeople shall truthfully and clearly identify themselves, their company, the nature of their company's products or services, and the reason for the solicitation. Contact with the consumer shall be made in a polite manner and during reasonable hours. A demonstration or sales presentation will conclude upon the consumer's request. Additionally, member companies and independent salespeople shall take appropriate steps to safeguard the protection of all private information provided by a consumer, independent salesperson or prospective independent salesperson.

## **6 | Pyramid Schemes** (0 cases)

Pyramid or endless chain schemes shall be considered actionable under the Code of Ethics. The Code Administrator shall determine whether such pyramid or endless chain schemes constitute a violation of this Code of Ethics in accordance with applicable federal, state and/or local law or regulation. To that end, DSA member companies shall remunerate independent salespeople primarily on the basis of sales of products, including services, purchased by any person for actual use or consumption. Such remuneration may include compensation based on purchases that are not simply incidental to the purchase of the right to participate in the program.

## **7 | Inventory Purchases and Inventory Repurchase** (2 cases comprising 1% of the total)

Any DSA member company with a marketing plan that involves selling products directly or indirectly to independent salespeople shall adopt and communicate a policy that the company will repurchase on reasonable commercial terms currently marketable inventory, in the possession of that salesperson and purchased by that salesperson for resale prior to the date of termination of the independent salesperson's business relationship with the company. These terms require the repurchase of marketable inventory within twelve (12) months from the salesperson's date of purchase at not less than 90 percent of the salesperson's original net cost less appropriate set offs and legal claims, if any.

## **8 | Earnings Representations** (3 cases comprising 1% of the total)

These matters correspond to Section (A)(8) of the Code of Ethics which define earnings representations and include the required accountability standards for earnings representations. Earnings representations by DSA member companies or independent salespeople must be truthful, accurate and presented in a manner that is not false, deceptive or misleading. Prospective salespeople must be given sufficient information to understand that earnings may vary significantly and must be presented with sufficient information to conduct a reasonable evaluation of the opportunity to earn income. Earnings representations that give the impression of lifestyle opportunities must be clearly substantiated. Any sales and earnings representations must be documented and substantiated. Member companies and their independent salespeople must maintain such documentation and substantiation, making it available to the Code Administrator upon written request.

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## **9 | Inventory Loading**

(0 cases)

A member company shall not require or encourage an independent salesperson to purchase inventory in an amount which unreasonably exceeds that which can be expected to be resold and/or consumed by the independent salesperson within a reasonable period of time.

It shall be considered an unfair and deceptive recruiting practice for a member company or independent salesperson to require or encourage an independent salesperson to purchase unreasonable amounts of inventory or sales aids. The Code Administrator may employ any appropriate remedy to ensure any individual salesperson shall not incur significant financial loss as a result of such prohibited behavior.

## **10 | Payment of Fees**

(0 cases)

Neither member companies nor their independent salespeople shall ask individuals to assume unreasonably high entrance fees, training fees, franchise fees, fees for promotional materials or other fees related solely to the right to participate in the member company's business. Any fees charged to become an independent salesperson shall relate directly to the value of materials, products or services provided in return.

## **11 | Training and Materials**

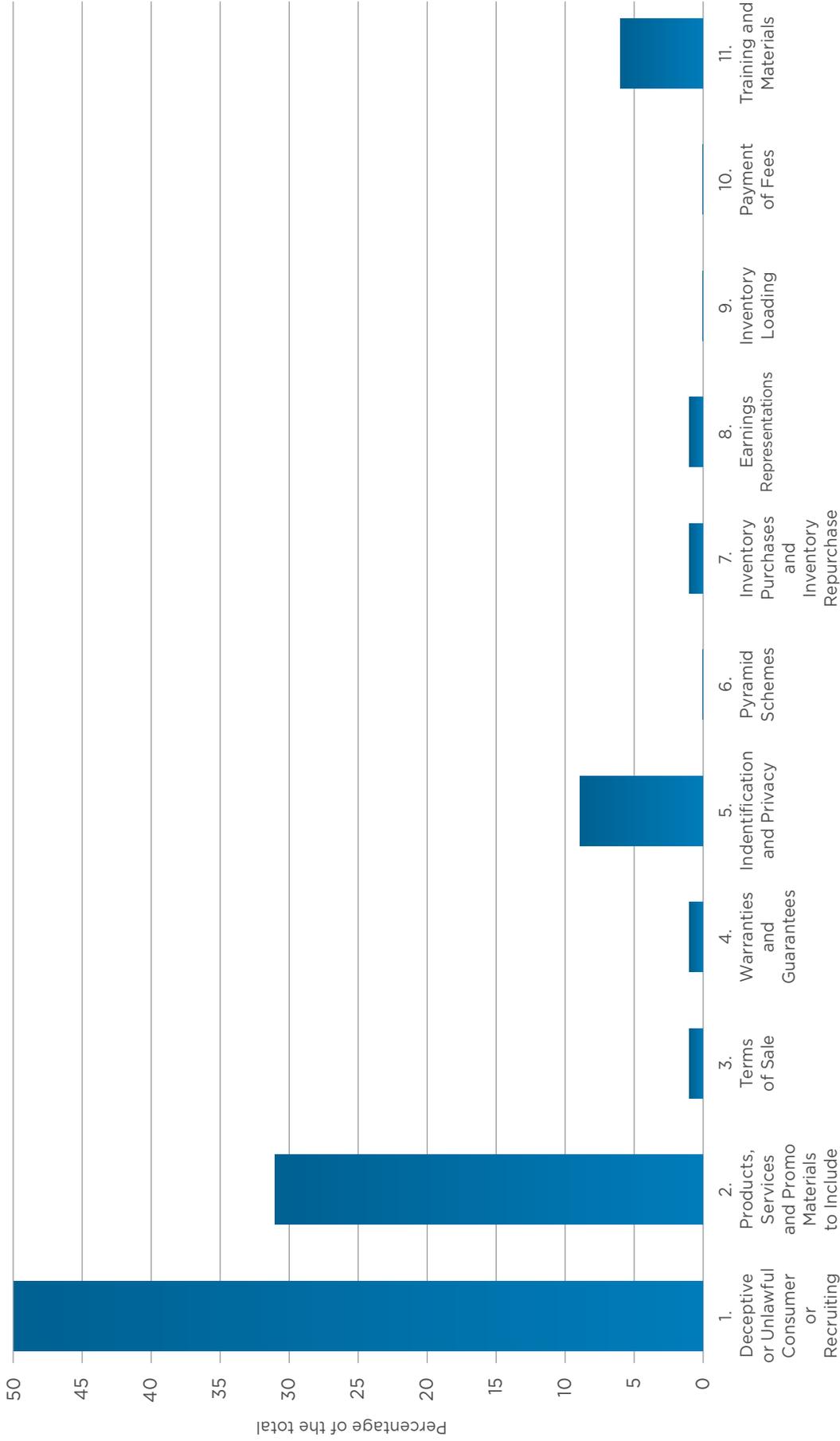
(13 cases comprising 6% of the total)

DSA member companies shall provide adequate training to enable independent salespeople to operate ethically. Additionally, DSA member companies shall prohibit their independent salespeople from marketing or requiring the purchase by others of any materials that are inconsistent with the member company's policies and procedures.

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# Areas of Code Enforcement

Topic of Code Cases



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