



**National  
Programs**

Where businesses turn  
to enhance consumer trust  
and consumers are heard.

# Help Create a More Trustworthy Marketplace.

**Consider BBB National Programs  
as a Recipient for Your Class  
Action Cy Pres Award.**

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### Putting Cy Pres Awards to Work for Consumers and a Fair Marketplace

Cy pres distributions allow BBB National Programs to serve the public interest by building a trusted marketplace through independent self-regulation and dispute resolution programs. Putting BBB National Programs forward as a cy pres recipient in their settlements help protect consumers from misleading and unfair practices in the marketplace. BBB National Programs' initiatives include:

- » **Protecting consumers** from misleading advertising claims in mature and emerging industries;
- » Ensuring consumers are provided adequate and accurate **disclosures about online data collection and use**;
- » **Protecting children** from deceptive or inappropriate advertising and data collection practices;
- » **Helping auto manufacturers and consumers** resolve automotive warranty disputes without a lawyer;
- » **Providing “safe harbor” programs** under the Children’s Online Privacy Protection Act.

Cy pres awards from lawsuits related to these areas help BBB National Programs grow these valuable programs.

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**Looking to Meet the Challenges of the Future**

As we look to the future, BBB National Programs can also address new issues by leading individual company- or industry-wide efforts to create enforceable standards to address issues of consumer concern. BBB National Programs is at the forefront of developing programs to protect consumers from emerging harms and maintain a fair and ethical marketplace for businesses. When class action lawsuits relate to alleged consumer harms, BBB National Programs is well-suited to utilize cy pres funds to develop programs tailored to address those issues.

**Past BBB National Programs Cy Pres Awards**

The United States Court of Appeals for the 9th Circuit noted in *Dennis v. Kellogg*<sup>1</sup> that the most appropriate cy pres recipients in misleading advertising cases are “organizations dedicated to protecting consumers from, or redressing injuries caused by, false advertising.”

To that end, BBB National Programs’ programs have been named as a cy pres award recipient in numerous class action matters.

**Jones v. Monsanto**<sup>2</sup>

BBB National Programs’ National Advertising Division was named as one of three cy pres recipients in this matter related to allegedly misleading labeling on products containing glyphosate. In granting final approval the Court noted “the importance of tailoring a cy pres distribution to the nature of the underlying lawsuit.”

**Rawa v. Monsanto**<sup>3</sup>

BBB National Programs’ National Advertising Division was awarded 50 percent of the cy pres in a matter related to allegedly misleading claims about Roundup Concentrate. The court noted the National Advertising Division’s role in “enforcing high standards of truth and accuracy [in advertising].”

1. *Dennis v. Kellogg*, 697 F.3d 858, 866-67 (9th Cir. 2012)

2. *Jones v. Monsanto Co.*, Case No. 19-0102-CV-W-BP, 2021 WL 2426126, at \*8 (W.D. Mo. May 13, 2021) (quoting *In re Airline Ticket Comm’n Antitrust Litig.*, 307 F.3d 679, 683 (8th Cir. 2002)), *aff’d*, 38 F.4th 693 (8th Cir. 2022)

3. *Rawa v. Monsanto Co.*, Case No. 4:17CV01252 AGF, 2018 WL 2389040, at \*11 (E.D. Mo. May 25, 2018), *aff’d*, 934 F.3d 862 (8th Cir. 2019)

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## Past BBB National Programs Cy Pres Awards Continued

### Graves v. United Industries Corporation <sup>4</sup>

BBB National Programs' National Advertising Division was named a cy pres recipient in this matter related to allegedly misleading claims about the defendant's Spectracide® Concentrate Products. It cited *Rawa v. Monsanto*, in finding it to be a suitable cy pres recipient.

### Broomfield v. Craft Brew Alliance <sup>5</sup>

BBB National Programs' National Advertising Division (NAD) was named as one of two cy pres recipients in this matter related to product origin claims for one of the defendant's beer brands. The Court chose NAD following the submission of multiple organizations as possible recipients by the parties.

### Delcid v. TCP Hot Acquisition LLV & Idelle Labs <sup>6</sup>

BBB National Programs was named as a cy pres recipient in this matter related to Brut and Sure antiperspirant aerosol marketed and sold in the U.S. with detectable levels of benzene.

