BOUGHT & PAID FOR

How the Better Business Bureau Misleads Consumers & Shakes Down Businesses

Published by
www.OffTheGridNews.com

Table of Contents

Part 1: History and Origin of the BBB

Snake Oil and Arctic Seal

In the early part of the 20th century, the modern consumer age was just beginning to take shape as Americans were beginning to have some disposable income. They now had the wherewithal to spend on goods and services beyond basic necessities. To fulfill Americans' growing need to find places to spend their money, businesses jumped into the void with advertising and public opinion campaigns. The man considered to be the father of modern public relations, Edward Bernays, extolled the virtues of the "conscious and intelligent manipulation of the opinions of the masses."[1]

> ***"Until the 1950s, the BBB did not allow businesses to advertise their membership in the BBB, fearing that it would lead to businesses 'bribing' the BBB for good ratings."***

The proverbial "snake oil salesman" had been around for decades, but new mass-marketed fraudulent advertisements were making inroads into the public consciousness. Early practitioners of deceptive advertising were, as today, extremely clever and, in many cases, able to skirt the law by legal hair-splitting. One New York department store, in the early 1900s, was sued by a customer for advertising dyed rabbit fur coats as "Arctic Seal Coats" that they sold at "greatly reduced prices." While on the stand, the store produced a string of witnesses from the fur industry who flatly stated that, indeed, dyed rabbit fur was known as "arctic seal" in the fur trade. This fact was not generally known to the public. Nonetheless, the store was acquitted for conducting advertising that, while misleading and duplicitous, was not untrue, and therefore, not illegal.[2]

A Time for Vigilance

It was clear that something needed to be done to police advertisers since the courts obviously could not. A group of advertising executives began to see that the proliferation of misleading advertisements was hurting their own industry. These executives formed an organization called the National Vigilance Committee in order to police advertisers. The group formed local chapters called Better Business Bureaus. In 1912, the national organization was redubbed the Council of Better Business Bureaus (CBBB), which today continues to govern the BBB system.[3]

During the early years of the BBB, they carried out the original intentions of the founders—to police the advertising industry. The BBB spent its time legally pursuing fraudulent businesses, and lobbying the federal and state governments for increased consumer protections.

Until the 1950s, the BBB did not allow businesses to advertise their membership in the BBB, fearing that it would lead to businesses "bribing" the BBB for good ratings and open up the BBB to the temptation of being bribed.[4] They followed their central theme as spelled out by the Roman philosopher Cicero: "All things should be laid bare so that the buyer may not be in any way ignorant of anything the seller knows."[5] All too soon, this model would change.

Part 2: The BBB Business Model Today: Pay for Play

Whither Cicero?

Despite its noble intentions, the original business model of the BBB did not survive. The Bureau still maintains its relatively decentralized structure, with local Bureaus being "overseen" by the central CBBB. But has this model led to widely divergent application of standards among the various chapters? And what now motivates the BBB to police businesses?

Today, the BBB provides ratings for businesses much like grades in grammar school, on an A to F scale. The BBB considers 16 factors when they grade a business, including the number of complaints received by the business, how serious they are, how quickly the company resolves complaints, and whether or not the company has had legal or governmental problems.[6]

In addition to assigning letter grades, the BBB also accredits businesses. Businesses can apply to the BBB and pay a fee, which varies according to the size of the business. In addition to the fee, in order to get the accreditation, businesses must make a pledge to make a "good faith effort" to resolve consumer complaints.[7] Accredited businesses get a plaque to hang on their wall and are allowed to use the BBB logo in advertisements.[8]

> ***"According to its own website, 'accreditation does not mean that the business' products or services have been evaluated or endorsed by the BBB.'"***

But what does accreditation mean? Much less than one would suppose, even according to the BBB itself. According to its own website, "accreditation does not mean that the business's products or services have been evaluated or endorsed by BBB, or that BBB has made a determination as to the business's product quality or competency in performing services."[9]

Isn't the BBB a Dinosaur?

So why do businesses seek accreditation and why does the BBB give it? The motivation for the BBB is clear—money. The BBB is funded by fees paid by businesses for services such as accreditation. According to BBB President and Chief Executive Officer Steve Cox, accreditation can cost between several hundred to several thousand dollars per year.[10] Most basic starter membership packages for small businesses run $400 to $800 per year.[11]

But why do businesses continue to pursue BBB accreditation? After all, the BBB is a product of a print-media world and, to many, it seems to be a bit of a dinosaur. In an age where a wealth of information is available through the Internet and consumer rating services such as Angie's List, yelp.com, or bankrate.com, why stick with this relic?

> ***"More Americans are more familiar with the BBB than they are with government consumer agencies such as the Federal Trade Commission."***

One reason is that the BBB is still the most recognized consumer complaint desk in the United States. More Americans are familiar with the BBB than they are with government consumer agencies such as the Federal Trade Commission. Indeed, the BBB enjoys an 81% name recognition among Americans.[12]

In 2010, the BBB fielded over 1 million complaints from disgruntled consumers who felt they had been wronged by American businesses. The complaints can carry a lot of weight. A single unresolved BBB consumer complaint can lead to a serious downgrade of a business's rating. Contractor George Grillo truly believed that his livelihood depended on his BBB rating, and he was right. He was forced to shut down his construction company after the BBB gave him an F rating because he failed to respond to one customer's complaint. Grillo said that the rating was "wrong, it's infuriating, and it made a huge difference."[13]

Misplaced Trust in the BBB?

