



**Direct Sellers Report Difficult 3rd Quarter**

Economic uncertainty driving market volatility

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# FTC Considers Expanding the Business Opportunity Rule

The Commission seeks public comment in latest ANPR



On Nov. 17 the Federal Trade Commission (FTC) held an open virtual meeting to explore changes to the Business Opportunity Rule through an Advance Notice of Proposed Rulemaking (ANPR) and to invite public comment on a potential expansion of the Rule to include other types of money-making opportunities not currently covered by the current Rule. The Commission is also seeking the public's opinion on the effectiveness of the existing Rule as well as whether it should be retained or eliminated.

Implemented in 2011, the Business Opportunity Rule requires sellers of business opportunities to provide prospective participants and buyers with specific information seven days before an agreement can be finalized, including a disclosure statement about the business.

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#### PUBLISHER

David Bland

[david@socialsellingnews.com](mailto:david@socialsellingnews.com)

#### DIRECTOR OF ADVERTISING SALES

Joyce Inman

512-537-9807

[joyce@socialsellingnews.com](mailto:joyce@socialsellingnews.com)

#### CONTRIBUTORS

Dave Rauf

#### ART DIRECTOR

April Allman

#### CONTRIBUTING EDITORS

Jennifer Mills

Jenna Lang Warford

#### NEWS

We welcome all of your news. Please send press releases and all news to [contact@socialsellingnews.com](mailto:contact@socialsellingnews.com)

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#### SOCIAL SELLING NEWS

8127 Mesa Dr

Ste B206-295

Austin, TX 78759

[www.socialsellingnews.com](http://www.socialsellingnews.com)

325-261-3778

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## — PUBLISHER'S NOTE ►►

# Looking Back at 2022 to Prepare for Future Success

## Direct sellers adapt and innovate in the face of persistent challenges

Hello friends,

I am very happy to share *SSN's* 2022 Year in Review edition with you. It is hard to believe that December is upon us, but I believe that, in the years to come, we will look back at 2022 as the year that the direct selling channel began to fundamentally adapt, both in vision and in practice, to new socioeconomic realities that have either directly or indirectly impacted the practice of social selling.

While the worst of the COVID-19 pandemic is, hopefully, behind us, the lasting impacts of this event on the world economy and global supply chain were profound. The pandemic also created significant and lasting effects on the psychographics of both direct selling distributors and consumers. The role that secondary income plays in the near-fully employed but volatile U.S. economy of today is quite different from just a few years ago. Similarly, the spending habits of American families have shifted as significant inflation continues to affect household budgets.

The convergence of these social and economic shifts have led many direct sellers to do what the channel does best—adapt. Over the past year, we have seen network marketing companies explore new avenues of social commerce through affiliate marketing platforms. Other companies are refining ways to make the Amazon marketplace work for them and their field. More brick-and-mortar experience centers are opening to allow consumers the ability to touch, sample, and experience the unique products this channel has to offer. Some major companies are even experimenting with partnerships with major retailers.

I am excited to see the results of this forward-thinking and fearless innovation in the new year. While the past several quarters have yielded lower top-line sales and profit numbers for many of direct selling's largest companies, these companies' willingness to pivot and experiment with novel marketing strategies will no doubt open the doors to future growth for the channel. Even amidst the downturn, the

energy and optimism coming from company leadership will have their representatives primed for future success once external pressures such as inflation and the war in Ukraine begin to ease.

Finally, I would like to thank my team here at *SSN* for their hard work over the past year. As with any endeavor, the final product is a reflection of the passion of the people who create it. I could not ask for a better group to work with as we endeavor to keep you current on the important news, trends and opinions affecting social selling.

I wish each of you a happy and safe holiday season ahead, and I look forward to hearing from you in the new year!

All the best,



DAVID BLAND

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## — COVER STORY ►►

### FTC CONSIDERS EXPANDING RULE, CONTINUED FROM 1

At the time of the rule's initial proposal in 2006, the potentially grave negative impact of the requirements on the direct selling model led to a forceful pushback from channel advocates, executives and distributors. The Commission ultimately agreed to provide direct sellers with an unofficial exemption made possible by amendments that excluded most direct selling companies.

#### Chopra's Anti-MLM Legacy

Former FTC Commissioner Rahit Chopra, who left the Commission in 2021, was the most vocal advocate of withdrawing the MLM exemption to the Business Opportunity Rule. With the subsequent appointment of Chopra's protege and former advisor, Lina Khan, to chair the Commission, direct sellers are closely watching the current proposals to expand the Rule.

While Chairwoman Khan's official statement about the ANPR does not mention direct selling or multi-level marketing specifically, she emphasized her belief that the growth of e-commerce and work-from-home opportunities requires the consideration of expanding the rule.

Khan said, "The rule has served the public well over the years. But it's written in a way that doesn't necessarily capture some of the business models and practices that have become more widespread in the decade since it was last amended.

"That's why I'm glad to see that the Commission is seeking public comment on whether to modify the Business Opportunity Rule. This is the first review since the Commission approved amendments to the rule in December 2011. A lot has changed since then."

#### Channel Critics Push for Reversal of Direct Selling's Exemption

While the text of the Business Opportunity Rule ANPR did not specifically address the direct selling model, it did solicit a resubmission of public comments made previously in regards to the ANPR Concerning Deceptive or Unfair Earnings Claims, which expressly included multi-level marketing in the list of business models under regulatory scrutiny.

Furthermore, the Commission's open meeting on Nov. 17 included live statements from two individuals, including long-time channel foe, attorney Douglas Brooks, who argued that the Business Opportunity Rule exemption for multi-level marketers should be withdrawn.

"Multi-level marketing is still the Wild West. There's no earthly reason why a legitimate business opportunity should not be required to provide very modest presale disclosures that the business opportunity rule requires and provide a seven-day waiting period before people sign a contract or pay any money," argued Brooks.

John Villafranco, an attorney and partner at Kelley Drye & Warren LLP who specializes in FTC cases, summarizes the Commission's indirect mention of direct selling in the current ANPR.

"It is notable that the ANPR states that the Commission may consider comments previously submitted in response to the ANPR on Earnings Claims given that those comments are related and that the FTC has 'solicited and received comments about the following industries: multi-level marketers, for-profit schools, and gig platforms' for that ANPR," says Villafranco. "Beyond that, the ANPR does not otherwise specifically address direct selling companies, for-profit schools, and/or the gig economy, although it remains possible that revisions to the BOR could potentially sweep in practices of those groups."

#### Public Comment Sought

To assist the public in submitting opinions and data regarding a potential change to or expansion of the Business Opportunity Rule, the Commission presented 14 questions in the text of the ANPR.

A few of these questions are shown below:

- Is there a continuing need for the Rule?
- What benefits has the Rule provided to consumers, and does the Rule impose any significant costs on consumers?
- What benefits has the Rule provided to businesses, and does the Rule impose any significant costs, including costs of compliance, on businesses and in particular small businesses?
- What modifications, if any, should the Commission make to the Rule to increase its benefits or reduce its costs?
- What potentially unfair or deceptive practices, related to business opportunities and not covered by the current Rule, are occurring in the marketplace?
- Should the Commission broaden the Rule to include business or money-making opportunities not currently covered?

- What modifications, if any, should be made to the Rule to account for current or impending changes in technology or economic conditions?
- Should the Rule be expanded to more broadly include coaching or mentoring programs, other investment opportunities, work-from-home opportunities, e-commerce or other types of business or money-making opportunities not currently covered by the Business Opportunity Rule?
- If the Rule is modified, should the Rule's disclosure requirements be applied to any of the types of money-making opportunities or business opportunities described above?

#### ANPR Receives Unanimous Support of Commissioners

Although many recent votes by the Commission have broken along party lines, the decision to publish the Business Opportunity Rule ANPR to the Federal Register was a unanimous 4-0 vote. There is currently a vacancy at the Commissioner's table, as Republican Commissioner Noah Phillips resigned on Oct. 14.

SSN



David Bland is the publisher of *Social Selling News*.

# Numbers Are Down as Continued Economic Uncertainty Hinders Direct Sellers

## CEOs report a ‘turbulent,’ ‘volatile,’ and ‘challenging’ Q3

By Dave Rauf



inflationary and economic challenges in many of our markets,” Guest told analysts during an earnings call.

Despite the current headwinds, Guest said USANA “remains a very healthy business” and plans to put in place new measures to counter the sales slow down.

### USANA

USANA Health Sciences reported a turbulent third quarter, as inflationary pressure coupled with COVID-19 disruptions in Asia led to double-digit sales and profit declines.

The weaker-than-expected performance during the quarter prompted USANA to lower its full-year guidance for 2022, as the company reported lower sales than the same period a year ago in all of its markets.

Overall, USANA said sales for the most recent three-month period totaled \$233 million, down 15 percent from the same time a year ago. The company also reported a massive dip—48%—in profit for the quarter, reporting net earnings at \$14.9 million.

A combination of still-ongoing COVID-19 restrictions in Asia, the company’s biggest market, along with inflation and other economic challenges, hurt sales momentum and new customer acquisitions, said CEO Kevin Guest.

“As we look ahead, we anticipate continued COVID-related

Some of those short-term measures, Guest said, will include new and modified incentives in different global markets and regions, accelerating the return to in-person meetings and events where possible, and an increase in “targeted and relevant communications between our management team and associate leaders.”

“We have the means, ability and determination to put USANA back on a growth trajectory towards the full monty,” he said. “Though we are committed to addressing the short-term challenges we are currently facing, the long-term health and growth of USANA remains our primary focus.”

USANA has now forecast sales for 2022 to be in the range of \$955 million to \$975 million.

### The Numbers:

- **Total Sales:** \$233 million, down 15%
- **Total Profit:** \$14.9 million, down 48% (down from 27.3%)
- **Asia Pacific Sales:** \$183 million, down 17%

“As we look ahead, we anticipate continued COVID-related inflationary and economic challenges in many of our markets.”

