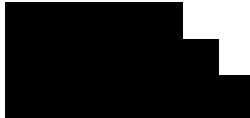




April 5, 2016

VIA OVERNIGHT MAIL AND EMAIL

Jessica Rich, Director, Bureau of Consumer Protection
Mary Engle, Associate Director, Division of Advertising Practices
Lois Greisman, Associate Director, Division of Marketing Practices
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580



Re: Deceptive Marketing for Kyäni Business Opportunity and Products

Dear Ms. Rich, Ms. Engle, and Ms. Greisman:

I write to inform you of the findings of a recent Truth in Advertising (TINA.org) investigation of Kyäni, Inc. (Kyani), an Idaho-based multilevel marketing company that sells a line of nutritional supplements called the “Kyäni Triangle of Health™.”¹ TINA.org’s investigation revealed several issues, including, among other things, an emphasis on recruitment over product sales.² In this letter, we highlight two of the deceptive marketing issues.

Unsubstantiated Health and Disease-Treatment Claims

First, TINA.org found that Kyani – which, according to the company, means “strong medicine” in Native Alaskan Tlingit³ – is using a plethora of deceptive and unsubstantiated health and disease-treatment claims to sell its products. In fact, TINA.org has compiled over 100 examples of unsubstantiated health and disease-treatment claims made about Kyani’s products, such as being able to treat, cure, or alleviate the symptoms of cancer, diabetes, fibromyalgia, arthritis, anxiety, autism, ADHD, migraines, gout, insomnia, shingles, lupus, multiple sclerosis, post-traumatic stress disorder, and a host of other medical ailments. The examples, which are all available at <https://www.truthinadvertising.org/kyani-health-claims/>, include: (1) claims made directly by the company, (2) claims made by the company’s distributors, and (3) claims made by the three doctors and scientists who comprise Kyani’s “Scientific Advisory Board.”

As alleged support for these health claims, Kyani points to its Scientific Advisory Board, as well as six white papers – or “informative essays” as the company calls them – written by the members of the Board.⁴ However, despite the illusion of robust scientific support, neither the Scientific Advisory Board nor the white papers satisfy the required substantiation to make health and disease-treatment claims. Kyani does not have competent and reliable scientific evidence in the form of clinical trials that are placebo-controlled, randomized, and double-blind.⁵ As the Head of Kyani’s Scientific Advisory Board, Dr. Abbas Qutab, admits, “Kyani hasn’t published in peer review[ed] journals. [...] Right now they are in the growth phase. [...] The problem is in nutritional products there is not enough profit margin to spend all that money.”⁶ In short, there is no dispute that Kyani wholly lacks the required evidence to support the various health and treatment claims made about its products.

Unsubstantiated Income Claims

Second, TINA.org’s investigation revealed that Kyani and its distributors are using deceptive, atypical, and unsubstantiated income claims regarding the financial gains consumers will achieve by becoming distributors. For starters, Kyani advertises that it “offers the most aggressive, most lucrative compensation plan in the industry,” and that distributors “can reap the commissions, bonuses, check matches, PayGates, and other rewards that will help propel you to financial security and beyond.”⁷ Its distributors add to this by making a host of unrealistic financial promises, ranging from getting a company car to making millions of dollars.⁸ The problem, however, is that while an overwhelming majority of Kyani distributors do not make any profit at all, and do not obtain the often-touted company car, the vast majority of the income marketing claims boasting exorbitant financial rewards do not disclose this fact.⁹ TINA.org has compiled over 100 instances of these types of misleading income claims, which are all available at <https://www.truthinadvertising.org/kyani-income-claims/>.

Based on this information, we contacted the company on March 28, 2016 notifying it of TINA.org’s findings of inappropriate health and income claims made by Kyani, its Scientific Advisory Board, and/or its distributors, and asked that the company remedy the deceptive marketing immediately.¹⁰ TINA.org gave Kyani a week to make corrections before forwarding this issue to your attention, but the company has not responded or made any noticeable changes to its marketing.

TINA.org therefore urges the FTC to commence an investigation of the claims being made by Kyani, its Scientific Advisory Board, and its distributors, and take appropriate enforcement action against those found to be violating the law.¹¹

Sincerely,



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Cc: Michael Breshears, Chief Executive Officer, Kyani, Inc.
Scott Seedall, General Counsel, Kyani, Inc.

¹ See <http://www.kyaniscience.com/en-us/>; <https://shop.kyani.net/en-us/#/products>.

