What Differentiates a Legitimate Direct Selling/Network Marketing Company from an Illegal Pyramid Scheme?

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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?

MLM/Direct Selling/Network Marketing: Billions of Participants make for a Veritable Industry

People have always asked the question, "Is this industry for real?" "Is direct selling/network marketing a real option for individuals out there?" Keep in mind we have nearly 16 million people in the United States selling consumer products and services in the range of $30 billion and more than 90 billion people around the world doing this with sales exceeding $150 billion. This activity penetrates the fabric of our society. Earlier statistics, presented by the Direct Selling Association, have indicated that, perhaps, one in ten households have somebody who is doing this part-time.

In today's constant discussion of the competitiveness of the U.S. in the global economy, don't sell the U.S. short. The U.S. is the undisputed leader, accounting for 20 percent of the world revenue. In the other leading markets in Japan, China and Europe, the U.S. companies shine as the dominant players. In a world where the U.S. is looking for every example of where it leads and creates new economic opportunities globally, ranging from Apple to Google, to Amazon.com to Twitter, ***it is the U.S. that effectively invented the concept of direct selling/network marketing and exported the concept to the rest of the world.*** Global and N.Y. Stock Exchange traded companies like Avon, Tupperware, Herbalife, Primerica, etc. are only a few of the U.S. companies that have exported ***"economic democracy"*** to millions and millions of individuals in industrialized, emerging and third world economies.

And at home, here in the U.S., the network marketing industry has been a lifeline for millions to make that mortgage payment or education savings or to bridge the gap between a "barely getting by" life to one with less stress and perhaps even robust and enjoyable.

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It is true that, from time to time, because of the structure of network marketing plans, there has been confusion in the marketplace as to legitimate businesses versus illegal pyramid, headhunting, recruitment schemes.

The basic thrust of existing regulations is that direct selling/network marketing companies must be *bona fide* sales organizations which market *bona fide* products to consumers.

Pyramid Schemes: Bad News...

Some pyramid activities which are prohibited or restricted include:

- Requiring excessive purchases at the time of enrollment. This practice is known as "Front-End Loading." "Excessive" is defined as being more than is necessary to fulfill existing or anticipated orders.

- "Headhunting" or recruiting. Companies are prohibited from rewarding distributors solely for another's enrollment – their agreement to participate in the company commissions or their remuneration must be paid only on actual purchases of goods or services. Purchases made by distributors at the time of enrollment and thereafter for their own use or resale are generally considered commissionable sales.

- Excessive charges for training materials, including "starter kits" and other sales support materials.

A variety of additional abuses have been identified by state and/or national laws and statutes as potential elements of illegal marketing plans or activities:

- Products which have "no real world" marketplace, i.e. the marketing program is a facade for a scam.

- Products which are sold at inflated prices.

- Substantial cash investment requirements. Prohibited are:

    1. Payments in excess of the fair market value of the goods and/or services being purchased at the time of enrollment, and

    2. Excessive enrollment fees.

- Mandatory purchases of peripheral or accessory products or services, including educational or training materials and workshops, conferences, etc.

- Plans in which distributors are left with substantial unsold inventory upon cancellation of participation. This is one of the bases for requiring companies to have a "buy-back" policy.

- Earnings misrepresentations (of existing or past members of the sales force) or inflated income potential representations.

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Jeffrey Babener
On Assignment

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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