— Kevin Guest, CEO, USANA

- **China Sales:** \$110 million, down 11%
- **Americas and Europe Sales :** \$51 million, down 5%



### Primerica

Economic uncertainty driving stock market volatility continues to hurt a key segment of Primerica, a Georgia-based financial services firm’s business, contributing to a decline in sales during the third quarter.

Primerica is a direct seller of term insurance policies and annuities, along with other financial and investment services.

The company reported sales of \$676 million during the quarter, a 2% decrease compared to the same period last year.

Its core business—selling term life insurance plans—remains Primerica’s biggest money-maker, though sales have slowed since reaching pandemic-era records. For the quarter, Primerica reported issuing 71,000 term life policies in the quarter, a decline of 6% from a year ago.

While sales were down, the segment increased revenue by 7% during the quarter to roughly \$428 million.

CEO Glen Williams told analysts during an earnings call that continued growth in the company’s term life segment helped offset the negative impact of the up-and-down stock market during the three-month period ended in September.

A lucrative part of Primerica’s business—its Investment and Savings Product—reported sales of \$2.2 billion, down 23% compared to the prior year period. That sales downtrend is expected to continue, as the company projected fourth-quarter revenue could decline as much as 30% year over year due to continued economic uncertainty.

Along with lower sales, the investment and savings segment experienced a “substantial decline” in client asset values during the quarter, Williams said, and total revenue decreased by 14% to \$201.6 million.

“Prolonged equity market volatility continues to erode investor confidence and pressure ISP results,” he said.

But Williams added that even with sales in the company’s investment and saving segment down this year compared to record setting figures from 2021, “it’s worth noting that we expect 2022 to be our second best year for sales.”

### The Numbers:

- **Total Sales:** \$676 million, down 2%
- **Total Profit:** \$51.8 million, down 54%

### Senior Health Segment Update

During the call with analysts, Primerica also provided an update on its senior health business. The company acquired TeleQuote, a provider of senior health insurance and distributor of Medicare-related insurance policies, in July of 2021, but the segment has underperformed consistently since the acquisition.

Primerica executives sounded an optimistic tone about the segment but conceded they are still learning how to manage a senior healthcare business.

“The third quarter proved more challenging than anticipated due to an increasingly difficult global environment and geopolitical complexities.”

— Ryan Napierski, CEO, Nu Skin

The company is planning to grow the business slowly, and fourth-quarter operating earnings for the segment are expected to be about breakeven due to the Medicare annual enrollment period being underway.

But Williams noted during the call that the senior health business is currently going through a process of right-sizing—a combo of natural attrition and then not replacing certain sales agents.

The result, Williams said, is that Primerica’s senior health segment now has half the number of sales agents now as it did last year. Primerica, he added, is trying to match “staffing levels to sales targets.” So far, the reductions have led to improved agent tenure and efficiency.

Asked if the sales agent reductions would lead to future top-line sales growth, Williams offered an honest assessment: That’s not likely in the near future.

“I do think we’re going to feel much better about the quality of what we sell this year than we did last year,” he said. “And then once we feel like we get the quality and profitability where we have some confidence in it, then we can take a look at how fast we’re going to grow the business after that.”

### Growing Salesforce:

Williams also used the earnings call to tout the growth in Primerica’s salesforce.

The company has now seen a jump in life-term insurance license reps over the past four consecutive quarters. During the most recent quarter, the salesforce grew by 3% year over year.

And since the start of 2022, Primerica said its salesforce has grown by a total of 4% to 134,313. That’s the result of the company leveraging improvements in the licensing process, along with excitement generated at the company’s biennial convention.

Williams said the company now appears to be on track to surpass recruiting goals for the year.

“We remain laser-focused on growing the salesforce, and our efforts are showing solid progress,” he said.



### Nu Skin:

Nu Skin, a Utah-based seller of skin care and nutritional products, reported a loss of \$25.4 million during the third quarter and said it expects global economic pressures negatively affecting sales to continue.

Nu Skin also reported revenue of nearly \$538 million for the quarter, down 16% year over year, and lowered its guidance for 2022, saying macro headwinds are expected to persist over the near to mid term.

“The third quarter proved more challenging than anticipated due to an increasingly difficult global environment and geopolitical complexities,” CEO Ryan Napierski told analysts during a recent earnings call.

The third-quarter results are a stark contrast to the same period a year ago, when Nu Skin reported profit of \$49.7 million on total revenue of \$641 million.

But Nu Skin executives told analysts a variety of factors have made the business environment more challenging this year: continued disruptions from COVID-19 in Asia, global inflationary pressures, conflict in Europe, and the strengthening of the U.S. dollar above expectations.

In China, the company’s third-largest market, sales declined by 44% to \$75 million, the product of prolonged COVID-19 restrictions, including continued lockdowns Napierski said. In South Korea, where sales fell 27%, economic pressures combined with Nu Skin price increase hurt revenue.

CONTINUED ON PAGE 10

NUMBERS ARE DOWN, CONTINUED FROM 9

And in Europe, Middle East and Africa, “the distraction caused by conflict in the region as well as inflation and energy concerns” contributed to a 19% revenue decline, Napierski said.

The Southeast Asia region grew revenue by 6% to \$83.5 million during the quarter. Napierski credited the jump in sales to Nu Skin holding its first live expo in three years in the region, a gathering that “energized our sales leaders and built some momentum” for new product launches.

In the Americas—which includes markets in North America and Latin America—revenue was flat, but grew by 3% on a constant currency basis. The U.S. has become Nu Skin’s largest market, but the company warned it is “seeing some growing economic headwinds” domestically, in particular inflationary pressure.

“I think our guidance reflects the growing consumer sentiment that the market is getting tough,” he said.

Nu Skin is forecasting revenue in the range of \$500 million to \$550 million for the fourth quarter. Full-year revenue is now projected to range from \$2.2 billion to \$2.25 billion, which is down from the range of \$2.33 billion to \$2.41 billion the company forecast following the second quarter of this year.

**The Numbers:**

- **Total Sales:** \$537.8 million, down 16%
- **Total Profit:** \$25.3 million loss
- **Americas/Pacific Sales:** \$131.5 million, flat
- **Europe and Middle East Sales:** \$45 million, down 19%
- **China Sales:** \$75 million, down 44%

**“I want to reiterate our steadfast commitment to successfully navigating this unique period of market volatility and uncertainty.”**  
 — Terrence Moorehead, CEO, Nature’s Sunshine



**Nature’s Sunshine:**

Nature’s Sunshine saw a drop in sales during the third quarter, as the company endured “unprecedented external headwinds.”

CEO Terrence Moorehead told analysts during a recent earnings call that Nature’s Sunshine faced continued global economic challenges from inflationary pressures and volatile foreign exchange rates during the three-month period that ended in September.

Sales during the third quarter totaled \$104.5 million, down 9% year over year.

Adjusted on a constant currency basis, total sales for the quarter were down 2% compared to the same period a year ago, a figure that Moorehead said reflects the strength of the company, “especially given the current environment, where it has become more difficult to drive customer engagement.”

But he said that cost increases from inflation and currency translations, along with COVID-19 disruptions in Asia, have led to a profit decline.

Despite the challenging environment, Moorehead said Nature’s Sunshine business remains healthy.

“I want to reiterate our steadfast commitment to successfully navigating this unique period of market volatility and uncertainty,” he said. “We have a strong balance sheet, customer orders are still largely holding, and when we adjust for currency performance it is still near historical highs.”

Moving forward, challenges presented by inflation and foreign currency volatility are expected to continue, and the company is projecting continued pressures on margins.

During the earnings call, Nature’s Sunshine executives forecast top-line sales for the full year to “reflect a low-to-mid single-digit decline versus 2021.” Regionally, Nature’s Sunshine is projecting European sales to decline overall for 2022 by 15% to 25% compared to the year prior, and for “continued declines in North America,” given the current inflationary environment.

The one bright spot is the Asia market. Nature’s Sunshine had forecast sales to increase in mid-single digits this year, due to growth in Japan, Korea and Taiwan—but this has been offset by continuing declines in China due to ongoing COVID-19 restrictions.

To counter the current economic landscape, Moorehead announced that Nature’s Sunshine is introducing a new plan to deliver savings between \$10 million to \$12 million. That plan includes optimizing materials used in supplements, improving efficiencies in the company’s manufacturing process, and upgrading logistics and transportation.

The savings from that plan are expected to be realized over the next 18 months, Moorehead said.

“It’s a pretty striking plan. We have been working on this for the last several months,” he said. “These are meaningful savings, ... and they are sustainable as well, so we feel really good about them.”