### Council for Responsible Nutrition

Presented with an industry historically difficult to regulate and far too many misleading advertising claims and unclear standards, the Council for Responsible Nutrition's (CRN) Foundation turned to the National Advertising Division to create a dedicated monitoring program. Over the years, this groundbreaking effort was increasingly supported by a series of cy pres awards granted to the Foundation as

part of dietary supplement false advertising settlements. The result was a 12-year partnership that expanded the National Advertising Division's review and monitoring of dietary supplement advertising and helped create a high standard for substantiating claims in this area. Between 2007 and 2020, the National Advertising Division closed more than 360 cases in the dietary supplement space.

### Krommenhock v. Post Foods, LLC <sup>7</sup>

BBB National Programs was named as one of several cy pres recipients in this matter related to consumer protection laws around allegedly deceptive marketing practices and health and wellness claims. BBB National Programs is approved as a cy pres recipient in cases involving allegations of misleading advertising because of the work our National Advertising Division does in promoting truth and transparency in advertising.

### Anthony v. Yahoo <sup>8</sup>

BBB National Programs' corporate predecessor, the Council of Better Business Bureaus, was named as a cy pres recipient in a suit related to Yahoo's online dating service.

### Marek v. Molson Coors Beverage Company <sup>9</sup>

BBB National Programs' National Advertising Division (NAD) was named as a cy pres recipient in this matter related to alleged mislabeling of health benefits for a hard seltzer product in violation of California law.

4. *Graves v. United Industries Corporation*, Case No. 2:17-cv-06983-CAS-SKx, 2020 WL 953210, at \*7 (C.D. Ca February 24, 2020)

5. *Theodore Broomfield v. Craft Brew Alliance, Inc.*, Case No. 17-CV-01027-BLF, 2020 WL 1972505 (N.D. Cal. Feb. 5, 2020)

6. *Delcid v. TCP Hot Acquisition LLC*, Case No. 1:21-CV-09569-DLC, 2023 WL 3159598 (S.D.N.Y. Apr. 28, 2023)

7. *Krommenhock v. Post Foods, LLC*, Case No. 16-CV-04958-WHO, 2021 WL 2910205 (N.D. Cal. June 25, 2021)

8. *Anthony v. Yahoo!, Inc.*, 376 F. App'x 775 (9th Cir. 2010)

9. *Marek v. Molson Coors Beverage Company*, Case No. 21-cv-07174-WHO (USDC ND CA March 10, 2023)

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**Past BBB National Programs Cy Pres Awards Continued****Habberfield v. Boohoo.com  
USA, Inc.** <sup>10</sup>

BBB National Programs' National Advertising Division was named as a cy pres recipient in this matter relating to allegedly false discounts on the defendants' websites.

**Joseph, et al. v. TGI Fridays,  
Inc., et al** <sup>11</sup>

BBB National Programs' National Advertising Division was named as the cy pres recipient in this class action alleging that TGI Friday's mozzarella stick snacks falsely claimed to contain actual mozzarella cheese.

10. *Habberfield v. Boohoo.com USA, Inc.*, 2:22-CV-03899-GW-JEMx, C.D. Cal. (Nov. 22, 2023)

11. *Joseph et al. v. TGI Fridays, Inc.*, Case No. 1:21-cv-01340, (USDC ND IL May 24, 2023)

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“BBB National Programs’ self-regulation programs have a long, commendable record of adding to consumer protections in the marketplace. Whether monitoring advertisements, promoting better privacy practices, better food advertising to children, or providing individual dispute resolution programs for consumers, BBB National Programs has been recognized for providing effective oversight that benefits consumers, ethical businesses, and a more trustworthy marketplace.”

**— Maureen K. Ohlhausen**

Partner, Baker Botts, former Federal Trade Commission Commissioner (2012-2018) and Acting Chair (2017-2018), and a member of the BBB National Programs Board (2019-present)

# Snapshot

## BBB National Programs Effective Use of Cy Pres Funds

Presented with an industry historically difficult to regulate and far too many misleading advertising claims and unclear standards, the Council for Responsible Nutrition’s (CRN) Foundation turned to the National Advertising Division to create a dedicated monitoring program. Over the years, this groundbreaking effort was increasingly supported by a series of cy pres awards granted to the Foundation as part of dietary supplement false advertising settlements. The result was a 12-year partnership that expanded the National Advertising Division’s review and monitoring of dietary supplement advertising and helped create a high standard for substantiating claims in this area.