But in addition to fending off complaints, many business owners say that what the BBB logo imparts is trust. The motto emblazoned across the top of the BBB's website is "Start With Trust."[14] Many business owners are willing to pay a fee to put the BBB torch symbol on their products because of the aura of trustworthiness that the logo seems to impart.[15] American consumers do seem to place a lot of faith in the BBB ratings. Last year, 65 million people checked on the trustworthiness of various companies through the BBB.[16]

But the key question consumers should be asking is this: how trustworthy are the BBB ratings? A cursory look at BBB ratings of various companies reveals a curious trend. When you compare companies' ratings with their BBB accreditation status, a pattern seems to emerge. The BBB's database contains ratings of about 4 million businesses, of which 400,000 are accredited. A random survey of the database conducted by a Los Angeles Times reporter revealed that accredited companies, even those that receive numerous customer complaints, often have higher ratings than non-accredited companies that have a spotless customer complaint record. When asked to explain why this is, BBB national President Steve Cox said simply that he "can't explain that."[17]

Indeed, several high-profile businesses that refuse to pay for BBB accreditation have alarmingly low ratings. The five-star Ritz-Carlton Hotel in Boston, which refuses to purchase BBB accreditation, was given an F rating by the BBB after two complaints. World famous celebrity chef Wolfgang Puck also refuses to purchase accreditation and several of his top-rated restaurants also have F ratings. Puck himself has said that if "you become a member, you're sure to get an A, but if you don't pay, it's very difficult to get an A."[18] Even the all-American institution, Disneyland, a non-BBB member, merited an F rating from the BBB.[19] Joining Walt Disney is that other American institution, Starbucks, which also has an F rating. It would cost the company over $1 million to accredit all of its stores.[20]

How Much For an "A"?

So is the BBB basically allowing businesses to buy an A rating, and punishing those who don't cough up the dough? The BBB, obviously, says no. BBB President Cox claims that it is inaccurate to say that "business people are able to buy A's."[21] However, John Ridout, spokesman for Consumer Action, a consumer advocacy group, says that the BBB's credibility is undermined by the perception that they allow companies to buy a good grade. "The grading system is corrupted by how much money has changed hands," he said.[22] And since small businesses often cannot afford the BBB's accreditation fees, they are often on the receiving end of the poor ratings. Scott Hague, head of the trade group Small Business California, said that "the BBB's policies has long been unfair to small businesses."[23]

Since small businesses often cannot afford the BBB's accreditation fees, they often receive poor ratings.

ABC News documented two instances where BBB telemarketers seemed to be doing just what critics have alleged: selling A's. Non-BBB member Teri Hartman, manager of a Los Angeles antique store, was told that the only way to raise the rating of her business from a C to an A was to pay the $395 membership fee. Her store had one old customer complaint, long resolved, but the BBB refused to remove it and raise her rating unless she paid. She gave the BBB sales rep her credit card number. The next day the complaint was gone and she was the proud owner of an A+ rating. A second case documented by ABC concerned Carmen Tellez, who, the day after paying up, saw her BBB rating change from a C to an A+ overnight.[24]

When shown these concrete examples by ABC News, the BBB said that behavior was a violation of the BBB's sales policy and was not their standard way of doing business.[25] Anecdotal reports detailing similar tactics at BBB franchises across the nation suggest otherwise. And since most of the BBB chapters pay their salespeople either wholly or partially by commission, it's easy to see how the sales operations of the BBB are ripe for just these kinds of abuses.[26]

Cold Calls, Uninvited Visits … and Extortion?

One North Dakota business owner reports receiving a phone message from a representative of the local BBB chapter, saying that the BBB had received "some reports" on the man's company. When he phoned them back, the man from the BBB began by repeating what he had said in the message—that the BBB had some reports on the man's company—but he then quickly switched into sales mode. He told the business owner that he could get his business certified by the BBB for the low cost of $895. When the man demurred and said that he needed to think about it, the representative immediately switched into hard close mode, saying things like "what objections do you have?" The business owner ended the call without sending in any money.[27]

In most contexts, the practice of obtaining something through threats or coercion is considered extortion. Does that term apply here? You be the judge. Many business owners have reported that, if they turn the salesman down, the BBB will often end the call by saying that, if a potential customer calls looking for a business reference, the BBB "will not be able to tell the people that call us that you are a reputable business." Now they are not explicitly saying that they will badmouth the company, but that is clearly the implication.[28]

One franchise corporation owner, Lance Winslow, has reported deceptive tactics used on his franchisees across the country.

