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Case #112-2023: Compliance Inquiry – Magnetude Jewelry

BBB NATIONAL PROGRAMS

The Direct Selling Self-Regulatory Council

Case Number 112-2023: Compliance Inquiry – Magnetude Jewelry

Company Description

Magnetude Jewelry (or the “Company”) is a multi-level direct selling company based in Maryland that sells bio-magnetic interchangeable fashion jewelry to consumers. According to the Company’s website, the Company’s independent representatives earn money through commission on product sales or recruiting other salesforce members.

Basis of Inquiry

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. This inquiry was commenced by DSSRC pursuant to its ongoing independent monitoring of advertising and marketing claims in

the direct selling industry.

Background

Magnetude Jewelry was the subject of a DSSRC inquiry in 2020. That matter involved one earnings claim stating that Magnetude Jewelry salesforce members could potentially earn career level income, and four representative product claims regarding the efficacy of the Company's products to improve mood, energy, sleep, and protect users from harmful electric and magnetic fields (EMF).

In addition to recommending that Magnetude Jewelry discontinue the earnings claim, DSSRC also recommended that the Company modify or discontinue claims that its products "help to protect us from EMF's (electromagnetic frequencies) that are emitted all around us from cell phones, wi-fi, computers, cell towers, fluorescent lighting etc." and "help to close off our own energetic frequencies so that we are not as susceptible to them." Similarly, DSSRC recommended that the Company modify or discontinue claims that its products "can stimulate enzyme activity and metabolism, which helps as an antioxidant, fighting oxidative stresses that lead to many degenerative diseases" and other specific health-related product claims that would require competent and reliable scientific evidence as substantiation.

In its Company Statement, Magnetude Jewelry stated that despite presenting a compelling case for the substantiation of its product claims, it modified a "myriad" of its claims and was considering further modifications to the remaining product claims that were cited by DSSRC.¹

Compliance Inquiry

As part of its compliance process, DSSRC will independently review advertising that has been the subject of previous inquiries and determine if the direct selling company has made a good faith effort to abide by DSSRC's recommendations and adhere to the commitment expressed in its Company Statement. Accordingly, as part of its follow-up monitoring of claims disseminated by Magnetude Jewelry, the below representative claims were identified and brought to The Company's attention:

Product Claims

- "Do you suffer from Arthritis? Try Magnetude Jewelry with a purpose"
- "I'm looking forward to report back on possible effects: 💎 counteracting EMF & 5G; 💎 promote better sleep 💎 decrease joint pain 💎 increase vitality 💎 decrease brain fog"
- "Everyone needs to protect themselves from the harmful effects from 5G/EMF's (Electro-Magnetic Frequencies) that cause damage to your body while on your cell phone, computers and around any thing else that is 5G enabled. The Energy elements that are imbeded in our jewelry, also helps to boost your immune system too."
- "More energy; Stabilize brain function; Increase blood flow; Better digestion; Strengthen Immune System; General Mood Boost"
- "Give yourself the gift of Health with bio magnetic interchangeable jewelry that has health benefits, counteracting the effects from 5G/EMFs and also helps to boost your immune system."
- "Blue Tiger Eye is a soothing stone known for reducing stress, increasing calm and decreasing anxiety."
- "Magnetude Jewelry also has healthy elements on the back that contain the frequencies of negative ions, which may affect serotonin and provide a mood boost, and infrared and germanium, which can increase blood flow... Labradorite is used in supporting disorders of the eyes and brain, mental acuity, anxiety and stress. It helps with metabolism, hormones and menstrual tension. Labradorite is good for colds, gout, rheumatism, blood pressure, and digestion."
- "Perfect for someone like me who has arthritis in thumbs and wrists. But, bonus, the working magnets on the back actually help relieve the arthritis!"
- "👉 Do 👉 you 👉 have brain fog ?neck pain?knee pain?sleep disturbances?depression? Check out the SCIENCE! Here! 👉 Why wearing our jewelry can help increase blood flow and decrease pain AND PROTECT YOU FROM EMFS AND 5G!"
- "It's been One Year and Winston is still cancer free!! #cancerfree #petcancer #magnetudejewelry"
- "Bad mood? Arthritis hurting? Need a lift? Try Magnetude Jewelry to raise your serotonin , increase your cellular energy, decrease pain, decrease inflammation, and improve your quality of sleep!!!"
- "I've healed symptoms of arthritis, Lyme and more wearing this jewelry!"
- "Helping to counteract the effects of 5G/EMF's and increasing your cellular energy." "The negative effects of EMFs (electromagnetic field) and 5G affect us at the cellular level, leading to, to headaches, fatigue, brain fog, sleep disturbances, joint and muscle aches, increased blood sugar, high blood pressure, heart palpitations, and an overall decrease in vitality."
- "protect them from harmful EMF's. It also has energy frequencies embedded on the bak; (2) Infrared balls to increase blood flow and healing and to help with arthritis or hip dysplasia, it has a germanium frequency for increased healing and it has a negative ion frequency for increased serotonin and mood boosting."
- Image with copy stating "Does your pet have any of the following? Arthritis; Hip Dysplasia; General Illness; Living on the planet and exposed to EMF's? Increase Blood Flow for healing and Vitality; Increase Seratonin for Calm Nerves; Counteract Harmful EMF's"

- “These energy frequencies are known to help increase blood flow, decrease inflammation, and boost serotonin. So, not only are you increasing your cellular energy, but there are healthy effects that can decrease pain, increase blood flow, boost your mood, and provide better sleep.”
- “The “everywhere” prevalence of these frequencies may be influential in: • ADHD & ADD • Brain fog, headaches & concentration problems • Certain kinds of cancer • Tinnitus & migraines • Insomnia • Autoimmune diseases And more...”
- “I sleep in these 3 necklaces and bracelet....wearing these all the time has prevented migraines, and I had them bad! This is my testimony. I cannot guarantee results with headaches. But you know it will still help counteract the effects of harmful EMFs from cell phones and wifi!”