**The Numbers:**

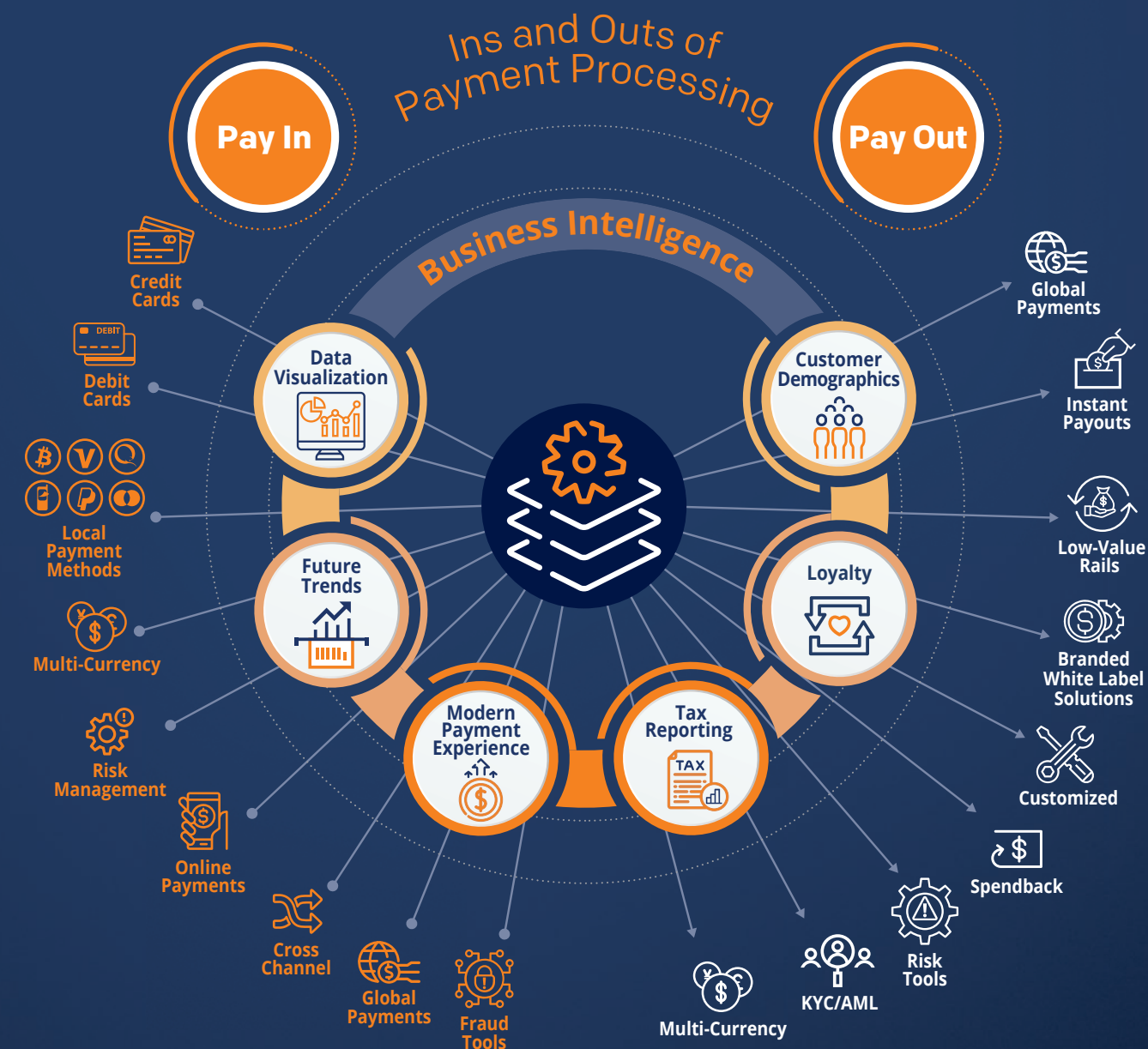
- **Total Profit:** \$2.5 million, down 30%
- **Total Sales:** \$104.5 million, down 9%
- **Asia Sales:** \$47.8 million, flat
- **Europe Sales:** \$19.3 million, down 11%
- **North America Sales:** \$31.5 million, down 16%
- **Latin America and Other Sales:** \$5.7 million, down 14%



Dave Rauf is a Social Selling News Contributor.



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## 2022—A Year in *Social Selling News*

A stalled economy and push for new rules by the FTC presented challenges to direct sellers in 2022

By SSN Staff

### January Headlines

#### US Chamber Leads Pushback Against ‘Rogue’ FTC

The U.S. Chamber of Commerce sent three letters to FTC Chairwoman Lina Khan on Nov. 19, 2021, objecting to recent actions by the Commission that the Chamber considers to be abuses of power. The Chamber’s letters address three topics reflecting some of the actions and decisions made by the Commission since the 2020 election cycle—“zombie” votes, undue political influence, and the FTC’s use of the Penalty Offense Authority.

### February Headlines

#### Direct Sellers Confront Pandemic Fatigue

As the COVID-19 pandemic passed the two-year mark, the field’s giddiness from the channel’s record growth had given way to the emotional and mental weight of coping with ongoing disruptions from the Omicron variant’s ubiquitous surge. And with this surge came more changes and shifts in consumer and distributor patterns. Executive leadership teams in the channel met this challenge with a renewed focus on connection and communication with their sales teams to recharge their energy and positivity. Fresh perspectives and tools also helped to carry the message of product and sales strategy innovation to consumers.

#### FTC Takes Action Against COVID-19 Claims with Customized Powers

In the wake of the Omicron variant’s global surge, the FTC publicized a series of cease and desist demands it sent to 25 businesses. Granted under the authority of the COVID-19 Consumer Protection Act, the list included four direct sellers targeted in November and December 2021 for engaging in a deceptive act or practice associated with the treatment or cure of COVID-19. Unlike standard Section 5 enforcement by the FTC, the COVID-19 Consumer Protection Act allows first-time violators to be targeted with civil penalties.

### March Headlines

#### FTC Initiates Action on New Earnings Claims Rule

Eleven months after announcing a new rulemaking group to reinvigorate and streamline its Section 18 powers, the FTC conducted a virtual open meeting to announce, accept public comments on, and vote on the publication of its Advanced Notice of Proposed Rulemaking (ANPR) Concerning Deceptive Earnings Claims in the Federal Register. Chairwoman Lina Khan listed the types of businesses that would be held accountable under the proposed new rule, designating “multilevel marketers...for-profit schools...and ‘gig’ platforms” as the targeted business channels.

#### Overcoming Supply Chain Troubles in 2022

Forecasting and planning for supply chain distributions isn’t anything new for logisticians, including those working for or servicing the direct selling channel. As COVID-19 forced many companies to shut down temporarily, manufacturers and shipping companies assumed that demand would experience a sharp drop. However, the pandemic merely shifted the demand. Instead of dining out and traveling, consumers increased their online shopping. Solid supplier relationships and healthy operations kept direct sellers afloat amid these continued supply chain disruptions.

CONTINUED ON PAGE 14



## PROTECT YOUR CASTLE FROM ALL SIDES.

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*– Andrew Smith, Federal Trade Commission*

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## April Headlines

## FTC Seeks Public Input on New Earnings Claims Rule

The FTC published its Advanced Notice of Proposed Rulemaking (ANPR) as well as a request for public comment concerning false, misleading and unsubstantiated earnings claims to the Federal Register on March 11. The ANPR provided insight into several areas where the Commission is considering “regulatory alternatives” for businesses offering money-making opportunities, including direct sellers.

## Independent Contractor Rule Reinstated

On March 4, the U.S. District Court for the Eastern District of Texas ruled unlawful the Department of Labor’s (DOL) 2021 cancellation of independent contractor regulations under the Fair Labor Standards Act (FLSA)—also called the Independent Contractor (IC) Rule. The court vacated both the delay and the withdrawal of the Rule and held that the Independent Contractor Rule was effected on March 8, 2021, and remains in effect at present.

## May-June Headlines

## Alvaro Bedoya Confirmed as FTC Commissioner

After months of Commerce Committee gridlock and COVID-19 delays, Alvaro M. Bedoya was confirmed as Federal Trade Commissioner on May 11 by the U.S. Senate. Vice President Kamala Harris broke the 50-50 party-line vote to secure Bedoya as Rohit Chopra’s replacement to the five-person Commissioner’s table, which gave the Democrats a 3-2 majority vote.

## Senate Commerce Committee Introduces Bill to Restore FTC’s 13(b) Authority

Senate Commerce Committee Chair Maria Cantwell (D-Washington) introduced legislation to reconstitute the FTC’s ability to return money to consumers under Section 13(b) of the FTC Act by restoring the Commission’s monetary authority to seek redress on behalf of wronged consumers. This authority was unanimously nullified by the Supreme Court in the *AMG Capital Management v. FTC* decision handed down in April 2021.

## July Headlines

## FTC Closes in on Updates to Endorsement Guidelines

In its continued effort to crack down on false and misleading advertising, the Federal Trade Commission (FTC) once again sought public comment on whether to make changes to its Endorsement Guides. This comment period came just two years after the previous call for public input. The Endorsement Guides provide guidance to businesses and others to ensure that advertising using endorsements or testimonials is truthful. The Guides state, among other things, that advertisers need to be up front with consumers and clearly disclose unexpected material connections between endorsers and a seller of an advertised product.

## Direct Selling Critics Meet for 2nd Virtual Anti-MLM Conference

On June 11–12, critics of the direct selling channel gathered for a second year in a row for their virtual conference—Multilevel Marketing: The Consumer Protection Challenge. Hosted by The College of New Jersey School of Business and organized by William Keep, a professor of marketing and former dean of business at the college, the conference saw the return of several long-time detractors of multilevel marketing as well as first-time appearances by speakers from a wide range of professions and connections to direct selling. Once again, the conference excluded direct selling advocates, industry partners and the Direct Selling Association (DSA).

## August Headlines

## FTC Handed Major Courtroom Setback in Anti-Pyramid Case

The FTC took swift action against Financial Education Services Inc., a Michigan-based direct selling company that offers credit repair services, when it issued a motion to shut it down and freeze all assets. Just over a month after the closure, a judge reversed this order allowing the company to continue operating under the observation of a monitor. After hearing oral arguments in the U.S. District Court for the Eastern District of Michigan, U.S. District Judge Bernard A. Friedman issued an order on June 30 denying a motion for preliminary injunction, vacating the temporary restraining order he issued on May 24 to the company and some of its executives.

## September Headlines

## EU Direct Sellers Adjust as Major Consumer Protection Directive Is Implemented

The direct selling companies of the European Union (EU) prepared for adjustments and adaption to new rules as the implementation of a major consumer protection directive coincided with the significant disruptions resulting from the economic downturn, the war in Ukraine, and continued fallout from the COVID-19 pandemic. As the EU’s member states continued the process of transposing, adopting and applying the new directives from 2020’s landmark Enforcement and Modernization Directive, known as the Omnibus Directive, the European Direct Selling Association (SELDIA) was busy working with member organizations and government representatives to ensure a smooth transition and to provide guidance for direct sellers.