In his business, one of the requirements for new franchises is that they join their local Chamber of Commerce before actually opening the new franchise. Invariably, as soon as they join their local Chamber, the sales calls from the BBB start, all beginning with the same script: "We have received some reports about your business." Before the businesses have even opened their doors! Sometimes, since the businesses are new, they do not have phones hooked up yet, so they will call the franchise owner, Mr. Winslow. To try and determine what was happening, Winslow called the national BBB headquarters, and they denied that the BBB uses such tactics. Winslow followed this up with a call to the infamous Southland BBB in California who admitted to him that the BBB uses the new member directories of local Chambers of Commerce as sales leads. They often look to see if any complaints have been filed against the national franchise, and use any information they find in sales calls.[29]

Those aren't the only deceptive tactics used by the BBB. In one reported case, a small business had several conversations with a BBB sales representative, but finally decided they could not afford BBB accreditation. After they informed the BBB sales rep over the phone of their decision, a BBB representative showed up on the business's doorstep, claiming that they had an appointment with the owner when they did not.[30]

Protection Money?

On the flip side, BBB member companies seem to be well-protected against their own shortcomings when it comes to rating time. The Troy, Michigan brokerage firm, Leonard & Co, was fined $250,000 by the Financial Industry Regulatory Authority for a list of violations, including illicit stock sales. Nowhere in Leonard & Co's A+ rating do you find mention of this violation and fine. Leonard & Co has been accredited by the BBB for more than a decade.[31]

On a much larger—and more costly—scale, in October, 2010 the Federal Communications Commission (FCC) required telephone giant Verizon to refund $52.8 million in refunds and credits to customers for overcharging them. The FCC also required Verizon to train its employees in how to resolve customer complaints.[32] In addition to the refunds, the FCC fined Verizon $25 million.[33] Verizon is a national partner of the BBB and enjoys an A+ rating. Previous to the FCC action, the Florida Attorney General fined Verizon for allowing 3rd party vendors to market "free" ringtones to Verizon customers that actually resulted in monthly charges to the customers. Florida fined the company $1 million and ordered it to reimburse its customers. Between 2004 and 2007, Verizon advertised a plan that contained "unlimited" data usage. However, it terminated the contracts of 13,000 customers for data overuse. For that action, the New York Attorney General slapped the company with another $1 million fine.[34]

So after all of these fines and legal troubles, the BBB downgraded Verizon's rating, right? Right. They dropped them from an A+ to an A-. Meanwhile non-BBB member Sprint, with a clean record in terms of adverse governmental actions, only manages a B-. Another non-dues paying company, T-Mobile, got into the same trouble in Florida that Verizon did, and now suffers a C rating for their sins.[35]

In Steps the AG

In November 2010, the Attorney General of Connecticut, Richard Blumenthal (now a United States senator), wrote a letter to BBB headquarters in Arlington, Virginia stating that, according to the Attorney General's review, the BBB awards higher ratings to members than to non-members. Blumenthal states, in his letter, that this practice strikes at the heart of the trustworthiness that is the popular image of the BBB, saying that even the appearance of pay-for-play "is potentially harmful and misleading to consumers."[36]

In 2010, U.S. Senator Richard Blumenthal, then serving as Attorney General of Connecticut, chastised the BBB for its untrustworthy business practices.

After Blumenthal's letter, and a critical exposé on ABC's 20/20 news, the BBB bowed to the bad press and said they would end the overt practice of awarding extra points to BBB member businesses. But in a statement issued announcing the changes, President Cox also added defiantly, "Any attempt to question the integrity of the entire BBB organization is completely without merit."[37] So there.

Part 3: Easy A … When You Pay

Hamas, Sushi, and the Stormfront

As we have seen, as stated by the BBB itself, accreditation only means that a company has paid its blood money, and promises to behave. It does not mean that the BBB has in any way examined or endorsed the business practices of the company.[38] To put it more succinctly, they have not done their homework. Yet that is the impression they are clearly trying to cultivate with the consuming public.

To bring attention to this practice by the BBB, a group of Los Angeles business people got together to test the validity of the BBB's rating system. They filed for accreditation for a non-existent company they named Hamas, after the Middle Eastern terrorist organization. When the credit card payment for $425 cleared, the BBB gave Hamas an A- rating. In another instance, they gave the same A- rating to a fictitious sushi restaurant in Santa Ana, California. In the case of a business that unfortunately does exist, the BBB awarded the skinhead neo-Nazi website Stormfront a stellar A+ rating after they paid their fee.[39]

Caption: For a $425 fee, the BBB awarded accreditation to a non-existent company called Hamas, after the Middle Eastern terrorist organization.

And remember contractor George Grillo, who closed his business after receiving an F rating from the BBB? He learned how to beat the BBB at its own game. He shut down his old business with the F rating, and opened a new one. He paid the accreditation fees, and now enjoys an A+ rating.[40]

Letter Grades or Pass/Fail?

According to the BBB, when grading a business, they award points for a number of different criteria: how many complaints they receive about a business and how the company handles complaints; the number of adverse government actions against the company; the company's perceived truthfulness in its advertising; and a range of other measures, including the type of business that the company is engaged in. The BBB weighs all of these factors and comes up with a letter grade.

