

The Hallmarks of Legitimate Direct Selling/Network Marketing Companies

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Every once in a while, those looking at our company have questions about the legitimacy of this industry. What would be your advice on what we should say to them?

The Hallmarks of Legitimate Direct Selling/Network Marketing Companies

Some clear criteria for legitimate direct selling/network marketing companies have long been recognized:

In determining whether a program is a legitimate direct selling/network marketing opportunity, the would-be participant should consider several important points:

1. **Goods or Service.** Legitimate companies offer high-quality goods or services and guarantee consumer satisfaction. Goods and services must have a "real" demand in the marketplace, or an anticipated "real" demand if the good or service is just being introduced. Goods and services must have their own intrinsic value, such that distributors who purchase them would do so even if they were not involved in a network marketing business opportunity.
2. **Price.** Legitimate companies offer goods and services which are fairly and competitively priced. This eliminates companies which would attempt to benefit by "price gouging" the members of their own sales force. It also ensures that distributors do not make purchases or encourage others to do so solely in order to receive financial reward. Distributors must be able to purchase the company product at wholesale or at a substantial discount from retail, based on volume of purchases.
3. **Investment Requirement.** Legitimate companies require no up-front investment. Distributors who wish to participate in the business opportunity may be required to purchase sales kits or demonstration materials at or near company cost.
4. **Purchase and Inventory Requirement.** Legitimate companies have neither minimum purchase requirements nor inventory requirements in order to become an independent distributor. Companies are restricted from requiring enrolling distributors to purchase any amount of goods or services. Once in business, however, distributors may be required to maintain or achieve company-described minimum sales volume requirements in order to qualify to maintain or advance in sales force management status and retain or receive the associated privileges and benefits. These minimum requirements are usually based on personal purchases and sales, and the total group volume of sales.

5. **Product Use.** Legitimate companies offer goods and services that people use. Purchasers may have need for, or simply desire, these goods and services. Ongoing consumption by purchasers based on satisfaction with the good or service is one of the keys to success of any business.
6. **Sales Commissions.** Legitimate companies pay sales commissions solely for goods and services purchased. Commissions should not be paid on any sales materials, training fees, or any sort of non-product sales.
7. **Buy-back Policy.** Legitimate companies agree to buy back inventory and sales kit materials — for some reasonable period of time — that are in resalable condition and are in the company’s current catalog. This policy is especially directed at serving distributors who cancel their participation and do not wish to use or resell their existing inventory at the time of their termination. This policy also benefits distributors who purchase inventory in anticipation of making sales which then do not occur.
8. **Retail Sales.** Legitimate companies place an emphasis on retail selling to non-participants. Companies promote retail selling in many ways, ranging from online, face-to-face, preferred customer programs, etc. They do so to encourage a wider use of their product, and to have distributors benefit by building a customer base from which they receive retail profit.

From time-to-time, there has been some tension between regulators and the industry as to whether distributor personal use purchases should be accorded the same legal recognition as retail sales to nonparticipants. To help clarify this point, many state network marketing statutes have specifically provided that purchases for personal consumption in reasonable amounts by distributors and their families are equivalent to retail sales. Even the FTC has recognized that distributor product purchases, in reasonable amounts, for personal use and at favorable pricing, is one reason why many individuals sign up with network marketing companies.

9. **Independent Distributor Activity.** In legitimate companies, members of the sales force perform bona fide supervisory, distributive selling or soliciting functions to move the product to the consumer. This translates into actively engaging in:
 - Retail selling,
 - Promoting the business opportunity, and/or
 - Managing — including communicating with, training and supervising — the members of their personal sales organization.
10. **Earnings Representations.** Legitimate companies only make earnings representations that are based on actual, verifiable prior performance by members of their sales force. Company literature can refer only to the actual performance of distributors under the *current* compensation plan.

As with companies, distributors are also responsible for making truthful earnings representations and representations of potential earnings which typically requires a disclosure of average earnings of company distributors.

11. **Training.** Legitimate companies offer solid training to their distributors, especially in the areas of selling and presenting the business opportunity. Training is often in the form of one or more of the following:

- Print materials.
- Audio and audio visual materials.
- One-on-one training by members of a distributor's personal upline — especially his or her sponsor.
- Company-sponsored events such as workshops and conferences.

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On any given day you can catch [Jeffrey Babener](#) lecturing on Network Marketing at the University of Texas or the University of Illinois, addressing thousands of distributors in Los Angeles, Bangkok, Tokyo and Russia, or writing a new book on Network Marketing, an article for Entrepreneur Magazine or a chapter for a University textbook. Over two decades he has served as marketing and legal advisor to some of the world's largest direct selling companies, the likes of Avon, Nikken, Melaleuca, Discovery Toys, NuSkin, and he has provided counsel to the most successful telecom network marketing companies...Excel, ACN, World Connect, ITI, AOL Select and Network 2000. An active spokesperson for the industry, he has assisted in new legislation and served on the Lawyer's Council, Government Relations Committee and Internet Task Force of the Direct Selling Association (DSA) as well as serving as General Counsel for the Multilevel Marketing International Association. He is an MLM attorney supplier member of the DSA and has served as legal counsel and MLM consultant on MLM law issues for many DSA companies.

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