## Republican FTC Commissioner Noah Phillips to Resign

Noah Phillips, a Republican commissioner on the Federal Trade Commission (FTC), announced his plans to step down in the fall. With Phillips as one of just two Republicans sitting on the commission, the timing of his leaving before midterm elections could swell the existing division between political parties as they battle over his replacement. Still, precedent would likely still see a Republican in his seat.

## October Headlines

## FTC Turns Attention to Dark Patterns and Gig Worker Mistreatment

On Sept. 15, the FTC released two reports: the first, a staff report summarizing an April 2021 workshop on digital “dark patterns,” and the second, a policy statement on gig work enforcement. Coming on the heels of the release of the FTC’s Strategic Plan for Fiscal Years 2022-2026, which included the strategic priorities of protecting the public from unfair or deceptive acts as well as anticompetitive practices in the marketplace, the September pronouncements provided a clear view into the Commission’s goals. It showed a push for increased scrutiny of online sales and marketing practices as well as those companies that utilize independent contractors—putting direct sellers, among other marketers, in the crosshairs once again.

## Direct Sellers Make Major Moves in 2022

New business models emerged as a result of regulatory pressures and shifting customer demands, leading many direct sellers to explore other direct-to-consumer channels to survive in the market. Inflationary trends, ongoing pandemic effects, the war in Ukraine, and a slew of warning letters and actions doled out by the Federal Trade Commission (FTC) aimed at direct selling companies over the last few years—all are commonly noted by company executives as leading factors in their decisions to downsize or restructure. Declining sales are forcing many direct sellers to consider redefining their businesses and trimming the fat in order to operate on leaner budgets, while others have filed for bankruptcy.

## November Headlines

## Bankruptcy and Asset Sale of NewAge Inc. Fraught with Allegations of Deception, Extortion, and Fraud

NewAge, a Utah-based health and wellness direct seller, has endured a turbulent year as bankruptcy filings, lawsuits and regulatory scrutiny have plagued the company over the past several months. The company was recently sold to a “stalking horse” bidder for \$28 million. The U.S. bankruptcy court approved the sale in late September 2022. However, just days after taking ownership, the new owner of NewAge hit former executives of the company with a lawsuit outlining a myriad of grievances.

## FTC Sets Stage for New Rule on Fake Reviews and Deceptive Endorsements

On Oct. 20, the FTC released an Advanced Notice of Proposed Rulemaking (ANPR) to seek public comment on the benefits of a new rule to combat the harms from deceptive or unfair product reviews and endorsements. The ANPR represented the Commission’s first official step in evaluating the need for and the shaping of a new rule.

# Tech Trends in Social Selling: Year in Review

Highlights from tech experts' *Social Tech Update* columns of 2022

Over the past year, our contributors covered a number of social selling tech strategies making inroads in the channel. For our year-end roundup, we've selected their most important takeaways to help direct sellers have an even stronger 2023. Please visit [SocialSellingNews.com](https://socialsellingnews.com) for the complete articles.

## Using Leading Indicator Data to Change the Referral Marketing Game

March 2022 Issue By Ben Dixon

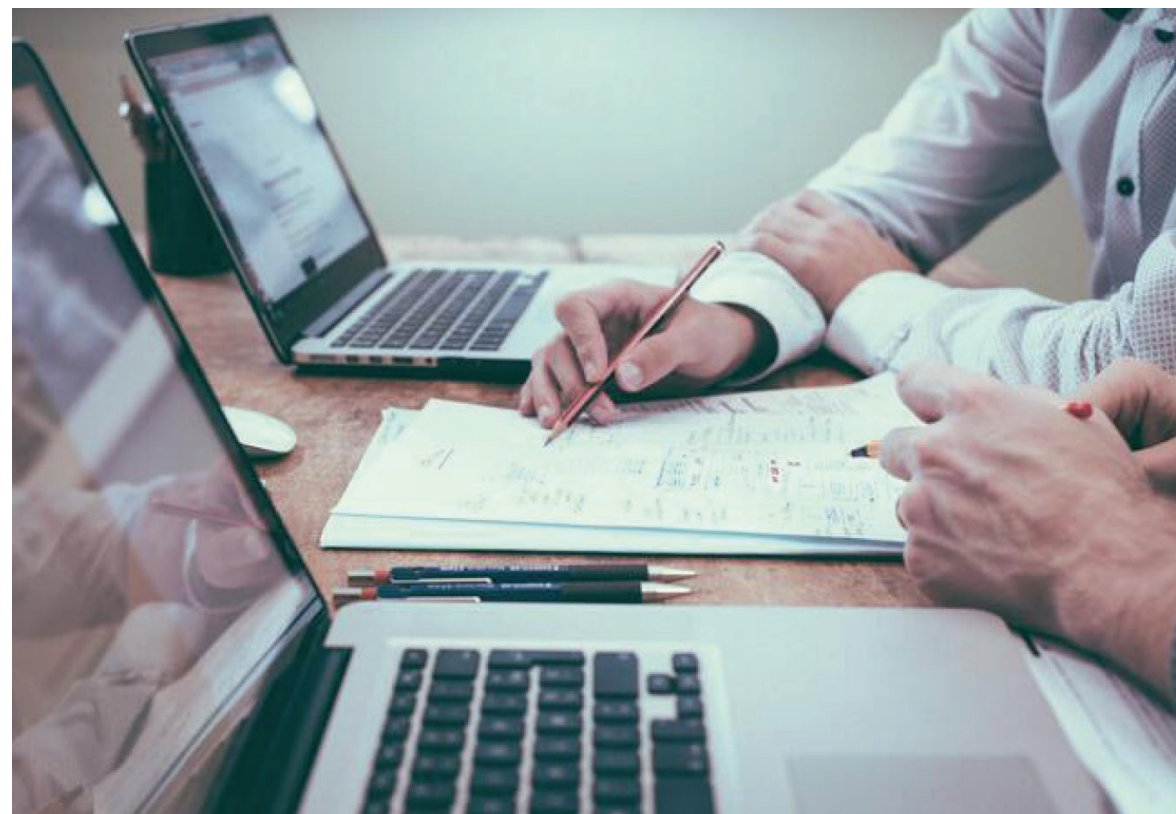
Presently, there are companies creating online platforms and mobile phone apps that feel like a top leader is suggesting what to do throughout the day. The power of these predictive action platforms is that the field adopts and uses them at high rates to bring real-time feedback loops of actual data.

A brief list of applications include:

- How to invite a new contact
- How to follow up with a prospect
- How to have a customer reorder
- Training and leadership development
- Best practices for sharing in social media
- Mentorship opportunities downline
- Share streaks and consistency of the team's behavior

The predictive applications can be delivered through web-based or app-based interfaces to members. Some companies position the actions they want members to take as a daily commitment and have members focus on winning the day.

Other companies will put the work in to interview top field leaders and create business rules around the kind of words to say or text to prospective customers. By organizing the actual words and phrases for inviting contacts, following up, and sharing products and services, platforms can feel like a coach that models the next thing to say or do to prospects.



When the content and business rules are wrapped with a predictive engine, the system becomes intelligent and can even "suggest" the next action for members to take. Predictive actions allow for more activity in less time.

Summary of the benefits of daily feedback loops:

### 1) Compliance

The predictive systems not only suggest what to say compliantly, but, because the corporate teams can track the results, the content can be continually improved.

### 2) Financial Savings

With the known data showing what promoters are willing to share and which styles of content are converting the best, the focus can then be shifted to the content budget for producing videos and shareables that have an increasingly higher impact.

### 3) Confidence

Because the predictive platforms present a proven path to follow, even the newest members of the social selling community can have the confidence to commit and take daily actions promoting offers.

## How 'Learning Design' Can Change Your Entire Company

May-June 2022 Issue By Lauren Mason Carris

In the wake of direct selling's "digital transformation," learning design has incredible potential. True learning isn't just the acquisition of knowledge. It's a behavior change. Companies are investing more and more in new tools and rethinking internal processes to optimize business and increase efficiencies, yet one critical variable in the equation is overlooked—behavior change as a result of learning.

Curating knowledge and rolling out a new tool is not a guarantee for behavior change. Despite the rise in digital transformation, we're seeing the same pain points persist, such as:

- High consultant churn
- Leader overwhelm and pressure
- Inconsistent onboarding experiences

- One-size-fits-all experiences
- Compliance with the FTC
- Monitoring of compliance externally

Traditional "one-and-done" onboarding methods and "content dumping" training methods cannot scale at the pace of change we are experiencing. Emerging from the fields of cognitive and behavioral psychology, the science of learning—and design thinking—learning design can transform entire organizations into learning organizations.

Research conducted across the industry tells us that the onboarding experience and "first moment" of success are sometimes at odds, given that both need to happen immediately and continue in some fashion.

Repeated, routine behaviors completed on a regular basis become hardwired into our brains, creating habit loops. We are then able to perform these behaviors, or tasks, without much thought, leading us to operate on autopilot. How can we leverage this concept to inform training and upskilling of a direct selling force? By creating automated patterns for the basic daily tasks that need to be done.

The biggest drive for the field is generating revenue. Yet, when learning how to generate revenue (the knowledge) and learning how to use a tool to complete revenue-generating tasks (the actions) are in different places, the two efforts are in direct competition with each other. So, what is the answer? Personalize and integrate the experience. Bring relevant learning into the flow of work, in the spaces where learners are doing their work—in this case, working their business.

## To Buy or to Build Software

May-June 2022 Issue By Jordan Zommick

Making the "Buy vs. Build" decision for your company is one of the most important decisions for you to make. To start, it may be beneficial to look at the decision more holistically rather than focusing on any one particular driver.