The BBB said that it will also deduct points or even issue a "no rating" if they ask a company questions about its business practices and the company doesn't respond.[41]

However, the letter grading system is relatively new. In 2009, the BBB officially changed its rating system from a simple two-option rating system of "satisfactory" and "unsatisfactory" to the current system.[42]

Many critics of the new system say that the BBB has created an evaluation scheme that is simply too complex. They observe that the BBB doesn't have the expertise or manpower to accurately and reliably implement the new rating system.[43]

Connecticut AG Blumenthal states in his report that the BBB lacks the resources to independently verify the information that member businesses supply to them. In determining a company's rating, Blumenthal argued, the BBB must stop taking a business's word about things such as licenses and legal compliance. He says that in order for the BBB's ratings to actually be reliable, the BBB must independently confirm such information.[44] The BBB fails in this regard. Blumenthal asserts that the BBB should revert to its old two-level rating system: satisfactory and unsatisfactory. The new rating system seems to offer a level of scrutiny that the BBB may not be equipped to actually provide. Former newspaper editor George Gombossy, now a consumer advocate, points out that it is just a matter of numbers. Even in his small state of Connecticut, there are over 100,000 private companies, and the BBB simply "doesn't have the staff to properly evaluate businesses."[45]

Blumenthal says, "at the very least, the BBB has an ethical—and perhaps legal—obligation to clearly and prominently inform customers of the severe and significant limitations of its rating system."[46] The BBB thus far has declined to disclose its limitations to customers.

In 2010, the federal Office of Thrift Supervision closed 22 banks that were accredited by the BBB. Many held A+ ratings.

What Banking Crisis Through Yonder Window Break

In some cases, the BBB gave very high rankings to businesses that were in serious trouble. In October 2010, A+ rated First Arizona Savings bank was declared insolvent and was closed by the federal Office of Thrift Supervision. The Federal Deposit Insurance Corporation was named as the Receiver. Today, First Arizona is listed as having "no rating" on the BBB website.[47] Also in 2010, 'A'-rated Centennial Bank of Ogden, Utah, was closed by the government.[48] In all, in 2010, the Office of Thrift Supervision closed 22 banks that held passing BBB grades. Many held A+ ratings.[49]

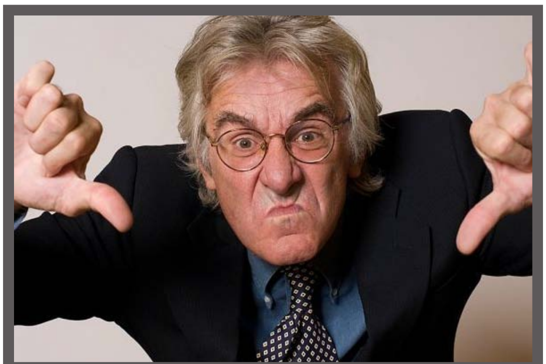
Part 4: Complaint Resolution … Or Not

Resolved? Says Who?

The BBB enjoys a reputation of being the number one trusted place to take a consumer complaint. But consider the experience of one definitely unsatisfied customer. A Massachusetts man filed a complaint with the BBB against an A+ rated pest-control company that had been hired to take care of his mother's house for years. When she passed away, the man sold her house, only to find that the place was contaminated with tons of mouse droppings. He was forced to reduce the price of the house by $3,000 so that the new owner could pay to clean out the mess. When the man filed a detailed complaint, the BBB claimed that his filing either did not have enough information to pursue the complaint, or they couldn't locate the company. If the BBB gave this company such a high rating, how could they not locate them? The man wrote to the president of the BBB to complain about the way his complaint was handled, but he never received a response.[50]

According the BBB, whether or not a complaint is valid, or whether or not a company has successfully responded to a complaint, depends on whether or not the BBB is satisfied—not whether the customer is satisfied. The BBB has established six criteria by which they judge a company's complaint response. In four of the criteria, the judgment rests on the opinion of the BBB. In only one of the criteria do they take the judgment of the customer into consideration.[51]

In 2010, a Virginia man hired a tree trimming company to remove nine trees from his front yard. He deliberately picked a particular company because it was the only local one that was a BBB member. When the company finished its work, the customer filed a complaint with the BBB that the tree trimmers had left his front yard in shambles, with the ground torn up and strewn with coffee cups, soda bottles and cigarette butts. The BBB never responded, so he contacted the national Council of BBB, who told him that his complaint didn't qualify and that the company had not done anything wrong. Months later, the man looked the company up on the BBB website only to find that they were listed as having zero complaints filed against them.



The BBB has a history of claiming that complaints are "resolved" while customers don't feel the problem has been rectified at all.

It wasn't until a media watchdog contacted the BBB that the Bureau agreed that the man's complaint was, indeed, a complaint.[52]

With the BBB, it depends on what your definition of "resolved" is. An Indianapolis man owned a lemon of a Toshiba laptop that had been in for repair too many times and still did not work.