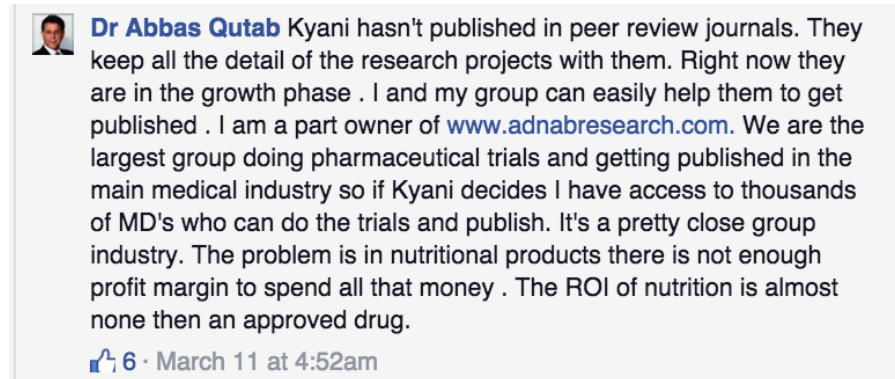
² See <https://www.truthinadvertising.org/what-you-should-know-about-kyani/>.

³ See, e.g., <https://asia.kyani.net/public/au/en/about/story>; <https://www.truthinadvertising.org/wp-content/uploads/2016/04/kyani-tingit.png>. To verify this translation, TINA.org contacted a number of Tlingit experts and learned that the appropriate Tlingit phrase for “strong medicine” is either “latseen náakw” or “náakw áwé latseen.” See, e.g., Dictionary of Tlingit, available at http://www.sealaskaheritage.org/programs/Language%20Resources/Tlingit_dictionary_web.pdf, which defines “latseen” as “strength, power,” “áwé” as “that,” and “náakw” as “medicine.”

⁴ The white papers also make grandiose health claims. For example, one of the white papers – Kyäni Sunrise – makes the unsupported statement that the ingredient pomegranate serves as “an HIV inhibitor.” See http://assets.kyani.net/documents/us/Sunrise_Science_White_Paper-07.14-EN-ALL.pdf (“Its antimicrobial properties make it an inhibitor of HIV transmission. Out of all the fruits, pomegranate may have the highest potential to inhibit the transmission of HIV.”). The same white paper claims that the ingredient pomegranate juice slows down the growth of cancerous cells. See *id.* (“Pomegranate juice eliminates free radicals from the body and inhibits the growth and development of cancer and other diseases...Daily intake of pomegranate juice can slow down the growth of cancerous cells in prostate cancer. Moreover, it appears to block aromatase, an enzyme that converts androgen to estrogen, a hormone that plays a crucial role in the development of breast cancer.”)

⁵ See *POM Wonderful, LLC v. FTC*, 777 F.3d 478 (D.C. Cir. 2015), available at https://www.ftc.gov/system/files/documents/cases/pom_dc_circuit1_0.pdf.

⁶ See <https://www.facebook.com/drabbasqutab/posts/497004510485080:0>



Dr Abbas Qutab Kyani hasn't published in peer review journals. They keep all the detail of the research projects with them. Right now they are in the growth phase . I and my group can easily help them to get published . I am a part owner of www.adnabresearch.com. We are the largest group doing pharmaceutical trials and getting published in the main medical industry so if Kyani decides I have access to thousands of MD's who can do the trials and publish. It's a pretty close group industry. The problem is in nutritional products there is not enough profit margin to spend all that money . The ROI of nutrition is almost none then an approved drug.

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⁷ See <http://www.kyani.net/en-ca/>

⁸ See, e.g., <https://www.truthinadvertising.org/wp-content/uploads/2016/03/GuerreroKyani.pdf>; <https://www.truthinadvertising.org/wp-content/uploads/2016/03/LifeChangingKyani.pdf>; <https://www.truthinadvertising.org/wp-content/uploads/2016/03/GlobalResellers.pdf>.

⁹ Once in long a while, a distributor will refer to Kyani's USA Income Disclosure Statement – <https://usincome.kyani.net/> – but the statement, which is not found in the overwhelming majority of Kyani marketing materials, only refers to its distributors' gross earnings and thus does not account for the large sums of money they must invest in order to become distributors. Even with this omission, however, the company admits that it is exceedingly rare to receive any money at all as a Kyani distributor.

¹⁰ TINA.org's March 28, 2016 letter to Kyani is available at https://www.truthinadvertising.org/wp-content/uploads/2016/03/3.28.16-ltr-from-TINA-to-Kyani_Redacted.pdf.

¹¹ TINA.org has also sent a complaint letter to the Attorney General of Idaho, where Kyani is headquartered.