You must consider all costs associated with the effort, including implementation and ongoing costs. Consider tech infrastructure, additional staff and support after it's launched. Industry standard is that 70% of all software costs generally occur after implementation.

If a project is complex and requires specific expertise, find a SaaS partner who can offer a mature solution. Generally, SaaS partners tend to offer economies of scale as their costs per client go down the more clients they add.

Buying a solution often means receiving industry best practices as well, which are obtained directly from the feedback of many clients over the years.

Building software is generally an enormous



effort. If you are slow to the market, it gives your competition the advantage.

Are you creating something that requires specific expertise not available within your company? Has your company ever done something like this before? Do you have the confidence that your internal team can deliver a product as good as something commercially available? Does your company have specific

expertise that nobody else has? Are you open to sharing intellectual property (IP) with someone else who could negate your differentiator?

There are inherent risks to buying software and building your software. When buying software, risks such as resource management, development problems, and launch timelines fall on the vendor.

CONTINUED ON PAGE 18

## The Future of the Customer Journey in the Payments Industry

August 2022 Issue | By Eddie Gonzalez

Digital banking is not a new concept, nor is it unusual for consumers to conduct their banking digitally, but what is true about digital banking, especially for businesses, is that the industry has not accelerated at the same pace as demand. Trends in the payments industry tend to follow innovation that is happening in the consumer market, but if consumers can make safe and low-cost instant payments, why has it not been available sooner for businesses to do the same?

Businesses want, and need, the same banking conveniences they have access to as consumers. This is crucial to stay afloat amid the threat of an unstable global economy and to

meet the evolving needs of their customers. Businesses that can't compete with efficient payment solutions will fall behind, and it is up to payment providers to ensure they have the solutions businesses require to meet their customer demands.

Understanding customers' expectations can be one of the greatest challenges for businesses. The customer journey needs to be seamless for the payer and the payee to ensure their needs are met and the process is a positive experience. Customer satisfaction is a high priority, but certain processes can't be overlooked. This includes the safety, security and credibility of the payment transfer.



## The Convergence of Physical and Digital Retail

October 2022 Issue | By John Lietsch

The emergence of e-commerce in the '90s and its subsequent meteoric rise had many people believing if not predicting that physical retail ("brick and mortar") had met its demise.

Online shopping is convenient; is always available; saves time; saves money (comparison shopping); has greater availability of desired items; and is more comfortable (less crowds, no parking hassles, etc.).

In-person shopping allows interaction with the product; provides immediate gratification (can take purchase home); saves shipping costs (ignoring time and gas costs); allows for easier returns; can be a social experience; and provides direct access to in-store personnel that can answer questions and make recommendations (build trust, loyalty, and rapport).

The "phygital world," an increasingly popular term for the convergence of the physical and digital, can combine the best of both worlds and become both incredibly convenient and highly personal.

Leading the charge is "live commerce," the act of selling products during a live broadcast while shoppers interact with the brand in real time, usually through chat or reaction/emoji buttons.



- Shoppable videoconferencing, "Concierge Shopping" or "Assisted Shopping," is the use of videoconferencing technology to meet with individuals or small groups in a more intimate, online setting and directly assist them with their shopping needs.
- Augmented Reality offers the ability for customers to interact, customize and engage with products without having to visit a physical location, or without waiting to see the final product.

- Online and console games offer the opportunity for meeting, hanging out, playing and shopping together online, interacting as if in-person. Virtual Reality and Digital Universes are in their infancy but are commanding considerable attention and investment dollars.

Direct sellers are already using many of these technologies to allow their distributors to be "personally" available online and offline and to extend their influence beyond their immediate connections and forge global relationships. Many are increasing conversion rates and average order values (AOV).

### Are There Any Threats to Direct Selling from These Tech Trends?

1. Preference for Affiliate Marketing over Distributor Marketing
2. Continued Growth of the Direct-to-Consumer Channel
3. Digital Universes, Weak or Strong Artificial Intelligence (AI) and Bots
4. Failure to Adapt

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JONI ROGERS-KANTE SENEENCE

### REAL PEOPLE. REAL STORIES.

Joni Rogers-Kante credits her commitment to consistency, devotion to family, and abiding faith to achieving success as a business and family woman. Joni has paved a path toward a life of abundance, and she devotes her life to empower others to find theirs, too.

For Joni, her company Senegence stands for more than its cutting-edge and highly desirable beauty products. Its cause-driven purpose is to promote more women

in business and care for communities in need through its nonprofit. Not only has Joni built a rewarding global business, she is also changing lives closer to home. Joni passionately protects rights of independent entrepreneurs in the direct selling industry and works to improve the economic lifeblood in her homestate of Oklahoma.

Joni believes accomplishment is unique for everyone, and we are all here with our own important purpose. She says a fulfilling life

is made with the four E's: *Earn, Evaluate, Evolve, and Explore*. And when we value and respect each other, we will all move forward together.

We are proud to partner with Joni and those like her who consistently prove that hard work and courage are rewarded with limitless possibilities. **After all, people are our greatest strength.**

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# Risks to the Channel—Year in Review

Highlights from the *Risk Roundup* Columns of 2022

The dynamics of a direct selling business model present unique obstacles and a wide array of risks for company leaders to address and overcome. The Risk Roundup contributors of 2022 provided expert advice on overcoming these challenges. We have selected key insights from these thought leaders for this year in review. Please visit [SocialSellingNews.com](http://SocialSellingNews.com) for the complete articles.

## A Gambler’s Guide to Tax Compliance

January 2022 Issue By Brian Brown, Sr.

When it comes to mitigating risk in sales tax compliance, all bets are off on the rates and processes remaining the same everywhere, for everything. It’s just not going to happen. Something somewhere is always being revised. The cards are stacked against direct selling organizations that have to navigate a particularly challenging environment of thousands of jurisdictions, unique product taxability, and W9 and 1099 document management, among the dozens of other compliance complexities.

Beyond the hard costs of managing tax compliance yourself is the luck

of the draw on audits. In a survey commissioned by Avalara in 2021, emerging small businesses (ESBs) were less likely to be audited than small and mid-sized businesses (SMBs) (9% versus 19%). When ESBs were audited, they spent considerably less on overseeing the audit than their larger counterparts spent: \$1,471 versus \$4,679. In other words, audits were 218% more costly for SMBs than ESBs. To hit the jackpot would mean never being audited, but to play your cards right would mean having an audit protection guarantee through an automated service provider.

Being audited doesn’t necessarily mean you’ve even done anything wrong. So what triggers the audit penalties? Reasons include everything from late filings to consumer use tax liabilities and failure to register in a state when required. Yet sales tax rate or rule errors and missing exemption certificates were the top two reasons.

These top two are especially relevant to direct selling organizations that have nexus throughout the United States because of the independent contractor relationships. Managing those rules and rates across the thousands of jurisdictions only amplifies

the potential for a mistake. Depending on whether your direct selling business has fully embraced e-commerce or is operating within a more traditional buy and resell/wholesale distribution model, the necessity of managing exemption certificates becomes more cumbersome.

Properly managing sales tax avoids the constant raising of the stakes that many direct selling organizations expose themselves to as they hit rocket ship growth. The scrutiny of direct sellers is already high on income and product claims, so avoid raising the stakes any more than it already is.

## Reducing Risk Through Proactive Meetings with Elected Officials

February 2022 Issue By Kerry Tassopoulos

To focus on the opportunities and threats, one area of opportunity is a company’s relationship with elected officials. Whether they like it or not, every direct selling company is impacted by the laws and regulations enacted in Washington, D.C., and state capitals across the United States.

First, they may need to determine who they know—their “warm market.” Have executives met their local community’s mayor, city

council member, state representative, governor, congressman, or senator? If not, it may be beneficial to conduct an informal survey of employees to see who has and further identify who on the team has a professional or personal connection with an elected official.

Next, company executives can look at understanding the issues—this is “evaluating the opportunity.” Whether they are interested in government or not, knowing what laws

and regulations affect their business is critical. They need to take time to learn what is happening on the legal and regulatory front and rely on third parties (such as company lawyers, accountants, business advisors) to be their “eyes and ears” and update them on current issues as well as future initiatives, which will impact the company, the salesforce, and products and services.

Finally, companies must tell their story—this is the “selling

opportunity.” Executives should contact their elected official and schedule a meeting with them or their staff. Just as a company tells its story to its salesforce, prospective distributors, vendors, and the media, it should be shared with elected officials too. They represent individual constituents, but also businesses, so they want to know about direct sellers’ successes and the challenges they face.

## What to Do When a State Agency Alleges Your Distributors Are Employees

April 2022 Issue By Larry Steinberg and William Miller

In early 2021, a client of the Buchalter law firm received a notice from California’s Employment Development Department (EDD) that the EDD was conducting an audit to determine whether the client’s independent distributors were properly classified as independent contractors, instead of employees.

At the outset, it should be said that having a government agency allege that your independent distributors are misclassified is daunting, and can be even more of a threat than a private lawsuit. When a misclassification allegation is made in a lawsuit, it is often made in tandem with other claims, and there is an opportunity to settle the lawsuit on favorable terms without needing to directly address or resolve the independent contractor issue.

In the case at hand, it was explained to the auditors that the client is a network marketing company with a multilevel compensation plan, and the auditor was educated on the MLM business model. The auditor was also provided with the client’s policies and procedures and independent distributor agreement.

It was important to show the auditor that the relationship between the company and its distributors was governed by a contract, and the business itself operated under policies and procedures that also defined the relationship.

To combat these threats, it is essential to have policies and procedures that detail the role of a distributor as an independent contractor, clear and consistent accounting for all of the distributors that are classified as independent contractors, and to be able to access all of that information easily.

A company should work with its legal counsel to develop a detailed fact-based outline describing, under the relevant state and federal factors, why it believes each of its distributors are independent contractors. This process will allow the company to identify and address any factors that may present challenges during a government audit or lawsuit, and to make any necessary adjustments to the contractual relationship between it and its distributors.