The man wanted a replacement. When Toshiba offered yet another repair, the BBB decided that the man should be satisfied with that and marked the complaint "resolved," even though the customer had not been satisfied. He finally got Toshiba to respond with a replacement laptop after SmartMoney magazine contacted the company on his behalf. Toshiba sent their "regrets" for not resolving the case sooner. The unhappy customer said that he "felt abandoned by the BBB."[53]

In 2005, Toni Burns filed a complaint with the BBB against her wireless company Cingular (now AT&T), for billing bogus roaming charges. She slogged through the 12-page online complaint form that asked a range of detailed questions about her calling plan, the length of her contract, and asked her to choose, from a list of nearly 50 company behaviors, the ones that made her the angriest. She was impressed by how thorough the BBB was being. However, unbeknownst to her, at about the time she made her request, Cingular had paid the BBB $50,000 to gain access to customer complaint data. The same data was also given to Verizon, already a BBB partner with a seat on its board of directors. Despite the intrusive and burdensome complaint filing process, nothing changed. Cingular did not change any policies and told Ms. Burns that they had acted properly in charging her roaming fees. She then got a letter from the BBB saying that her complaint was resolved. Burns was left "beyond frustrated."[54]

Pay 70 Bucks To Recover 40? What a Bargain!

When a complaint with a company cannot be satisfied by phone calls, letters, or emails, the BBB offers consumers mediation. However, many of the local BBB chapters charge the complaining consumer for this service. One BBB chapter in Texas charges $70 to use this service. Software company, PC Drivers, falls under the jurisdiction of this Texas BBB chapter. Though the company has had 312 complaints filed against it in the last 3 years, the BBB still awards it an A+ rating because the company has "resolved" all of the complaints. But again, what does that really mean? In one case, a man wanted a $39 refund for a software download from the company. The BBB offered him their mediation services at the usual fee. So the consumer was being asked to pay $70 to recoup his $39. Naturally, he refused, and the BBB considered his complaint "resolved."[55]

In recent years, the BBB "administratively closed" roughly 20% of their cases (in 2008, it was 21.7%). Administratively closed means, in the BBB's opinion—not the customer's—that the company has taken reasonable steps to resolve the complaint; that the company has offered to enter into BBB mediation with the customer; and the customer refused, as was the case with the Texas man above who didn't want to pay the BBB $70 to recover his forty bucks.[56]

Part 5: "Not for profit?" Really?

Well, Somebody's Profiting

The BBB is officially a not-for-profit organization, but that status all depends on whose profit you are talking about. It is true that it does not have shareholders who are growing rich off of the fees paid by businesses, but it does have several officers who are profiting handsomely. William Mitchell, former head of the Los Angeles Better Business Bureau, was paid more than $400,000 a year, which exceeded the salary of the national president. The latest figures for the national BBB President and CEO? $335,000.[57] The former director of the watchdog organization Charity Navigator, Trent Stamp, said of this arrangement, "I can't remember any case where somebody running a local chapter is earning more than someone who is running the national organization."[58] This arrangement also caught the attention of Daniel Borochoff, head of the American Institute of Philanthropy, who asked, "Why is the L.A. person paid so much more than the other ones? Is he getting paid based on what kind of sales he can bring in?"[59]

According to ABC News, 25 of the BBB's top executives make in excess of $100,000 per year.

The head of the San Diego BBB is paid $206,000, and the head of the New York office makes $175,000.[60] In all, according to federal filings examined by ABC News, 25 of the BBB's top executives made in excess of $100,000 per year.[61]

In total, the BBB's Southland office, the one that encompasses Los Angeles, spent $5 million of its annual $7 million budget on salaries. The national office spends $10 million—over 62%—of its $16 million budget paying its employees.[62] Not a bad haul in very lean times.

No Gala is Complete Without Corporate Logos

The BBB treats itself and its corporate partners to lavish galas that mark the awarding of the Torch Awards. In a huge annual party in Washington DC, the BBB invites all of its closest friends—IBM, Verizon, AT&T, Kraft Foods, Carmax—to be wined and dined in the nation's capital. And for a $15,000 corporate donation, the BBB invites "2 companies into the Trust Circle." These privileged two companies get the Torch Award Gala named after them. Less affluent companies are invited to join the Integrity Circle for $10,000 or the Performance Circle for $5,000.[63]

At its annual gala, the BBB invites all of its closest friends—IBM, Verizon, AT&T, Kraft Foods, Carmax—to be wined and dined in the nation's capital.

All over the country, the local BBB chapters hold their own Torch Award Galas, using corporate contributions to pay for them. At this writing, the Southwest Texas BBB chapter is scheduled to hold its 2011 Torch Awards at the Beaumont (Texas) Civic Center. It is soliciting five "Diamond Partners" to underwrite the event. In exchange for their money, the Diamonds will get their names and business logos printed on invitations to the event, and also on all "press releases, publications, the presentation banquet invitations and program, banquet video banners, web homepage banners, a special upfront table for 10, and more." Also, the Diamonds will enjoy a private reception before the event with the banquet speaker, Darren Hardy, publisher of *Success* magazine.

Can't afford to be a Diamond? That's okay. For $1,900 you can be a Platinum Partner and get a table with your logo on it (and plastered everywhere else), and extra wine and cheese. For $1,450, you can be a Gold Partner, which includes a few logos, and the wine and cheese. Silver and Bronze partners, at $1,000 and $850 respectively, get a table and a couple of logo placements and some wine.[64] Sorry, no cheese for you.