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Between 2007 and 2020, the National Advertising Division drafted more than 360 decisions in the dietary supplement space.

“CRN is a strong supporter of self-regulation as one way to demonstrate the dietary supplement industry’s commitment to truthful advertising. Through our partnership with BBB, we raised our industry’s awareness of the importance of robust science to support advertising claims and, most importantly, protected consumers.”

— **Megan Olsen**

Vice President & Associate General Counsel, CRN

The National Advertising Division’s increased monitoring of dietary supplement claims created a framework that encouraged responsible supplement marketers to use the NAD’s dispute resolution forum to hold competitors accountable. The NAD decisions that came out of this program served as an “early warning system” for industry and consumers by identifying emerging issues and responsibly addressing them before regulatory action or litigation arose.

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# Executive Leadership

The BBB National Programs team is deeply familiar with the industries they engage with and monitor, earning them the respect of both regulators and the industries they serve.

Their self-regulatory efforts have been commended by regulatory authorities, leading corporations (big and small) and attorneys at the forefront of their fields.



**Eric D. Reicin**  
**President & Chief Executive Officer**

Eric D. Reicin joined BBB National Programs as President and Chief Executive Officer in 2019 and serves as a member of the organization's Board of Directors. The home of independent industry self-regulation in the United States, nonprofit BBB National Programs oversees more than twenty national industry self-regulation programs that have been helping enhance consumer trust in business for more than 50 years. Under Eric's leadership, BBB National Programs fosters trust, innovation, and competition in the marketplace through the development and delivery of cost-effective third-party self-regulation, dispute resolution, and other programs.

Eric is a senior corporate and legal executive with over 30 years of experience assisting publicly traded and private companies and other organizations grow, manage transformational change, and weather regulatory and public scrutiny. Most recently, Eric served as Vice President, General Counsel, and Corporate Secretary for MorganFranklin Consulting, LLC and MorganFranklin, LLC, a global management consulting firm and government contractor (DOD and civilian) and previously served as Senior Vice President and Deputy General Counsel at Sallie Mae, then a Fortune 500 diversified financial services company (NASDAQ: SLM). Eric served a six-year term on the global board of the Association of Corporate Counsel, which has a presence in 85 countries. Eric previously served as president of the Association of Corporate Counsel - NCR, the largest regional in-house bar association. Eric is a member of the CNBC CEO Council, Forbes Nonprofit Council, the Economic Club of DC, and The Cosmos Club (DC).



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**Mary K. Engle**  
**Executive Vice President, Policy**

Mary K. Engle has served as Executive Vice President, Policy, BBB National Programs since 2020, where she leads policy efforts across the organization's 20+ industry self-regulation programs, and oversees the National Advertising Review Board and the Digital Advertising Accountability Program. A frequent speaker on the topics of independent industry self-regulation, advertising, and privacy, Mary also serves as Vice President of the International Council for Advertising Self-Regulation. Previously, Mary directed the Federal Trade Commission's Division of Advertising Practices (2001-2020), enforcing truth-in-advertising principles for national advertising matters and leading the FTC's policy development in areas including ad substantiation, health claims, green marketing, influencer marketing, native advertising, and children's privacy. During her 30-year FTC career, Mary received several awards for her work including the Meritorious Executive Rank Award from President Obama for accomplishments in the management of U.S. government programs.



**Amy Steacy**  
**General Counsel**

Amy joined BBB National Programs in June 2024 as General Counsel. In this role, Amy is a member of the organization's Executive Leadership team and responsible for providing strategic legal advice to the organization. Amy is a results-driven legal advisor and thought partner with approximately 20 years of broad-based experience. Prior to joining BBB National Programs, Amy was most recently a partner at the law firm of Kaleo Legal, where her practice included providing fractional general counsel services and advising clients across a wide array of practice areas. Before joining Kaleo Legal, Amy established and built out the legal function at CustomInk, LLC, an e-commerce company, where she remained for a decade handling all of the company's legal matters.