## 5 Risk Areas to Avoid for Canadian Direct Sellers

July 2022 Issue By Robert G. Kreklewetz

Canada is often viewed as a natural extension of the American direct selling ecosystem: It has a common dominant language, similar culture, convenient land border and a market of over 38 million people.

While having many similarities, there are still unique legal and regulatory features that prove to be risk areas for direct selling businesses operating in Canada. But all of this can be easily avoided with the right planning, structuring or advice, including an appropriate “Canadianization” of Plan Documents and overall business strategies.

Below, is a review of five recent Canadian developments that direct selling companies operating (or thinking about operating) in Canada should consider knowing about.

CONTINUED ON PAGE 22



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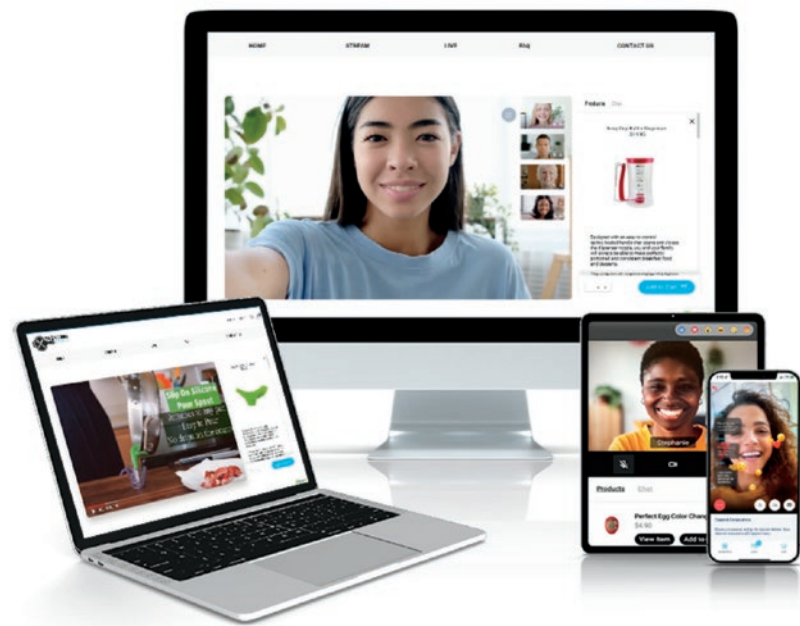
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## — RISK ROUNDUP ►►

### RISKS TO THE CHANNEL, CONTINUED FROM 21

#### 1. Structural Recruitment and the Canadian Competition Bureau

Most Canadian provinces and territories require direct selling companies operating there to be licensed, and many require different levels of licensing and registrations. Sometimes, these licenses require the direct seller to obtain a positive “Advisory Opinion” from Canada’s version of the FTC—which is called the Canadian Competition Bureau (the “Bureau”).

While initially confined to Advisory Opinions for new market entrants, the Bureau has now started asking existing direct selling companies (even those present in the Canadian market for decades) to update their compensation plans in order to obtain new Advisory Opinions where required for provincial licensing purposes.

#### 2. NFR Issues

Direct sellers of natural health products (NHPs) wanting to test the Canadian marketplace have been relying on Health Canada’s Personal Importation Policy (the Policy). Commonly referred to in the industry as the “not-for-resale” policy, or “NFR” for short, NFR can be properly structured and used to send NHPs into Canada on a non-commercial basis.

Unfortunately, NFR is not well understood, and often is misused or incorrectly used. This risks increased scrutiny from Health Canada and potential stoppages or seizures at the border at the time of initial import.

#### 3. Canada Customs Audits

Outside of the NHP space, direct sellers have also been facing more and more commercial import audits—perhaps as a result of Canada Border Services Agency’s (CBSA) post-COVID-19 push to extract tax revenue from cross-border business.

#### 4. Individual Direct Seller Licensing

Established Canadian direct selling businesses know that in addition to their own direct seller license, certain provinces and territories require each individual distributor to obtain their own direct seller license before they can sell in that jurisdiction.

#### 5. Independent Contractors vs. Employees

The status of distributors as independent contractors or employees remains a particularly Canadian issue, as Canadian direct selling companies do NOT have the benefit of the IRS’s special deeming rule in 26 USC 3508 (which deems direct sellers to be independent contractors).

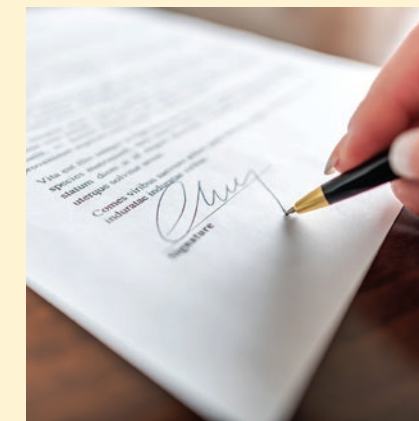


## — RISK ROUNDUP ►►

### Navigating Landmines — The Willable Business

September 2022 Issue By Brent Kugler

Many—some would even say a majority of—direct selling companies have provisions in their consultant agreements that allow a sales consultant to pass their business to an heir or beneficiary upon their death. It’s a great marketing tool. How many jobs, professions, or business opportunities allow a worker to pass their hard work and success on to their children or heirs?



Other than the classic family-owned business, there are very few business opportunities that can easily be passed on to one’s heirs. Many direct sales companies continue to provide such an opportunity.

For a direct sales litigation attorney, “transfer upon death” provisions can be problematic because they present potential landmines that can be avoided altogether by simply not allowing the practice. Isn’t that what life insurance is for? But alas, it’s such a great marketing tool!

Because many companies favor keeping transfer upon death policies in their consultant agreements, it is critical that these policies are drafted in a manner to not conflict with other key provisions in the agreement. It is just as critical that companies exercise care and caution in how they transfer a consultant position to an heir or beneficiary, so they do not trigger any unintended adverse consequences to the company, its consultant hierarchy or its compensation structure.

The starting point is the consultant agreement. A well-drafted consultant agreement should clearly define what an independent consultant’s business is and is not. When a new consultant enrolls with “XYZ Company,” the consultant generally receives a bundle of contractual rights (i.e., the right to purchase and sell products, sponsor other consultants to purchase and sell products, earn compensation pursuant to the company’s compensation plan, participate in periodic incentives, etc).

While the consultant agreement is where the willable business is defined, the agreement is also where potential landmines must be avoided for companies to allow a consultant to pass their business to an heir or beneficiary by will. This is because a transfer upon death provision creates tension with other provisions in the consultant agreement.

As important as it is to ensure that the transfer upon death provision does not conflict with or negate language in the consultant agreement, it is just as important for companies to avoid mistakes when facilitating the transfer of the business to the heir or beneficiary. It is here where many companies fall short and mistakes get made.



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- MultiSoft
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- DirectScale
- InfoTrax
- Xirect
- Thatcher

**Women CEOs in the Channel**

- Angela Cretu, Avon Products
- Janine Belmont, Yanbal
- Érika Herrero Bettarel, Belcorp
- Asma Ishaq, Modere
- Mary Young, Young Living
- Judy Letain, Norwex
- Jill Blashack Strahan, Tastefully Simple
- Angela Loehr Chrysler, Team National
- Amelia Warren, Epicure
- Malou Caluza, QNet
- Joni Rogers-Kante, SeneGence
- Nancy Bogart, Jordan Essentials
- Sharron Walsh, Isagenix International
- Camelle Kent, Thirty-One Gifts
- Heidi Thompson, Scentsy
- Patty Percy, SimplyFun
- Donna Noce Colaco, Matilda Jane Clothing Co
- Britney Vickery, Initials Inc
- Jessica Herrin, Stella & Dot
- Chrissy Weems, Think Goodness Brand Collective
- Deborah K. Heisz, Neora
- Kristin Hubbard, Younique
- Gregg Renfrew, Beautycounter
- Michele Gay, LimeLife
- Gina Smith & Karen Green, Style Dots
- Jesse Reese McKinney, Red Aspen
- Sarah Shadonix, Scout & Cellar
- Melissa Thompson, Bellame
- Lori Bush, Solvasa
- Laura Hunter, tori belle cosmetics
- Meredith Bilbro, Bella Grace Global

**Companies That Provide Apps**

- Verb Technology
- Rallyware
- Krato
- Penny AI
- Field Check (Momentum Factor)
- Cheddar Up
- Socialsales.io
- AMI
- marGo

**Executive Search Companies**

- Direct Sales Experts Inc.
- Driggs Search International
- Hanna Shea Executive Search
- Serendipity Executive Search
- C3 Executive Search
- Pam Anthony Recruitment
- IMPACT This Day
- Wakefield Talabisco International

**Product Manufacturing Companies**

- Gemini Pharmaceuticals
- Wixon Inc.
- Progressive Laboratories
- Cosmo International Fragrances
- MANA Products
- Concept Laboratories
- Valentine Enterprises, Inc.