What's wrong with this picture? The Torch Awards for Marketplace Trust that are supposed to highlight the best in business practices are bought and paid for by the competing corporations. Is the BBB oblivious to the irony of it all?

Part 6: "Who Watches the Watchers?"

Conflict of Interest? What Conflict of Interest?

The BBB is largely made up of the businesses they are supposed to be overseeing. In addition to the thousands of businesses who join the local BBB chapters, 228 companies pay anywhere up to $75,000 to the national BBB to join its partnership program. This fee buys them a package of benefits from the BBB, including voting rights over certain BBB programs. Indeed the BBB board is made up mostly of individuals who come from the businesses that the BBB is supposed to be overseeing. Fully 90% of BBB board members come from businesses. Only 5% come from government, academia, and the non-profit community.[65]

Is Justice Truly Blind?

A few companies who were unhappy with their ratings have brought lawsuits against the BBB. One company, Incorp Services Inc., of Henderson, Nevada, sued the BBB and its Nevada director, Sylvia Campbell, for false advertising, business disparagement, and also for "oppression, fraud, and malice."[66] Incorp, which has refused to pay BBB membership fees, claims that its business rating fluctuates from an F to a C to 'no rating' without explanation. They also charge that BBB's ratings website is easily manipulated, allowing people to fraudulently affect businesses' ratings.[67]

Another company, the National Consumer Council (NCC), a debt counseling and negotiation business, filed a $20 million civil suit against the infamous BBB Southland, and its controversial (and highly paid) former director, William G. Mitchell, claiming unfair business practices and conflict of interest. Despite what NCC claims are and its extraordinary efforts to work with the BBB, it has consistently been on the receiving end of attacks. The lawsuit also claims that Mitchell was on the board of a company that is a rival of NCC called Springboard, and that BBB Southland's actions are designed to further Southland's interests at the expense of NCC.[68]

Vernon, Connecticut business TicketNetwork, has filed a lawsuit against the Connecticut BBB for their practice of awarding higher grades to businesses that pay them membership or accreditation fees. The chief executive officer of TicketNetwork, Don Vaccaro, said that he was spurred into action by Connecticut Attorney General Richard Blumenthal's 2010 letter to the BBB. He sees it as a lawsuit on behalf of all businesses that have suffered at the hands of the BBB and for the consumers he claims have been misled by the agency.

"We see this as a bigger issue than just us," Vaccaro said in a statement. "This is a nonprofit organization where executives are making a six digit salary."[69]

So what will happen with all of these lawsuits? Probably not much, thanks to the privileged status the BBB is granted in the eyes of the court. The BBB enjoys a legal advantage that the companies suing it do not have. In response to a 2009 lawsuit against the Southwest BBB, its chief executive, Jerry Shipman, said that the courts have granted the BBB a "qualified privilege," meaning that while they perform their stated business, i.e. rating businesses and handling consumer complaints, they cannot be sued for defamation, even if their work damages the businesses they are reviewing.[70] To maintain their legal protection under this privilege, the BBB is required to not act "maliciously," which is exactly what some of the lawsuits are alleging. It has worked for the BBB before, such as in a lawsuit in Pennsylvania, where the Pennsylvania Supreme Court ruled that the BBB's action in rating a company poorly were done without malice, and touched upon a matter of social importance, and were made on "a proper occasion, from a proper motive, in a proper manner, and based upon reasonable and proper cause."[71]

The courts have granted the BBB a "qualified privilege" exempting them from lawsuits for defamation.

SLAPP Me? I Will SLAPP You Back!

One lawsuit that was filed against Southland BBB in California has been working its way through the courts since April 2007. Entertainment Career Connection, Inc. (ECC) filed a multi-charge civil suit against the BBB, alleging defamation, trade libel, intentional and negligent interference with economic relations, and unfair competition. ECC's complaint listed 27 people who had been preparing to enroll in ECC's programs until they saw the F rating from the BBB and changed their minds, therefore, they allege, materially harming ECC's business.[72] However, in California, the BBB enjoys another unique legal advantage: California's anti-SLAPP laws. SLAPP is legal shorthand for a "strategic lawsuit against public participation." In other words, it is a lawsuit designed to intimidate a critic by burdening them with an expensive lawsuit and legal bills until they drop their opposition or criticism. Among other things, the anti-SLAPP statute purports to protect freedom of expression and free speech, especially in the interest of the public good.[73] In other words, it is a way for a defendant to accuse a plaintiff of using the legal system to intimidate and silence the defendant.

California law allows a defendant to file an anti-SLAPP motion against any charges early in the trial process that would, in theory, stop the lawsuit earlier than normal. The plaintiff would have to demonstrate that the defendant's actions are of a purely commercial nature, and that the plaintiff has a reasonable chance of winning the lawsuit. In this case, the court ruled that the BBB's actions were in the public interest, and since they were not a competitor of ECC, they were not motivated by commercial interest. They also ruled that ECC failed to produce evidence that they had a reasonable chance of winning the lawsuit. ECC appealed the ruling, but lost in May, 2011. Now they claim their business has been damaged and, under the anti-SLAPP statute, they must pay the BBB's legal expenses.[74]

The BBB's Business Practices In A Nutshell

The Better Business Bureau depends on the very businesses that it rates for its income. Given this inherent conflict of interest, it can never truly be independent, nor can it put consumer interests first. The following points summarize the main problems with the BBB.

