

BBB NATIONAL PROGRAMS, INC.

The Direct Selling Self-Regulatory Council
Case Number 42-2021 –Monitoring Inquiry– Max International, LLC

Company Description

Max International, LLC (“Max International” or the “Company”) is a direct selling company that was founded in 2007 and currently conducts operations in the United States, Canada, Australia, New Zealand, Colombia, El Salvador, Singapore, Malaysia, Philippines, Hong Kong, Ghana and Nigeria. The Company has approximately 200,000 independent salesforce members. The Company markets a line of health-related and wellness 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 claims disseminated by independent salesforce members on social media. DSSRC was concerned that the representative claims below communicate that the Company’s products can treat and protect against serious health-related conditions, including but not limited to asthma, cancer, and diabetes.

Product Performance Claims

- “I have a product that can help my health. I suffered from stomach ulcers for 5 years. I have been to a lot of hospitals and I’ve been on a lot of medications and have seen no improvement. I’ve been on Max Longevity for some months and I can testify that I am not suffering from my stomach ulcer again.”
- “CellGeivity – Reverse Ailments like: Cancer, Diabetes, Arthritis, Asthma, Stroke Kidney Problems;
- *POTENTIAL BENEFICIARIES FROM CELLGEVITY*
 1. Diabetes and complications like neuropathy, nephropathy, foot ulcers
 2. Chronic leg ulcers e.g. vascular ulcers etc.
 3. Stroke, Parkinson's disease, Alzheimer's disease, Multiple Sclerosis
 4. Hypertension, heart disease
 5. Kidney disease including patients on dialysis
 6. Sickle cell disease (to reduce crisis)
 7. Male and female infertility (if blocked tubes have been ruled out as a cause)
 8. Chronic body aches and pains e.g., back, waist pain, arthritis, chronic pelvic pain etc.;

9. Erectile dysfunction
10. HIV (to reduce complications)
11. Cancers (to retard progression)
12. Hepatitis (to reduce viral load, liver disease (to retard progression))
13. Difficulty with wound healing eg postoperative etc
14. Asthma, allergies
15. Glaucoma, cataract
16. Skin disorders, wrinkled and aging skin
17. Difficulty with sleeping
18. Autism
19. Gastritis(Stomach ulcers)k
20. *Anyone at 40 years and above who wants a healthy life and wants to prevent the above problems!”

CELLGEVITY™
ADVANCE RIBOCENE TECHNOLOGY

**The right choice
for your health care
needs**

Low Glutathione is Associated with over 70 Diseases and Health Challenges including:

- * Diabetes
- * Hypertension
- * Stroke
- * Arthritis
- * Erectile Dysfunction Male/Female Infertility
- * Cataract and Glaucoma
- * Ulcer
- * Alzheimers and Memory Loss
- * Sickle Cell
- * Asthma
- * Autism
- * Cancer
- * Kidney Disease
- * Hepatitis B/C
- * Many more

Cellgevity Health Center
January 9 · 🌐

POTENTIAL BENEFICIARIES FROM CELLGEVITY

1. Diabetes and complications like neuropathy, nephropathy, foot ulcers
2. Chronic leg ulcers e.g. vascular ulcers etc
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4. Hypertension, heart disease
5. Kidney disease including patients on dialysis
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20. *Anyone at 40 years and above who wants a healthy life and wants to prevent the above problems! See Less

- “300% better than any other alternatives. Best immune booster and anti-oxidant detoxifier and antiaging supplement - Low Glutathione is associated with over 70 diseases and health challenges including: Diabetes, Stroke, Arthritis, Erectile Dysfunction, Male and female Infertility, Cataract, Glaucoma, Ulcer, Alzheimer’s Disease and memory loss, Sickle Cell, Asthma, Autism, Cancer, Kidney Disease, Hepatitis.”

Company’s Position

Max International was responsive to the DSSRC inquiry. The Company informed DSSRC that all of the social media posts at issue were unauthorized health-related claims that originated from salesforce members located overseas.