**Law Firms**

- Reese Richards
- Gowling WLG | Ottawa, Ontario
- Millar Kreklewetz LLP
- Scheef & Stone LLP
- Winston & Strawn
- Foley & Lardner LLP
- Buchalter
- Kelly Drye & Warren LLP
- Thompson Burton

**Consulting Firms**

- Dan Jensen Consulting
- Sylvina Consulting, Inc
- ServiceQuest
- The Sheffield Group
- Strategic Choice Partners
- ShapeTech Solutions
- ThinkboxHQ

**Merchant Processing Companies**

- Nexio/CMS
- Nuvei
- Metrics Global
- Global Payroll Gateway
- ACI Worldwide
- Checkout.com
- Paymenture
- Propay

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- Bartha
- Display Group
- Gettings Productions
- Katapult Events
- Maritz Global Events
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- Solomon Group

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**Matthew Lind**  
 Founder & CEO, Krato, Inc.  
 krato.com

“Krato was built on 25 years of experience in the direct selling arena. We took on the biggest challenges that distributors face—training and growth. We answered the questions, how do you keep distributors interested in a world of constant distraction and how do you help distributors reach their audience and communicate their message more effectively? Krato develops custom branded mobile applications that answer those questions and more. By breaking down the difficulty of learning how to sell into bite-sized pieces that distributors can understand, digest and put into action, we provide the road map to success. Instead of overwhelming your field, we have developed a way to make learning fun by using gamification as the mode of education. Using our mobile app, distributors receive custom data-driven notifications relating directly to their business and their team, giving them the ability to lead others to success. Knowing what to do next provides comfort and makes selling simple.”



**McKinley Oswald**  
 President of Direct Sales, Verb  
 verb.tech

“For over 30 years, we have provided sales enablement solutions that help with growth and retention. Our new verbPULSE feature allows your field to access a variety of reports and tools that enable them to track customer buying patterns and effectively communicate with customers with the goal of increasing sales and growing their business. At Verb, we provide your sales force with the tools they need to build a phone-based business.”



**David Abbey**  
 CEO, Penny  
 getpenny.com

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**Dee Oldroyd**  
 Vice President of Business Development, Metrics Global  
 metricsglobal.com

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Metrics Global’s platform delivers secure, frictionless payments with local acquiring in 58+ countries, over 130 payment currencies, and over 140 local payment methods, and accepting all major credit cards. Our focus on building trust and fostering long-term client relationships have made us the direct selling industry’s premier partner for payment services.”



## WHAT'S NEW ▶▶

### USANA Honored as Top Utah Manufacturer

**USANA Health Sciences Inc.** was named Manufacturer of the Year by the Utah Manufacturers Association. The global nutrition company was awarded in the “Extra-Large” category for manufacturers with 600 to 1,499 employees. USANA’s two major manufacturing facilities are at its headquarters in Salt Lake City and produce most of its products for 23 global markets. USANA’s high-speed tablet press machines on the line stand out for their efficiency and speed, as two of the seven machines can produce up to 500,000 nutritional supplement tablets per hour and meet strict quality specifications. With an additional 43,000-square-foot facility, food and energy products are also now part of USANA’s manufacturing capabilities. This facility can make 300 bars per minute, fill and seal 25 gussets of powder per minute, and package 60 single-serve pouches of powder in 60 seconds. USANA is an FDA register facility and is GMP certified by USP and NSF.

### eXp World Holdings Reports Jump in Q3 Revenue

**eXp World Holdings Inc.** (EXPI—Nasdaq), the holding company for **eXp Realty®**, **Virbela** and **SUCCESS®** Enterprises, reported financial results for the third quarter ended Sept. 30, 2022. The company had \$1.2 billion in revenue for the third quarter of 2022, a 12% increase over the last year’s quarter. Gross profit also increased 17% to \$93.1 million, with net income of \$4.4 million, compared to a net income of \$23.8 million in the year-ago quarter. Adjusted EBITDA was \$12.3 million, and cash and cash equivalents totaled \$134.5 million, compared to \$98.1 million in 2021. The company repurchased approximately \$59.8 million of common stock during the third quarter of 2022. eXp World Holdings paid a cash dividend for the third quarter of 2022 of \$0.045 per share of common stock on Aug. 29, 2022. On Oct. 27, 2022, the company’s board of directors declared a cash dividend of \$0.045 per share of common stock for the fourth quarter of 2022, expected to be paid on Nov. 28, 2022 to stockholders of record on Nov. 14, 2022.

### Herbalife Q3 Net Sales Decrease 9.5%

**Herbalife Nutrition Ltd.** (HLF—NYSE) has reported financial results for the third quarter ended Sept. 30, 2022. The company had net sales of \$1.3 billion for the third quarter of 2022, a decrease of 9.5% compared to the prior year, which was below its expectations of between 3% and 9%. Diluted EPS was 83 cents and adjusted diluted EPS was 91 cents, compared to third quarter 2021 reported and adjusted diluted EPS of \$1.09 and \$1.21, respectively. Third quarter reported net income was \$82.2 million and adjusted EBITDA was \$182.8 million. Due to the lower-than-expected sales decrease, the shifting macroeconomic climate, as well as increased volatility in the marketplace, the company is withdrawing its full-year 2022 guidance. The company reduced its debt by paying down \$50 million of its revolving credit facility.

### Qyral to Donate 1% of Profits to Empower Women

Skincare brand **Qyral** has partnered with Pledge 1%, a global movement of corporate philanthropy, giving 1% of profit from each sale to a charity that supports women. Qyral’s mission is about providing resources for women to change their lives through personal attention to skin health as well as an income opportunity. Furthering that goal of empowerment, the company plans to give back to nonprofits that help women meet their basic needs, have access to financial resources, and enter and participate in the workforce to reach economic independence. According to Founder Hanieh Sigari, only 1.2% of philanthropic giving goes to women. And beyond that, government funding is limited and does not go where women need it the most. Pledge 1% aims to inspire, educate, and empower companies and their employees to commit to sharing their success through any combination of product, equity, profit, or time to support one or more charities of their choice.

### Avon to Move R&D Operations to Brazil and Poland

**Avon Products**, a direct selling subsidiary of Brazil’s **Natura & Co**, will be building new Research and Development operations in Brazil and Poland, to support two of its largest markets and further drive innovation. The company’s current R&D operations in Suffern, New York, which had operated for 125 years, will begin layoffs in March 2023 and formally close its doors in 2024. According to Avon CEO Angela Cretu, moving R&D to these key Avon markets will provide an opportunity for closer relationships and convenience for representatives and consumers as well as build community ties with its supply chain operations and with Natura in Brazil. Avon founder David McConnell started his company in the small village of Suffern in 1882. He went on to open a manufacturing facility in 1897 as California Perfume Co. before changing the company’s name to Avon. The R&D facility had operated with up to 15,000 employees at one time, but it is currently at about 160 as the company had downsized over the years.

### DSA Vision 2023 Presents Digital Marketing Awards

The **Direct Selling Association** recently held its DSA Vision 2023: Sales and Marketing Conference at Nu Skin headquarters in Provo, Utah. As a highlight of the event, The DSA Digital Marketing Awards, sponsored by Multibrain, recognized outstanding programs DSA member companies implemented within the past year. Category award winners included: Best on Facebook, **SeneGence International**; Best on Instagram, **USANA Health Sciences Inc.**; Best Supplier on Social, **AUXANO**; Best Digital Catalog, **The Avon Company**; Most Innovative, **Rodan + Fields**; Philanthropic, **USANA Health Sciences Inc.**; Best Mobile App, **Nu Skin Enterprises**; Best Social Buzz, **Arbonne International LLC**; and Best Recruiting Campaign, **Rodan + Fields**. According to DSA CEO Joseph N. Mariano, consumers are greatly impacted by the digital evolution, and direct selling has experienced significant changes to meet their needs. The DSA member companies receiving awards were honored for “driving growth and recognition for the industry through innovative digital marketing programs and campaigns.”

## WHAT'S NEW ▶▶

### Medifast Revenue Drops to \$390.4 Million in Q3

**Medifast** (NYSE: MED), the parent company of direct seller **OPTAVIA**, reported results for the third quarter with revenue of \$390.4 million, a decrease of 5.6% from \$413.4 million for the third quarter of 2021, reflecting lower Coach productivity. Still, OPTAVIA Coaches now number more than 66,000, an 8.5% increase from the third quarter of 2021. Net income for the company was \$36.2 million with gross profit dropping 7.9% to \$282.8 million, down from \$307.1 million during the third quarter of 2021. Gross profit was 72.5%, compared to 74.3% in the same quarter of 2021. The company’s cash and cash equivalents totaled \$69.7 million with no interest-bearing debt. Full-year 2022 revenue is now expected to be in the range of \$1.51 billion to \$1.59 billion, a decrease from the originally announced range of \$1.58 billion to \$1.66 billion. Full-year 2022 diluted EPS is expected in the range of \$11.61 to \$13.05, down from \$12.70 to \$14.10.

### Natura & Co Reports \$1.69 Billion in Q3 Revenue

**Natura & Co** (NTCO—NYSE; NTCO3—BRAZIL) posted consolidated net revenue of \$1.69 billion, up 2.2% at constant currency in the third quarter. Adjusted EBITDA margin was 8.6%, stable compared to Q3 of last year. Net income during the quarter was \$105 million with a solid cash position of \$864 million. Digital offerings made up a considerable amount of sales, including e-commerce, social selling, and relationship selling using digital apps, and reached 50.1% of total net revenue, up from 49.8% in Q3 of last year. Results from direct seller **Avon International** showed net revenue decreased by 8.1% in the third quarter, which the company attributes to the impact of war in Ukraine and low consumer confidence in Europe. The Body Shop’s net revenue was down by 19.5% in the third quarter, mainly due to post-lockdown channel rebalancing. The decrease in sales at **TBS At Home** outpaced the progressive retail recovery. **Aesop** posted another strong quarter, with net revenue increasing by 21.5%. Q3 adjusted EBITDA margin was 16.8%.

### Üforia Science Rebrands as NücleoGenex

**Üforia Science** has rebranded as **NücleoGenex**. Üforia Science launched in 2018 as a supplier of DNA-based, personalized nutrition and is a brand under the Lacore Ecosystem. This March, Üforia joined forces with Robert Oblon and his gut health product line, including proprietary and exclusive ingredients and formulations. With two distinct product lines, Robert Oblon, now founder and CEO, said he saw the need to unify the product story. The resulting company has been named NücleoGenex, which comes from the new ingredient—nucleotides—added to the company’s flagship product formula, “Ütrition.” Nucleotides are the building blocks of DNA and RNA cells and are also the key ingredient of some of the new gut health products available from the company.

