

Online Retail Industry Sweep

November 2018

Better Business Bureau Serving Greater Denver and Central Colorado recently completed its months-long “sweep” of advertising practices and complaint activity among Denver-based online retailers, initiated due to recent trends in consumer complaints regarding businesses in that industry. Through this project, BBB identified and corrected several instances of non-compliance with the [BBB Code of Advertising](#), the standard to which BBB holds advertisers when reviewing their claims. BBB also reviewed and summarized consumer complaints made against online retail businesses, many of which allege discrepancies between businesses’ advertising and their actual practices.

The advertising review component of this sweep involved 260 individual businesses and ultimately resulted in 28 formal BBB advertising review cases, six businesses modifying or discontinuing certain advertising practices, nine businesses substantiating their advertising claims, and 13 business rating deductions due to non-compliance.

In addition, BBB reviewed consumer complaints submitted against 123 individual businesses, completed 22 in-depth “file reviews” (analyses of all complaint data relating to a single business), and found 11 of those businesses to have patterns of recurring complaints.

BBB is excited to announce its findings during [Colorado Consumer Protection Month](#), which represents a collaboration between law enforcement, regulatory entities, and non-profit partners to educate Coloradans about fraudulent activity.

Introduction

According to the U.S. Census Bureau, e-commerce sales have steadily risen from roughly 4% of total U.S. retail sales a decade ago to nearly 10% in mid-2018. While this growth creates exciting new opportunities for business and consumers, available data suggests that it has also widened existing avenues for consumer fraud. The most recent BBB Scam Tracker Risk Index—an analysis of all data collected through BBB’s Scam Tracker program in 2017—found online retail scams to pose the greatest financial risk to North American Consumers of any scam category due to their broad reach, relatively high dollar values, and believability to consumers.

During the past 12 months, BBB has received more than 300 formal consumer complaints against Denver-based online retail and shopping businesses, outpacing those against roofing contractors, moving companies, and used car dealers. This represents an almost 50% increase in complaint activity when compared to the 2016 full-year data from approximately two years ago.

In addition to a high volume of complaints, BBB took notice of several patterns of non-compliance with the BBB Code of Advertising among online sellers, most frequently: use of **guarantees and warranties** without disclosure of stipulating details; untruthful **Made in the USA** claims; false **limited time sales**; and unsubstantiated claims that a product’s effectiveness is **supported by empirical research**.

Advertising Review: Methodology

In determining the scope of its industry-wide review, BBB initially considered all businesses that claim a Denver address and that had previously been categorized into one of following “type of business” (TOB) categories in the BBB database:

- **Online retailer (62100-000)**
- **Online shopping (60974-000).**

Of the **initial 260 businesses** found within these two TOB’s, BBB eliminated a total of 38 business from its review—eight that were no longer in business, 12 that were re-categorized under different TOB’s, and 18 that were found to be based in other BBB’s service areas. Moreover, an additional 61 businesses were excluded from the review because their websites were inactive.

This project addressed advertising claims found on the **remaining 161** businesses’ websites. The **most frequent and egregious** violations of BBB’s Code of Advertising included:

- Use of **guarantees and warranties** without disclosure of stipulating details
- Untruthful **Made in the USA** claims
- False **limited time sales**
- Unsubstantiated claims that a product’s effectiveness is **supported by empirical research**

The final step in BBB’s industry sweep involved opening formal advertising review cases on individual businesses found to be incorrectly displaying the above claims. Through its formal advertising review process, BBB routinely notifies businesses of advertising violations and requests that they modify, substantiate, or discontinue their advertising. Typically, advertising reviews are performed on a case-by-case bases, rather than as part of a sweep of an entire industry. BBB’s desired outcome is for businesses to voluntarily address advertising issues, although a ratings deduction is applied to businesses that fail to comply with the advertising review.

Prior to initiating any formal advertising review cases as a part of this sweep, BBB sent every business involved an educational letter describing the advertising claims deemed to be problematic. In previous years, BBB has found that this communication allowed businesses to address any problematic claims on their websites without the need for a formal advertising review case. Following its industry analysis, BBB sent notification to businesses whose advertising did not raise concern.

Advertising Review: Findings

After reviewing advertising on 161 businesses’ websites, BBB opened **27 formal advertising review cases**. Six businesses cooperated with BBB to modify or discontinue the advertising claims BBB identified, and an additional nine business provided substantiation for their claims. 13 businesses failed to comply with BBB’s ad-related requests. BBB applied ratings deductions to these 13 businesses.