The BBB does not do its homework.

Even for businesses deemed "accredited" by the BBB, the BBB does not evaluate a company's products, services, performance, or competence in any meaningful way. Nor does it independently confirm whether a business is licensed, whether it is in financial trouble, or whether government actions have been taken against it. The only criteria for being "accredited" with the BBB is the ability to pay a fee.

The BBB is not forthcoming about its limited abilities.

The BBB is not transparent with the consumers it claims to serve. It fails to inform them of the limits of its ratings system and does nothing to correct the common consumer assumption that it has evaluated businesses in a meaningful way.

The BBB uses unethical tactics to coerce companies into paying accreditation fees.

Hard-sell tactics, sales people paid on commission, misrepresentation, and implied extortion are just a few of the methods that the BBB uses to coerce businesses into becoming members.

The BBB rewards accredited businesses with good grades, and punishes non-accredited businesses with bad grades.

Surveys of BBB databases reveal that accredited companies, even those with numerous consumer complaints, typically have higher ratings than non-accredited companies with no complaints against them.

The BBB fails to resolve consumer complaints to consumers' satisfaction.

The BBB sets the bar exceedingly low when it comes to "resolving" complaints against member companies. Even though many consumers report getting no satisfaction at all from their complaints, the BBB claims they are resolved.

Salaries and galas are not in keeping with the BBB's "not-for-profit" status.

Six-figure salaries are common at the BBB, and may be a reflection of commission driven sales to attract members. Annual galas reflect lavish budgets and corporate promotions rather than consumer protection and advocacy.

Conclusion: Consumer Champion or Corporate Strong Arm?

So what are we to make of the BBB? It remains one of the institutions most recognized and trusted by the American consumer. But how trustworthy is it, really? It bills itself as a nonprofit consumer advocate, but it pays its salesmen commissions for getting businesses to fork over money for accreditation. But according to the Connecticut Attorney General, it doesn't even thoroughly investigate the businesses it rates.

Some businesses have taken to the Internet to try and battle a poor BBB rating. Some businesses devote whole sections of their websites to exposing the BBB's unethical practices and serving as a forum for complaints against the consumer agency.[75]

The BBB says that it aspires to create a community featuring "an ethical marketplace where buyers and sellers can trust each other." The BBB claims that its highest standards for its own conduct are truthfulness, transparency, and integrity.[76] However, the perception of pay-for-play damages the reputation of the BBB on all three of those counts. In an ABC News television interview, Blumenthal said, "Right now, this rating system is really unworthy of consumer trust or confidence."[77] Businesses that are unworthy of consumer trust and confidence were exactly the kinds of institutions that the BBB was created to combat. However, people cannot file complaints against the Better Business Bureau with the Better Business Bureau because it is not a member of its own organization, and also not rated.[78]

(Endnotes)

1. http://www.articlepros.com/History/American/article-79412.html
2. Cherington, Paul Terry, The Advertising Book 1916. Doubleday, Page, and Co, 1916. Pp 578-579.
3. http://www.britannica.com/EBchecked/topic/63551/Better-Business-Bureau
4. http://www.slate.com/id/2277100/
5. http://boston.bbb.org/history-and-traditions/
6. http://www.deseretnews.com/article/705284216/BBB-changes-way-it-grades-firms.html
7. http://www.bbb.org/us/Business-Accreditation/
8. http://www.bbb.org/us/BBB-Seal-Program/
9. http://www.bbb.org/us/Business-Accreditation/
10. http://articles.latimes.com/2009/jan/21/business/fi-lazarus21
11. http://louisville.bbb.org/dues/
12. http://www.smartmoney.com/invest/markets/investigating-the-better-business-bureau-23879/#tabs
13. http://www.aarp.org/money/budgeting-saving/info-12-2010/better-business-bureau-new-grading-system.html
14. http://www.bbb.org/us/
15. http://www.davidrisley.com/better-business-bureau/
16. http://www.aarp.org/money/budgeting-saving/info-12-2010/better-business-bureau-new-grading-system.html
17. http://articles.latimes.com/2009/jan/21/business/fi-lazarus21
18. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843&page=2
19. http://www.bbbroundup.com/BBBblog/blog1.php/2009/03/16/baddaysforbbb
20. http://ctwatchdog.com/2010/07/31/better-business-bureau-credibility-fading-fast
21. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843
22. http://articles.latimes.com/2010/nov/19/business/la-fi-bbb-ratings-20101119
23. http://articles.latimes.com/2010/nov/19/business/la-fi-bbb-ratings-20101119
24. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843
25. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843
26. http://ezinearticles.com/?Better-Business-Bureau;-Is-it-worth-another-look&id=28177
27. http://www.flexmls.com/blog/better-business-bureau-strong-arm-sales-tactics/
28. http://ezinearticles.com/?Better-Business-Bureau;-Is-it-worth-another-look&id=28177
29. http://ezinearticles.com/?Better-Business-Bureau;-Is-it-worth-another-look&id=28177
30. http://ezinearticles.com/?Better-Business-Bureau;-Is-it-worth-another-look&id=28177
31. http://www.mechanicsresponds.com/BBB%20of%20Metro%20Atlanta/BBB%20Hands%20Out%20Letter%20 Grades/PDF%20Files/BBB%20hands%20out%20letter%20grades.pdf
32. http://reboot.fcc.gov/verizon-wireless-fcc-consent-decree-tip-sheet
33. http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-10-2068A2.pdf
34. http://www.dslreports.com/shownews/88727
35. http://www.betterethicsbureau.org/
36. http://seattletimes.nwsource.com/html/businesstechnology/2013415545apusbetterbusinessbureauratings.html
37. http://reloroundtable.com/blog/how-to/moving-tips/consumer-help/bbb-revises-rating-system-to-regain-consumer-trust/
38. http://www.bbb.org/us/Business-Accreditation/
39. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843
40. http://www.aarp.org/money/budgeting-saving/info-12-2010/better-business-bureau-new-grading-system.html
41. http://www.bbb.org/business-reviews/ratings/