**Phyllis Marcus**  
**Vice President—National Advertising Division**

Phyllis Marcus serves as Vice President, National Advertising Division, BBB National Programs. In this role, Marcus leads a team of attorneys holding national advertising across all media types to high standards of truth and accuracy by reviewing truth-in-advertising challenges from businesses, trade associations, consumers, or on its own initiative. Marcus comes to BBB National Programs from Hunton Andrews Kurth, LLP, where as a Washington, DC-based partner she led the firm's Advertising Compliance and Counseling team. Prior to joining Hunton in 2015, Marcus served for 17 years at the FTC, including a stint as Chief of Staff for Advertising Practices.

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### Dona J. Fraser

#### Senior Vice President—Privacy Initiatives

Dona J. Fraser is a leading privacy expert with a passion for building creative solutions to business problems. As the Vice President of the BBB National Programs Children's Advertising Review Unit (CARU), Dona draws on her extensive experience in the self-regulation space to provide a deep understanding of the marketplace challenges facing advertisers. Before joining BBB National Programs, Dona served as Vice President, Privacy Certified for the Entertainment Software Rating Board (ESRB), where she was responsible for helping companies develop data collection and privacy practices and crafting privacy best practices. Prior to ESRB, Dona served as a Director of Business and Legal Affairs for misc labels at BMG/Sony Music in New York.



### Peter C. Marinello

#### Vice President—Direct Selling Self-Regulatory Council

Peter C. Marinello serves as Director of BBB National Programs' Direct Selling Self-Regulatory Council (DSSRC), a national advertising self-regulation program for the direct selling industry. Mr. Marinello has over 25 years of experience in advertising self-regulation, starting as a staff attorney at BBB National Programs' National Advertising Division (NAD) in March of 1993, and later becoming NAD Associate Director in 1998. Prior to joining BBB National Programs, Mr. Marinello practiced law for six years at a general litigation firm in New York City.



### Daniel Range

#### Vice President—Children's Food and Beverage Advertising Initiative and Children's Confection Advertising Initiative

Daniel Range leads BBB National Programs Children's Food and Beverage Advertising Initiative (CFBAI), a voluntary advertising self-regulation program that sets standards for food advertising to children. In this role, Mr. Range also leads CFBAI's sister program, the Children's Confection Advertising Initiative (CCAI), a similar pledge program designed for small-to-medium sized confectionary companies. Before joining CFBAI, Mr. Range was an attorney for BBB National Programs' National Advertising Division (NAD).

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BBB National Programs is a non-profit organization that enhances trust, innovation, and competition in the U.S. economy through the development and delivery of effective self-regulatory and dispute resolution programs. We oversee more than a dozen programs in arenas such as advertising, privacy, and child-directed content to create a better, more trustworthy experience for consumers and a fairer playing field for businesses.

BBB National Programs continues to evolve its work and grow its impact by providing guidance to businesses to encourage them to make responsible decisions with proven results. Our programs set adoptable standards that industries can use to navigate the regulatory landscape and create a marketplace that benefits all stakeholders.

By building relationships, staying on the cutting edge of industry, and operating transparent, ethical, consumer-driven processes, BBB National Programs enhances consumer trust in the marketplace. By tracking emerging marketplace issues, we are agile and ready to create new initiatives that maintain that trust in a rapidly changing digital landscape.

**Competitors** value the self-regulatory process, the careful consideration of our experienced staff, as well as the case decisions we publish as a result of the process.

**Regulators** appreciate the expanding adoption of best practices in areas like advertising, privacy, and child-directed marketing, which hold businesses of all sizes accountable to the promises they make.

**Consumers** benefit when businesses hold themselves to higher standards and can feel more confident about the purchasing decisions they make.

# Our Programs

## Programs Designed to Resolve Marketplace Issues

Our programs address a wide range of business practices in myriad industries.



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### National Advertising Division

The National Advertising Division of BBB National Programs provides independent self-regulation and dispute resolution services, guiding the truthfulness of advertising across the U.S. The National Advertising Division reviews national advertising in all media and its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business.

### National Advertising Review Board

The National Advertising Review Board (NARB) is the appellate body for BBB National Programs' advertising self-regulatory programs. NARB's panel members include 87 distinguished volunteer professionals from the national advertising industry, agencies, and public members, such as academics and former members of the public sector. NARB serves as a layer of independent industry peer review that helps engender trust and compliance in NAD, CARU, and DSSRC matters.