### Arctic Nutrition Opens in 17 Countries

Working toward growth in the pure nutrition product market, Finnish company **Arctic Nutrition** is opening business in 17 new markets. They include: Belgium, Bulgaria, Croatia, Czech Republic, Denmark, France, Greece, Hungary, Ireland, Latvia, Lithuania, Luxemburg, Netherlands, Poland, Portugal, Slovakia and Slovenia. Product sales have increased, prompting the need to open new market areas for representatives to work in. New innovations with global potential have also spurred the move, as the company finds it important to expand in order to build a bigger market area for its products. In the next four years, the company plans to expand to over 100 countries. CEO Teemu Penttilä founded Arctic Nutrition after learning through a loved one’s illness the importance of understanding the functions of human cells and their impact on well-being and a healthy life.

### Exigo Acquires DirectScale, Inc.

**Exigo**, a platform-as-a-service (PaaS) that provides solutions to support fulfillment, payments, commissions, reporting, CRM, and distributor tools to direct selling companies, has acquired DirectScale Inc., a developer of cloud-based, influencer marketing and MLM software designed for influencer and direct selling channels. With a focus on an intuitive user experience, **DirectScale** offers a suite of e-commerce business management tools to encourage and reward activities by independent sellers and customers to drive new sales and generate revenue for clients. According to Exigo, the two companies joining forces will benefit their clients with an anticipated smooth transition. And no significant changes to the customer experience, process, products, or services are anticipated. Exigo said it would continue to seek out similar products, companies, people, and technologies, to distinguish itself in the market and direct selling channel.

## THE SUPPORTERS ▶▶

### MEET OUR PARTNERS

Below is a listing of all of the suppliers who placed display advertising in this month’s issue. We are grateful for their participation and support in bringing news and information to the social selling channel.

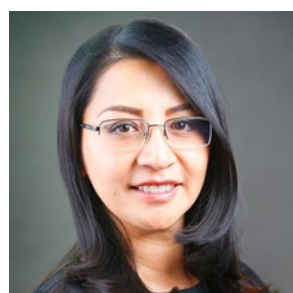
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## People on the Move



**RYAN ROGERS, MARY KAY**

**Ryan Rogers**, grandson of Mary Kay Ash and son of Richard R. Rogers, will become CEO of **Mary Kay Inc.**, on Jan. 1, 2023. He will succeed current Chairman and CEO David Holl, who will retire but remain chairman. Rogers joined Mary Kay in 2000 and is chief investment officer and a board member.



**VERONICA ZAVALA, 4LIFE**

**4Life** has appointed **Veronica Zavala** as vice president of accounting. Zavala joined the company as an accounting assistant in 2010 in Ecuador. She then moved to global headquarters in the U.S., serving in several roles, including account reconciliation, Latin market support, IT collaboration with accounting project implementations, and employee training.



**MICHAEL O. JOHNSON, HERBALIFE**

CEO John Agwunobi has departed **Herbalife Nutrition**, and current board member and previous chief executive **Michael O. Johnson** has been named chairman and interim CEO. Johnson has more than 40 years of experience leading multinational corporations, including nearly 20 years leading Herbalife. The company expects to name a new CEO in 2023.



**KARALEE MORA, BETTERWARE**

**Betterware de Mexico**, new parent of **JAFRA**, has hired **Karalee Mora** as CEO of **JAFRA USA**. Mora joins the company with 18 years' experience in direct selling, having previously served in senior executive positions for **doTERRA** and **Perfectly Posh**. In the new role, Mora will help deliver on the goal of achieving breakeven results by mid-2023.



**HECTOR LEZAMA, TUPPERWARE**

**Hector Lezama** has been promoted to chief commercial officer at **Tupperware** to oversee efforts toward sustainable growth and profitability. Lezama came to the company in 2020 as senior vice president of expansion and turnaround markets, having led transformation and expansion efforts of several brands into Mexico and Latin America.



**ALEJANDRO ULLOA, BETTERWARE**

**Betterware de Mexico** has hired **Alejandro Ulloa** as chief financial officer. Carlos Doormann, who has served as CFO since 2021, will transition to corporate chief investor relations and strategy projects. Ulloa has worked in senior management for Citelis (Organización Ramírez), where he served as chief financial officer, and Banamex Citigroup.



**BILL ANDREOLI, MEDICAL MARIJUANA**

As **Medical Marijuana** acquires **MFINITY Global**, Bill Andreoli, president of MFINITY Global, will become the president of **Kannaway LLC** (a subsidiary of Medical Marijuana). Andreoli brings expertise in company growth through acquisition after his company Financial Destination Inc. was acquired by **Youngevity**. He served as president of Youngevity until 2015.



**CHRIS COOPER, NEW IMAGE INTL.**

**New Image International** has appointed **Chris Cooper** to regional director of Asia and Africa. Cooper has over 20 years of experience in business management and international marketing, having served as regional director of the same regions for **Jeunesse**. Before that, Cooper was general manager of the Pacific region for **Agel** and **Freelife International**.



**VARUN KONERU, SENEENCE**

**Varun Koneru** has joined **SeneGence** as vice president of research and development, quality and regulatory. Koneru has over 10 years of experience in nutrition and product formulation for direct selling companies, most recently as senior director of product development for **Young Living**. He has led teams that developed more than 100 new products.



**DR. DANIEL BECKLES, RAIN INTL.**

Cardiothoracic surgeon **Dr. Daniel Beckles**, M.D., has joined the **Rain International** scientific advisory board. Dr. Beckles serves as surgical director for heart transplantation at Baylor Scott & White Health Hospital. Previously he has worked at Mount Sinai Medical Center, United Health Services Heart & Vascular Institute, and SUNY Downstate Medical Center.



**MURALI M. CHANDRA, SENEENCE**

**SeneGence** has hired **Murali M. Chandra** as senior vice president of digital solutions. Murali will lead digital solutions, IT infrastructure, PMO, and cybersecurity. He has more than 15 years' experience guiding digital transformation for major brands. He most recently spent 10 years with **Herbalife** culminating as director of application management.



**CARLOS PACHECO, VELOVITA**

**Velovita** has hired **Carlos Pacheco** to lead Mexico as country manager. Pacheco has 22 years of experience in the MLM industry and started as a founding distributor for a company in Mexico, scaling to a 60,000-distributor team. With a background in administration and digital marketing, he will also bring a global perspective to his strategy for growth.



**KRISTINE WIDTFELDT, MOJILIFE**

**MojiLife** has named **Kristine Widtfeldt** as president. Widtfeldt's experience in direct selling spans more than 20 years, including serving as CEO of **Chalk Couture** and chief marketing officer of **MICHE**. Her career has focused on strategic guidance to drive profitability and progress for sustainable growth.



**MILO ACOSTA, SISEL INTL.**

**Sisel International** has promoted **Milo Acosta** to global sales director. Acosta has been with Sisel nearly six years, working directly with the U.S. and Canada markets and building strong relationships with the field and corporate team. He previously led sales with **QSciences** and **eXfuze** and spent over 15 years with **Tahitian Noni**.

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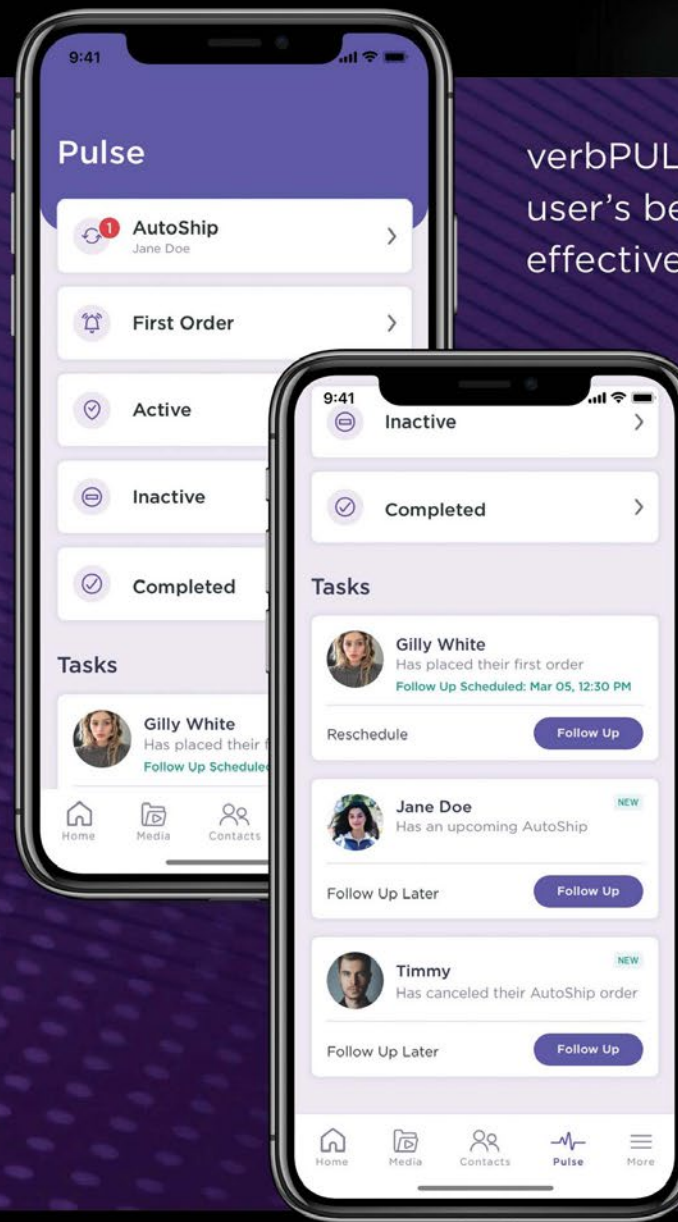
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