

# **Self Regulation And Education In Direct Selling**

**A Discussion Paper For The Delegates From  
State Administration Industry And Commerce  
The People's Republic Of China**

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## **I Introduction**

Self regulation refers to a system of regulating the industry that has been generally initiated and developed by the industry. It may be crafted with inputs from governments, consumer groups, or other third parties but it is managed and enforced exclusively by the industry.

Self regulation does not refer to the range of rules, instruments or standards that are enforced strictly through legislations and other government regulations. It also does not include systems that have a statutory backing or other significant government involvements called co-regulation.

Self regulation includes:

1. Systems developed by an association representing all or some of the participants in the industry;
2. Private groups regulating themselves by a set of rules and guidelines; or
3. Independent businesses establishing a code of practice to regulate their own stakeholders.

Self regulation is a form of voluntary self-restraint for the purpose of developing win-win-win relationships with consumers, direct sellers and government. It is widely recognized that a well-developed system of self regulation can help government promote a high standard of practice, reduce malpractices, and protect the interests of relevant constituencies in society.

## **II Objective**

The objective of this paper is to offer recommendations to enhance government regulations and serve the interests of consumer, direct sellers, direct selling companies, and society through self-regulation by a direct selling association.

## **III Overview of Direct Selling**

Direct selling is a widely accepted model for distributing genuine, beneficial and commercially marketable products and services through predominantly word of mouth promotion by direct sellers. It is generally conducted by independent distributors who are not restricted by gender, age, culture, education or experience. The business is normally conducted in homes, places other than fixed retail locations, and through technological means such as telephones, videoconferences and online services.

Both direct selling and traditional distribution models operate through a pyramidal-shaped organization, using a hierarchy of personnel with different authority levels. They may pay a multiple level of overriding commissions or other benefits except that

in direct selling, the opportunity is given to ordinary persons to enjoy financial returns on a success basis only.

Direct selling has made a positive impact on and has been accepted as a part of the business and societal landscapes. It can be an effective model to help enterprises and individuals market their products and services locally and globally.

Direct selling can promote entrepreneurship, enhance economic growth, create jobs, upgrade human resources, and provide a means for ordinary citizens to enjoy an alternative source of income. By promoting the use of and distributing value-added products; from cosmetics, nutrition products to powerful online learning products, it can also contribute positively to individuals, families, communities and society.

According to World Federation of Direct Selling Associations (WFDSA), its members gross more than US\$85.7 billion in retail sales globally. There are more than 47 million independent direct sellers, and these numbers should continue to increase in the 21<sup>st</sup> century.

Today, many public-listed and blue-chip companies such as Berkshire Hathaway, Citigroup, Virgin companies, and Colgate Palmolive are confidently selling some of their products through direct selling organizations.

Notwithstanding the virtues of direct selling, it is important to be mindful that every powerful use; including medicine and computers, can be abused, and it applies across the board in every industry, business and profession. The fact that there are pyramid schemes that pass off as direct selling is in some ways a proof of its positive contributions and values. The *modus operandi* of direct selling and these fraudulent schemes are world's apart in terms of philosophy, motivation, systems and results.

Every responsible member of the industry should be supportive of laws and other regulations to differentiate direct selling from fraudulent practice; prohibit all forms of fraud; appoint a central government agency to govern direct selling; approve the establishment of a direct selling association to assist the government; and promote good business practice through self-regulation.

#### **IV Rationale For Self Regulation**

For direct selling to be effective, beneficial and to grow, it must enjoy positive image and perception from consumers, direct sellers, government, and other members of the public. If the perception is negative, it will affect sales, profitability, sources of funds, and regulatory environment.

For example, if consumers are dissatisfied with the product and service, they will not buy, let alone continue to buy, and help to promote for the direct sellers.

The need for consumer protection and high standard are recognized by many legitimate and responsible participants of direct selling. That is why direct selling associations have been established in more than 56 markets, representing leading

direct selling companies, including companies that are currently operating in China as “changed mode businesses”.

These companies come together to develop ways to regulate themselves, educate the market, and promote their businesses. It is also a way to differentiate themselves as socially responsible companies that subscribe to a code of practice. Membership of a local direct selling association can become a ‘trust mark’ to help companies market their products locally and overseas.