### Children's Advertising Review Unit

The Children's Advertising Review Unit (CARU), the nation's first Safe Harbor Program under the Children's Online Privacy Protection Act (COPPA), helps companies comply with laws and guidelines that protect children from deceptive or inappropriate advertising and ensure that, in an online environment, children's data is collected and handled responsibly. When advertising or data collection practices are misleading, inappropriate, or inconsistent with laws and guidelines, CARU seeks change through the voluntary cooperation of companies and where relevant, enforcement action.

### Children's Food and Beverage Advertising Initiative

The Children's Food and Beverage Advertising Initiative (CFBAI) is a self-regulation program created to improve the landscape of food advertising to children. CFBAI works with leading food, beverage, and quick service restaurant companies to set and implement Uniform Nutrition Standards, which specify the science-based nutritional criteria for foods and beverages that can be advertised to children under age 13.

### Children's Confection Advertising Initiative

The Children's Confection Advertising Initiative (CCAI), modeled after CFBAI, is a self-regulation program for small- and medium-sized confectionary companies created in partnership with the National Confectioners Association (NCA) to help improve the landscape of food advertising to children. CCAI companies commit to not advertise confections to children under age 13.

### Direct Selling Self-Regulatory Council

The Direct Selling Self-Regulatory Council (DSSRC) provides independent, impartial monitoring, dispute resolution, and enforcement of false product claims and income representations made by direct selling companies and their salesforce members across digital platforms. The DSSRC seeks to establish high standards of integrity and business ethics for all direct selling companies in the marketplace.

### Digital Advertising Accountability Program

The Digital Advertising Accountability Program (DAAP) was developed by the Digital Advertising Alliance (DAA) to enforce industry self-regulation principles for data privacy in online and mobile advertising, holding companies accountable to the DAA's Privacy Principles. DAAP provides guidance to companies looking to comply with industry principles and responds to complaints filed by consumers about online privacy.

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### Global Privacy Division

The BBB National Programs Global Privacy Division helps businesses show their partners and customers that they put privacy first, no matter where they operate. Our programs serve as key elements of the Cross-Border Privacy Rules and Privacy Shield frameworks, bridging gaps between divergent privacy and data protection regimes. By embracing our independent accountability mechanisms, participating businesses strengthen standards for data privacy and enhance consumer trust in the digital marketplace.

### Global Cross-Border Privacy Rules

The Global Cross Border Privacy Rules (CBPR) is an internationally recognized data privacy certifications available to U.S. organizations and their global subsidiaries. As an approved Accountability Agent, BBB National Programs works one-on-one with your business to demonstrate compliance with established data privacy standards. Both certifications (CBPR for data controllers and PRP for data processors or vendors) are backed by BBB National Programs' commitment to delivering independent accountability for your privacy promises.

### Data Privacy Framework Program

BBB National Programs operates an independent, third-party Independent Recourse Mechanism under the Data Privacy Framework Program, enabling U.S. businesses to demonstrate that their transatlantic data transfers are consistent with European Union, United Kingdom, and Swiss data protection rules. Our full-service Data Privacy Framework Services are a necessary component of a co-regulatory framework that facilitates trans-Atlantic trade.

### BBB AUTO LINE®

BBB AUTO LINE is a voluntary dispute resolution program that offers both mediation and arbitration to resolve business-to-consumer automotive warranty, lemon law, class action, and dealer manufacturer disputes.

### Coalition for Better Advertising Dispute Resolution Program

The Coalition for Better Advertising Dispute Resolution Program is an independent dispute resolution program for participants in the Better Ads Experience Program, an initiative of the Coalition for Better Ads (CBA) to improve the online advertising experience for consumers. The program helps enforce the Better Ads Standards, which identify optimal online advertising formats to create a better experience for consumers.

### TeenAge Privacy Program

The TeenAge Privacy Program (TAPP) is an emerging program at BBB National Programs designed to help companies responsibly collect and manage data from teenagers. In recent years, lawmakers and the FTC have taken renewed focus on the privacy space, and until now there has been no guidance specifically for the highly impressionable teen audience. TAPP aims to solve that problem by ensuring companies engaging teens in an online environment are collecting data in a responsible manner and that their data privacy and security practices comply with applicable laws, including but not limited to the California Consumer Privacy Act (CCPA).



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