

BBB NATIONAL PROGRAMS, INC.
The Direct Selling Self-Regulatory Council
Case Number 39-2021: –Monitoring Inquiry– Enagic, USA, Inc.

COMPANY DESCRIPTION

Enagic USA, Inc. (“Enagic” or the “Company”) is a direct selling company located in Torrance, California which was founded in 2003. The Company manufactures water purification equipment and other related products.

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.

DSSRC identified the following representative product performance and earnings claims disseminated by independent salesforce members on social media and on the Company website. DSSRC was concerned that the representative claims below communicate that the Enagic water filtration system can protect against serious health-related skin conditions and that the typical Enagic salesforce members can generally expect to earn significant income from the Company’s business opportunity.

Product Claims

- YouTube video with narrative and testimonials indicating that Enagic’s Kangen water filtration system is effective in treating and healing eczema.
- YouTube video with images depicting that Enagic’s Kangen water system is effective in treating and healing psoriasis.

Earnings Claims

- “New Biz, potential gross income 15k to 90k/sale Worldwide | Online 🍷🍷🍷”
- “True Mental, Physical and Financial Health” accompanied by lavish lifestyle images.
- A compensation video that appeared on the business opportunity tab of the Enagic website included representations stating that “You will see as you work this plan, it will yield very rewarding results” and “You will be amazed at the financial benefits of sharing Kangen Water.” These unqualified claims were accompanied by animated depictions of bags of money.

COMPANY'S POSITION

Enagic stated that it supports and endorses DSSRC's mission to protect consumers from being exposed to false and misleading health and income claims. The Company explained that it regularly communicates with its distributors about compliance matters, has strict compliance language in its Policies & Procedures (which it regularly enforces), and devotes substantial corporate resources to its compliance efforts.

Product Claims

With respect to the two YouTube videos at issue, Enagic informed DSSRC shortly after commencement of the inquiry that both videos were removed from the public domain. Enagic explained that the video referencing the efficacy of the Company's product to treat psoriasis originated from a salesforce member located in India and noted that Enagic USA is a separately operated and independent company, and the jurisdiction of Enagic USA's substantial compliance effort is generally limited to distributors living in the United States. The Company stated that Enagic USA does have the ability to communicate with and make requests of its sister companies located in other countries and, accordingly, made a good faith effort to reach out to its colleagues overseas and effectuate the removal of the video.

Earnings Claims

Shortly after receiving the DSSRC inquiry, Enagic notified DSSRC that the Facebook post which included the claim of "potential gross income 15k to 90k/sale Worldwide" was removed. The Company informed DSSRC that the post originated in the Philippines, and, again, the Company reached out to its foreign affiliate in a good faith effort to have the post disabled.

With respect to the "True Mental, Physical and Financial Health" claim, the lavish lifestyle depiction and the compensation video that were presented on the Company website, Enagic removed both the image and claim from the website and disabled the compensation video.

CASE DISPOSITION

DSSRC appreciated the Company's prompt response and good faith actions to reconcile this matter. The Company did not attempt to provide evidentiary support for the claims at issue and, instead, recognized DSSRC's concerns and acted expeditiously to have the claims and videos removed, actions that DSSRC determined were necessary and appropriate.

DSSRC acknowledged that the Facebook post and YouTube videos that were the subject of the inquiry originated outside of the United States. As DSSRC has noted in previous inquiries, when a direct selling company is made aware of improper product (or

income) claims that were made by an individual that was not within its geographical control or who was an active distributor when such claim was made but that has since become an inactive distributor of the company, DSSRC acknowledges that the direct selling company may not be able to require such salesforce members to remove a social media post. In that instance, DSSRC nonetheless recommends that the direct selling company make a bona fide, good faith effort to have the improper claim removed.¹

Here, although the posts and videos identified by DSSRC were disseminated by salesforce members outside of the Company's jurisdiction of supervision, Enagic nevertheless, voluntarily collaborated with its overseas' affiliates to effectuate the removal of the YouTube videos and Facebook post.

DSSRC also expressed its concern that several images and statements on the Company website and in a compensation video featured on the Company website communicated the message that potential salesforce members can earn significant income from the Enagic business opportunity.

The Company recognized the concerns of DSSRC regarding the reference to "True... Financial Health" claim, the lavish lifestyle depiction and the compensation plan video that were presented on the Company website. As noted in section 5 of the DSSRC Guidance for Earnings Claims in the Direct Selling Industry, lavish lifestyle claims are statements that either expressly state or imply through visual images or otherwise that participation in a direct selling business is likely to result in the ability of the participants to live a lavish or extravagant lifestyle. DSSRC will evaluate whether a claim is a lavish lifestyle claim based upon the context in which the claim appears and the potential net impression of such claim to the audience.²

Shortly after DSSRC identified these online claims for the Company, Enagic voluntarily removed the claim and lifestyle image from the "opportunity" page its website and disabled the compensation video for re-editing.

Accordingly, based upon the bona fide, good faith efforts demonstrated by Enagic to work within the spirit of advertising self-regulation and address the concerns of DSSRC, DSSRC administratively closed its inquiry pursuant to the DSSRC Policy and Procedures.

(Case No. 39-2021 PCM, closed on 06/14/21)

© 2021. BBB National Programs

¹ See Gano Excel USA, Inc. Case No. 30-2021, closed on 1/07/21.

² See https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/dssrc/dssrc_guidanceonearningsclaimsforthedirectsellingindustry_2020.pdf?sfvrsn=4ecfd36_6