42. http://chicago.bbb.org/ratings-info/
43. http://www.aarp.org/money/budgeting-saving/info-12-2010/better-business-bureau-new-grading-system.html
44. http://ctwatchdog.com/2010/11/18/better-business-bureau-agrees-to-make-minor-changes
45. http://www.aarp.org/money/budgeting-saving/info-12-2010/better-business-bureau-new-grading-system.html
46. http://www2.nbc4i.com/news/2010/nov/19/better-business-bureau-changes-ratings-system-foll-ar-296803/
47. http://www.bbb.org/central-northern-western-arizona/business-reviews/banks/first-arizona-savings-a-federal-savings-bank-in-scottsdale-az-43312/
48. http://activerain.com/blogsview/1536739/bank-held-a-rating-from-the-bbb-when-closed-by-feds
49. http://www.betterethicsbureau.org/
50. http://ctwatchdog.com/2010/07/31/better-business-bureau-credibility-fading-fast
51. http://www.bbb.org/business-reviews/ratings/
52. http://www.nytimes.com/2011/03/13/your-money/13haggler.html?_r=1
53. http://www.smartmoney.com/invest/markets/investigating-the-better-business-bureau-23879/#tabs
54. http://www.smartmoney.com/invest/markets/investigating-the-better-business-bureau-23879/
55. http://www.nytimes.com/2011/03/13/your-money/13haggler.html?_r=1
56. http://www.suite101.com/content/question-the-bbbs-new-rating-scale-a97528
57. http://articles.latimes.com/2010/nov/24/business/la-fi-bbb-20101124
58. Fleming, Troy. “Pay for Play” Scandal at the Better Business Bureau Leads To Consumer Mistrust of the Business Rating Organization. Loyola Consumer Law Review. 2011 Vol 23-3. Page 454.
59. http://www.luc.edu/law/activities/publications/clrdocs/vol23issue3/vol23issue3/fleming_payforplay.pdf
60. http://articles.latimes.com/2010/nov/24/business/la-fi-bbb-20101124
61. http://abcnews.go.com/Blotter/business-bureau-best-ratings-money-buy/story?id=12123843&page=2
62. http://articles.latimes.com/2010/nov/24/business/la-fi-bbb-20101124
63. http://www.bbb.org/international-torch-awards/BBB_Sponsorship_Opportunities.pdf
64. http://southeasttexas.bbb.org/article/darren-hardy-to-speak-at-torch-awards-may-10-24008
65. http://www.smartmoney.com/invest/markets/investigating-the-better-business-bureau-23879/#tabs
66. http://www.lasvegassun.com/news/2010/may/10/company-sues-over-better-business-bureau-rating-ci/
67. http://www.lasvegassun.com/news/2010/may/10/company-sues-over-better-business-bureau-rating-ci/
68. http://blog-bbb.com/2010/04/national-consumer-council-files-20-million-lawsuit-against-the-better-business-bureau/
69. http://articles.courant.com/2010-11-23/business/hc-bbb-changes-policy-20101123_1_connecticut-bbb-ticketnetwork-rating-system
70. http://www.bizjournals.com/albuquerque/stories/2009/02/02/story2.html
71. http://caselaw.findlaw.com/pa-supreme-court/1368396.html
72. http://www.leagle.com/xmlResult.aspx?page=4&xmldoc=In CACO 20110324019.xml&docbase=CSLWAR3-2007-CURR&SizeDisp=7
73. http://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation
74. http://caselaw.findlaw.com/ca-court-of-appeal/1560744.html
75. http://www.aaahomerepair.com/aaahomerepair.html
76. http://www.luc.edu/law/activities/publications/clrdocs/vol23issue3/vol23issue3/fleming_payforplay.pdf
77. http://www.luc.edu/law/activities/publications/clrdocs/vol23issue3/vol23issue3/fleming_payforplay.pdf
78. http://money.howstuffworks.com/better-business-bureau5.htm