The Company stated that it goes to great lengths to ensure the propriety of its product quality and branding. It noted that as an international company, it is fully cognizant of the Food and Drug Administration’s (FDA) Rules and Regulations governing its products, particularly that the products may not be mischaracterized as medical products.

Max International explained that its products are often mischaracterized by its account holders who market the brand in violation of Company policies. In order to protect against these occurrences, Max International stated that it monitors the internet on a daily basis and, upon learning of any such violation, sends cease and desist letters when such a case may arise.

The Company stated that it has also hired a third-party vendor who monitors social media with specialized software that has advanced algorithms that may locate and find these accounts. If any account holder is misrepresenting a Max International product, the monitoring vendor will then notify the Company of the potential violation and it will issue a cease and desist letter upon approval by the Company.

Here, Max International advised DSSRC that it sent personal messages to each account via Facebook messenger requesting the removal of the inappropriate content. The Company reported that it was successful in having removed one of the social media posts that was the subject of the DSSRC inquiry and that it will continue to pursue any legal remedies that may be necessary to remove the remaining social media posts.

Case Disposition

DSSRC appreciated Max International’s bona fide efforts to have one of the social media posts at issue removed from circulation which DSSRC determined to be necessary and appropriate. However, despite the Company’s good faith efforts, four posts identified by DSSRC remain active at the time of this closure. DSSRC expressed its ongoing

concern to the Company regarding the aggressive health-related messages being communicated by the remaining posts.

The Company did not dispute DSSRC's concern that the posts at issue communicated problematic health-related claims. The Company also did not attempt to provide evidentiary support for the claims at issue. Rather, the Company committed continue to act to have the claims removed which DSSRC determined to be necessary and appropriate.

As noted in previous self-regulatory cases, health-related claims must be supported by reliable, competent scientific evidence.¹ Competent and reliable scientific evidence, as defined by the Federal Trade Commission (FTC) includes, "tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results."²

For example, DSSRC determined that the claim "300% better than any other alternatives" could be reasonably interpreted by consumers as a comparative establishment claim. Establishment claims are held to a very high standard of proof because they are, in essence, a promise that the advertiser possesses evidence that "establishes" the truth of its claims. When evaluating an advertiser's support for an establishment claim, self-regulation programs have traditionally looked to whether an advertiser has produced reliable and well-controlled clinical testing on the advertised product that can be readily verified in determining whether there is a reasonable basis for an establishment claim for a product.³ Similarly, the FTC defines an establishment claim as an express or clearly implied statement that the claim is supported by scientific or medical studies. Accordingly, where an advertisement represents, either expressly or by implication, that the claim is supported by a certain amount or level of substantiation, the advertiser must possess, prior to dissemination of the advertisement, at least that level of support for the claim. When the substantiation claim is express (e.g., "tests prove",

¹ VGH Solutions Inc. (Dr. Ho's Circulation Promoter), Report #6404, *NAD/CARU Case Reports* (September 2020); Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019); Triumph Pharmaceuticals Inc. (SmartMouth Dry Mouth Products), Report #6190, *NAD/CARU Case Reports*(June 2018); Good Health Naturally, LLC (Serranol Supplements) , Report # 5441, *NAD/CARU Case Reports* (March 2012); Nature's Cure, Inc. (2-Part Acne Treatment), Report #4797, *NAD/CARU Case Reports* (February 2008).

² FTC Guide, *Dietary Supplements: An Advertising Guide for Industry*, www.business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry; Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019).

³ TRUE EARTH HEALTH PRODUCTS (Plexaderm™ Rapid Reduction Cream), Report #406, *ERSP Case Reports* (September 2017); Philips Oral Healthcare LLC. (Sonicare Rechargeable Toothbrushes), Report #6206, *NAD/CARU Case Reports* (August 2018); Patent Health, LLC (Fluid Joint - Dietary Supplement for Joint Function), Report #4335, *NAD/CARU Case Reports* (May 2005).

"doctors recommend", and "studies show"), the Commission expects the marketer to have at least the advertised level of substantiation.