In response to the DSSRC compliance inquiry, Magnetude Jewelry explained that it has been working to make sure that its salesforce members are using the right verbiage and created a ‘Do’s and Don’ts’ document for what they should and shouldn’t communicate in social media posts, which was provided to DSSRC. This information is reiterated to Magnetude Jewelry salesforce members during training calls to the field. The Company added that it utilizes the services of a marketing company who creates the content for social media posts for the salesforce members to limit any rogue verbiage from salesforce members.

Magnetude Jewelry also noted that many of the posts identified by DSSRC in the compliance inquiry were disseminated prior to 2020. The Company maintained that it expended considerable resources to address the claims brought to its attention in the compliance inquiry including making take-down requests to salesforce members and, in a few cases, modifying language in the posts to be compliant.

With only one exception, all active and inactive salesforce members have complied with the Company’s policies and all posts were deleted. Magnetude Jewelry stated that the only remaining accessible post originated from an inactive salesforce member that could no longer access her Facebook post from 2019, despite repeated attempts. Magnetude Jewelry informed DSSRC that it has also reached out to the platform to inform them that the post includes substantive product performance claims that have not been authorized by Magnetude Jewelry and added a note to the comment section of the post stating that the Company has requested that the post be removed.

Compliance Determination

DSSRC appreciated the good faith efforts of Magnetude Jewelry to address its concerns and remove all but one of the posts brought to its attention, an action which DSSRC determined was necessary and appropriate. Nevertheless, DSSRC expressed concern with the health representations that were the subject of this compliance inquiry and reiterated the basis for its conclusions stated in the 2020 inquiry.

More specifically, “the requisite level of support for the subject claims is competent and reliable scientific evidence because the claims at issue are health-related claims that the Company’s products protect against EMF’s, fight oxidative stresses that lead to many degenerative diseases and provide other powerful health-related benefits.² This conclusion is also consistent with the Federal Trade Commission’s (FTC) position that advertisers must possess competent and reliable scientific evidence before making claims about pain relief, disease treatment, or health benefits.³ Further, the claims strongly convey the message to consumers that the promised health benefits are supported by scientific testing.⁴ While there is no requisite number of studies required, generally, competent and reliable scientific evidence consists of randomized, placebo-controlled, well-conducted human clinical trials with statistically significant results.⁵ While the FTC generally requires two reliable and competent studies to support claims similar in nature to the ones at issue here, DSSRC and other advertising self-regulatory forums do not rigidly require a specific number of tests. Rather, DSSRC will focus its analyses on the quality, consumer relevance, and reliability of the scientific studies offered in support of the Company’s product claims”.⁶

Moreover, since the conclusion of the 2020 inquiry with Magnetude Jewelry, the FTC’s reliable and competent scientific evidence standard to support health and safety claims was reiterated in the Commission’s Health Products Compliance Guidance released in December 2022, which reinforced the fundamental advertising principle that when conveying product claims clearly and accurately, marketers need to ensure that there is adequate support for their claims.⁷

Based upon the efforts of the Company, DSSRC closed its compliance inquiry pursuant to section VIII(D)(1) of the DSSRC Policies & Procedures.⁸ Notwithstanding the efforts taken by Magnetude Jewelry, DSSRC will continue to monitor the social media posts being disseminated by Company salesforce members.

Conclusion

DSSRC recognized the good faith efforts taken by Magnetude Jewelry in the spirit of voluntary self-regulation and the appropriate and prompt steps resulting in the removal of 19 of 20 social media posts at issue. DSSRC further concluded that the Company made a genuine, bona-fide attempt to contact the individual responsible for the one post that remains publicly accessible by consumers, which was disseminated in 2019. DSSRC also appreciated the efforts of Magnetude Jewelry to contact Facebook to inform them that the post includes

a substantive product performance claim that has not been authorized by the Company and by including that same comment in the commentary section of the social media post.

(Case No. 112, closed on 4/21/23)

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[1] See <https://bbbprograms.org/programs/all-programs/dssrc/ccd/case-32-2021-monitoring-inquiry-magnetude-jewelry>

[2] Id.; POM Wonderful vs. FTC, United States Court of Appeals for the District of Columbia Circuit (2015) <https://www.cadc.uscourts.gov/internet/opinions.nsf/CF44C4FA22F615C585257DDD00549353/%24file/13-1060-1535012.pdf>.

[3] See FTC v. Tommie Copper, Inc. and Thomas Kallish; Stipulated Final Judgement and Order for Permanent Injunction and Other Equitable Relief; Civil Action No. 7:15-cv-09304-VB; United States District Court for the Southern District of New York (2015).

[4] Advertisers should possess the support that is promised in their advertising. POM Wonderful, supra, at fn 5.

[5] Mommy's Bliss Inc. (Cough Syrups and Probiotic Drops), Report #6257, *NAD/CARU Case Reports* (March 2019).

[6] *Supra* at 1. Pages 8-9.

[7] See https://www.ftc.gov/system/files/ftc_gov/pdf/Health-Guidance-508.pdf page 11.

[8] DSSRC will continue to monitor the online and social media advertising for claims made regarding the health-related, product performance claims disseminated by Magnetude Jewelry and its salesforce members.

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