Businesses that modified or discontinued their advertising:

- A Major Difference: A+ Rating

- Everything Nautical, Inc.: A+ Rating
- Seifelden, Inc: A+ Rating
- Threyda Art & Apparel: A+ Rating
- Grasshopper Labs LLC: F Rating
- Flight Inspired/The Dab Lifestyle: F Rating

**Note: Grasshopper Labs LLC and Flight Inspired/The Dab Lifestyle is F-rated due to unresolved consumer complaints, as opposed to advertising concerns.*

Businesses that provided substantiation for their ad claims:

- | | |
|--|--------------------------------|
| • Bolio Designs Inc: A Rating | • RGS Labs: A+ Rating |
| • TaraLey: B+ Rating | • Sculptures in Ice: A+ Rating |
| • Functional Remedies LLC: C+ Rating | • Swimtails, LLC: A Rating |
| • Innovative Products International, LLC:
A+ Rating | • Gratefully Dyed: B+ Rating |
| | • Thumbuddy to Love: A+ Rating |

Businesses that failed to comply:

- | | |
|--|----------------------------------|
| • G Street Media: F Rating | • Dabado, LTD.: F Rating |
| • Aquegel Moisturizers, LLC: F Rating | • Digixstream Shop: F Rating |
| • Bean Skin Cream: F Rating | • Lab Investments, LLC: F Rating |
| • Fat Sun Trading Co.: F Rating | • Skin Balance, Inc: F Rating |
| • Free Earth Trading Company: F Rating | • The Dab Store: F Rating |
| • Growl Tap: F Rating | • Think Tank Products: F Rating |
| • Royal Distribution, Inc.: NR Rating | |

Analysis of Consumer Complaints

Yet another aspect of BBB’s industry sweep involved reviewing consumer complaints against Denver’s online sellers. BBB reviewed complaints made against 123 individual businesses, resulting in 22 file reviews—a formal process through which BBB evaluates the complaint activity against a given business to establish whether or not a pattern in consumer allegations exists. BBB found patterns of complaint activity relating to 11 of these 22 businesses, meaning BBB determined that the issues complainants raised were caused by underlying problems that the businesses had failed to address over time. BBB notified each business regarding the complaint activity and requested a response to the matter. As of December 4, 2018, BBB did not receive a response as requested.

The primary complaint patterns BBB found involved (in order of frequency):

- **Customer Service Issues:**
Consumers allege that when contacting the business for support, the business’s response either takes several weeks or is never received at all.
- **Product issues:**
Consumers allege that the product they receive is of lower quality or different material than was advertised. Additional product issues include items of the wrong color and/or size, and damaged items.

- **Delivery Issues:**
Consumers allege that after placing an order, they never receive their purchase. Some consumers allege waiting upwards of 8 weeks with little or no communication from the business as to the status of their order. Several consumers describe being provided with invalid tracking numbers, being told their orders have been lost in transit, and/or being told the product is temporarily out of stock after purchase.
- **Refund issues**
Consumers allege that after requesting a refund, the business promises to send said refund, but fails to provide one or communicates any further.
- **Billing issues**
Consumers allege being charged a higher price once items are added to their online cart or once they are billed. Additionally, consumers who order “free trial” products allege that they are unknowingly enrolled in automatic subscription services, or “continuity programs.”

BBB of Colorado Collaboration

BBB Serving Greater Denver worked in conjunction with two other Colorado BBB’s in a collaborative attempt to complete an analysis of common practices among the state’s online retail companies:

BBB serving Northern Colorado and Wyoming

BBB serving Northern Colorado and Wyoming (WynCo) reviewed a total of 255 businesses categorized in the type of business (TOB) for *Online Retailer, Vitamins and Supplements, Health and Wellness, and Online Shopping*.

BBB serving Northern Colorado and Wyoming narrowed down the advertising review to 28 businesses. The most frequent advertising claims BBB WynCo found were categorized in the following:

- Savings/pricing claims with no valid basis for comparison
- Deceptive depictions of inventory and limited time offers
- Unsubstantiated health benefit claims
- Unsubstantiated "Made in USA" claims

BBB WynCo identified 17 formal advertising cases – two businesses modified/substantiated their advertising, thirteen closed without a response from the business, and two cases still pending with the businesses actively responding to the BBB. 11 businesses that BBB WynCo originally identified as problematic were excluded from the official review based on a variety of factors – inactive websites, out of area (OOA) reports, and one website that appeared to be entirely in a foreign language.

BBB of Southern Colorado

BBB of Southern Colorado (BBBSC) reviewed a total of 30 businesses categorized in the TOB for the Online Retailer and Online Shopping industry. BBBSC focused their review on the following:

- Shipping time claims
- Businesses selling licensed products without proper permission
- Ambiguous and misleading return policies

Of this list of businesses, BBBSC found **one** Accredited Business to address a trademark related ad review who did modify the advertising on their website as requested and seven of the thirty businesses confirmed to be out of business. BBBSC determined the remaining businesses did not have any issues to open a formal ad review case or investigation.

Conclusion

The convenience of the internet makes the online marketplace appealing to consumers and scammers alike. The online retailer industry review was a small glimpse of a massive industry that continues to evolve each and every day.

Since BBB's founding in 1912, its Advertising Review Program has been a core service offered to businesses and consumers alike. BBB regularly reviews the advertising of local Accredited and non-Accredited businesses to call attention to misleading or confusing ad claims, giving businesses the opportunity to clarify, substantiate, and modify claims where necessary.

By conducting a review of the local online retailer industry, BBB aims not only to educate businesses on the practice of ethical and truthful advertising, but also to provide consumers with important knowledge used to identify misleading advertising tactics. BBB encourages businesses in any industry to employ to BBB's [Code of Advertising](#) as a standard, and consumers to [check with BBB](#) before doing business.