Self regulation is not just a voluntary self restraint, it can also be an effective way to improve image, promote consumer confidence, pre-empt costly regulatory requirements, and minimize costly litigation.

## **V Self Regulation Can Enhance Government Regulation**

Self regulation and government regulation complement each other. Just like the strings and frame of a badminton racquet, they can synergise and generate better outcomes. They share a common objective of serving the best interest of the country and are therefore, means to an end and not an end in itself.

Self regulation works best within a framework of government laws and regulations that define broad principles to protect consumers and society. It is a fast, flexible and relatively inexpensive way to respond to the market as compared to the time consuming process of crafting legislation.

Self regulation resolves unique challenges pertaining to direct selling, meets specific consumer expectations, and addresses fast changing issues such as globalization, hybrid of direct selling and other business models, competitive pressures and innovative product lines. It fills in gaps which the government is unable to, or yet to regulate at that point in time eg. cross border complaints.

Self regulation can offer more choices and even a higher level of protection for consumers that may exceed requirements set by the laws and other regulations. In many countries, for example, members of direct selling association offer a longer money back guarantee period than that which is required by the law.

Self-regulation can proactively promote better understanding of direct selling, educate the market, and help to enforce compliance to government regulations. The direct selling association can synergize with other non governmental organizations such as consumer groups to protect the rights of consumers and to enhance social order. Members of the direct selling association can also help government to monitor the practice of direct selling, report illegal schemes, and help to eradicate illegal practices. They can also provide useful inputs to help government review and improve existing laws and other regulations.

As self-regulation is initiated by participants of direct selling, there is no additional cost to government and society. It is definitely a win-win-win situation for consumers, participants of direct selling, and government.

## VI Self Regulatory Options

There is a variety of tools that are available for the direct selling association to address specific needs, requirements and problems of the market, and to regulate the practice of its members. These tools range from simple informational systems to complex mediation and disciplinary systems. Within each system, there is a vast array of mechanisms to enhance the outcomes of self regulation.

### 1. Code of Ethics and Conduct

The direct selling association can establish a process to craft, publicise, enforce, and review a Code of Ethics and Conduct to regulate principle and practice in direct selling, and is aimed at achieving best practice. It can be based on the world code of conduct ([www.wfdsa.org](http://www.wfdsa.org)), a globally accepted code to promote international cooperation and harmonization of self regulatory schemes. In addition, the association can incorporate a domestic code to address China's legal, economic, social and cultural requirements. An example of such a code can be found in [www.dsas.org.sg](http://www.dsas.org.sg)

The Code must not only serve the interests of consumers and direct sellers, it must also meet or even exceed the requirements of national and community laws and customs. It should cover specific rules for good practice, prohibit unethical and other negative conduct, protect consumers and direct sellers, and ensure that social order is enhanced. There should also be a process for complaints handling, dispute resolution, and disciplinary process to provide appropriate redress to consumers and other stakeholders when the Code has been breached

The Code should be written in a plain and simple language and not with complex legal and technical jargons so that consumers and other stakeholders can understand their rights and obligations. It should be constantly reviewed and updated to reflect national developments, market changes and consumer requirements.

The following are some examples of, or modifications from recommendations by World Federation of Direct Selling Associations and other direct selling associations. It is by no means exhaustive. Further information can be received by writing to [patrick@sprl.net](mailto:patrick@sprl.net).

- a. Consumers shall be given at least 15 days to return unused and marketable products for refund for any reason.
- b. Direct sellers can return any unsold inventory within 60 days of receipt of goods, subject to commercially acceptable conditions.
- c. Direct sellers who resign from the company shall, within 60 days from date of resignation, be entitled to return all unused and marketable products and sales aids for refund for any reason.

- d. Direct sellers shall not be required to pay entry fee or make mandatory purchases to be involved with the business.
- e. Any form of support and services to the direct sellers shall be provided at cost, and no benefits shall be accrued to any of the direct sellers.
- f. Direct sellers shall not use violence, coercion or harassment in the sale or promotion of products and services.
- g. Direct sellers shall not engage in non-commercial activities, specifically including political, religious or immoral promotions, under the guise of a direct selling business.
- h. All income claims shall be prohibited.
- i. Direct selling companies shall provide direct sellers and the government with full information on all marketing bonuses paid to each distributor to facilitate tax calculations.
- j. Direct selling companies shall be responsible to provide adequate training to direct sellers.
- k. Direct selling companies shall develop, publish and enforce disciplinary procedures to ensure that direct sellers follow all laws and regulations, and the prescribed Code of Ethics and Conduct.