Although the FTC often requires two reliable and competent studies to support establishment claims and other health and safety claims, the advertising self-regulatory forums do not rigidly require a specific number of tests to support establishment claims, and, rather, focus their analyses on the quality, consumer relevance and reliability of the scientific study offered in support of an advertiser's health-related and establishment claims.⁴

DSSRC recognized that all of the social media posts 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.⁵

In this inquiry, as a demonstration of the Company's bona fide attempt to contact the salesforce members responsible for the remaining posts, the Company provided DSSRC with copies of the cease and desist correspondence that was sent to the Company's salesforce members.

DSSRC appreciated the steps taken by Max International to continue to pursue the removal of the remaining four social media posts and the Company's commitment to strengthen its monitoring process as well as its commitment to coordinate with its offices located outside of the United States to assist in the enforcement of Company policy regarding the dissemination of product claims. DSSRC will continue to check the status of the remaining social media posts and will open a compliance inquiry should there be a continuing systemic pattern of egregious health-related product performance claims disseminated by Company salesforce members.

Conclusion

DSSRC appreciated the Company's bona fide efforts to remove the five social media that were disseminated by salesforce members located overseas. The Company was able to have one the posts removed but four others remain accessible to consumers despite the efforts taken by the Company. Max International did not dispute that the posts

⁴ Nature's Cure, Inc. (2-Part Acne Treatment), Report #4797, NAD/CARU Case Reports (February 2008); Miralus Healthcare (HeadOn Headache Relief), Report#4465, NAD/CARU Case Reports (March 2006); Matrixx Initiatives, Inc./Zicam LLC (Zicam Cold Remedy Nasal Gel), Report #4286, NAD/CARU Case Reports (February 2005); Green Pharmaceuticals, Inc. (SnoreStop), Report #4013, NAD/CARU Case Reports (March 2003).

⁵ See Gano Excel USA, Inc. Case No. 30-2021, closed on 1/07/21.

at issue communicated problematic health-related claims and did not attempt to provide evidentiary support for the claims at issue.

As a demonstration of its good faith actions to address DSSRC's concerns, the Company provided DSSRC with copies of the cease and desist correspondence that was sent to the Company's salesforce members. The Company has committed to coordinating with its offices located outside of the United States to assist in the enforcement of Company policy regarding the unauthorized dissemination of product claims, an action that DSSRC determined was necessary and appropriate. DSSRC will continue to check the status of the remaining social media posts and will open a compliance inquiry should there be a continuing systemic pattern of egregious health-related product performance claims disseminated by Company salesforce members.

Company Statement

"Max International is the global leader in glutathione-enhancing products and an industry leader in the production of wellness and weight-loss supplements and products. In this vast wellness arena, Max International operations arise from a multi-level marketing business model. As such, Max boasts over 60,000 associates across the globe, from its headquarters in Salt Lake City to its Philippines outposts and beyond. Our blueprint is vast.

In a staunch effort to comply with FTC and other regulatory authorities, Max International's former General Counsel and her assistant were tasked with the duty of searching the internet for non-compliant statements and posts, earmarking them, notifying the non-compliant associate of the mischaracterizations contained therein and requesting compliance with the Associate Agreement they entered into upon embarking upon their marketing trajectory with Max.

Max International has sought to streamline the daunting process of searching the internet for statements by associates and sending cease and desist letters or notifications to our associates with the help of a third-party vendor. Simultaneously, our CEO and CFO retained a third-party vendor, to provide this service to Max as it pertained to Amazon, E-bay and Facebook.

Notwithstanding the obstacles facing our efforts, Max International LLC continues to, one-by-one, monitor and search for any statements that may contain mischaracterizations regarding our products' medical benefits and earning capacity. The research supporting the medical benefits and demonstrating our associates' earning capacity is rampant. That said, we understand that the mere presence of research without proper authority is moot when it comes to such associates' representations.

Once an associate is identified as one non-compliant with the foregoing provisions governing our marketing guidelines, a cease and desist letter is often sent to the associate identified to warn them that termination will result if the correction is not made. If we then

learn through diligence that our efforts to stop the misleading advertising are not corrected, we terminate the employee via a further cease and desist letter.”

Case No. #42-2021 PCM (closed on 7/26/2021)

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