## **2. Accreditation, Licensing and Certification Schemes**

The direct selling association can establish accreditation, licensing and certification schemes to set a high standard of practice, upgrade the level of professionalism and competence, and enhance quality of service. By doing so, it can improve its public image and business environment.

Many direct selling associations have developed a “trust mark” for members in good standing. It shows to consumers that these companies are members of the association and are committed to abide by a Code of Ethics and Conduct. Should they be dissatisfied with the service, they can raise these issues with the association which is obligated to redress the situation.

The direct selling association can either autonomously or in conjunction with the government help to establish basic standards to ensure that direct sellers are adequately trained, equipped and managed. This is to ensure that they are able to manage their business professionally and ethically.

In addition, selected direct sellers can be accredited by the company to complement the direct selling companies’ effort to support and serve consumers and direct sellers.

These systems can also include mechanisms to reward direct sellers for responsible behavior or penalize them should they violate the standard. Penalties can range from termination, suspension and withholding of some incentives, to negative publicity.

### **3. Mediation Services**

The direct selling association can also establish systems for conflict resolution amongst members, and between members and external parties. For example, the Direct Selling Association of Singapore has made an additional provision for aggrieved parties to seek a mediation service from the Consumer Association of Singapore. The cost of such a service has been kept within a generally acceptable limit.

### **4. Informational Systems**

The direct selling association can establish informational systems to educate members, consumers, and the general public through, for example, websites, brochures, CDs, VCDs, books and other publications.

### **5. Public Education**

The best way to self-regulate is to work on the maxim, 'Prevention is better than cure'. Increasingly, all over the world, direct selling associations are looking into taking proactive initiatives to educate consumers, direct sellers, government, educationists, the mass media, and other stakeholders.

Some of the projects that have been launched include sponsorships of primary research in direct selling issues, public seminars, projects with educationists, news releases, and joint ventures with other civic organizations to advance the interests of society.

Responsible direct selling companies realize they need to fulfill their corporate social responsibilities. They need to have open communications with, educate, and build positive relationships with not just their customers and stakeholders but also with the wider community.

### **6. Complaints Handling Systems**

The direct selling association can establish a committee and procedures to resolve complaints by consumers and members of the public. These complaints can be redressed through essentially three stages:

- a. The complaint can be resolved by the relevant member.
- b. Should the complainant be dissatisfied with the solution proposed by the member, he can submit the complaint to the direct selling association.



- c. If the complaint is still dissatisfied with the solution proposed by the direct selling association, he can raise the issue with an independent and credible National Code Administrator whose decision is binding upon the member. (Particulars of Code Administrators can be found on [www.wfdsa.org](http://www.wfdsa.org) or the local direct selling association's websites).

Throughout the process, the complainant should not be liable for any financial cost. Direct selling associations usually keep a record of these complaints and in many cases, the resolution is in the favour of consumers. Currently, systems are also put in place to resolve cross-border complaints on a global level.

It is interesting to note that members of direct selling associations in Europe which does not comply with the provisions of a voluntary self-regulatory code shall be deemed to have committed an unfair commercial practice according to the European Commission law and they can be taken to task in a court of law. In any case, most members would respond responsibly and promptly to complaints rather than face potential embarrassments and negative publicity.

## **VII Conclusion**

Responsible direct selling companies establish self regulation to assist the government and complement government regulation to protect the public, promote social order, and advance the interests of the country. These self regulatory measures should by no means set up barriers of entry to the market especially for local small and medium enterprises; stifle innovation and entrepreneurship; reduce healthy competition; add unnecessary cost; and create difficult conditions that will hinder healthy growth.

Self regulation may seem to be complicated, time consuming and cumbersome. However, if applied conscientiously and diligently, it can improve perception of direct selling, expand the market, enhance business growth, and advance national economic and other developments.

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