

A Review of Network Marketing Industry's Fight towards Legitimacy in India

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Abstract

This is a review of the present state of the network marketing industry operating in India. Though it is more than a century old industry but just a couple of decades old in India. The passage of this industry has not been easy as it has been widely misunderstood and confused with the money circulation schemes. The Ponzi schemes have been hard to distinguish and affect the industry adversely. We make an attempt to set a clear differentiation between the two so as to validate the genuine network marketing operators in the country. We also consider the efforts made by the companies to establish their legitimacy and the resultant action thereafter. The paper discusses the hardships faced by the NMOs which at one time resulted in the arrest of Amway CEO William S. Pinckney and their relentless fight towards legitimacy, which resulted in the Ministry of Consumer Affairs releasing the Direct Selling Guidelines in October 2016.

An extensive review of literature was done to establish a connect between NMOs operating in the world and their inroads into the Indian economy. We also studied the upcoming Indian companies who are giving tough competition to the network marketing heavyweights. There are a number of surveys and reports that establish credibility of the said industry. Many premier business/ trade organizations like FICCI, PHD Chamber of Commerce and Industry IDSA, KPMG, Indicus etc. carried out extensive surveys on the state of direct marketing in the country. PHDCCI-IDSA Annual Survey Report 2015-16 announced a steady growth of around 10% P.A. for the industry since last 20 years. The industry boosted of a turnover of over 8300 Crores in 2014-15, which is expected to cross 25000 Crore mark by the FY 2024-25. FICCI-KPMG's "Direct 2016" establishes a quantifiable connect between the Direct Selling companies and their contribution to the Government of India initiatives like Skill India, Make in India, Women Empowerment, Digital India and Startup India etc. Amway-Indicus India Entrepreneurship Report measures the Entrepreneurial Confidence and Readiness Indices across various Indian states. Finally, we conclude with a note on way forward and future of NMOs in India.

Keywords: Network Marketing, Multi-Level Marketing, Amway, MLM, Direct Selling, IDSA, Make in India, Startup India, Women Empowerment

Introduction

Network Marketing or Multi-Level Marketing can be defined as the distribution system wherein a manufacturer sells the products directly to the customer saving in on the intermediaries' margin and the cost of advertisement. The customers, in turn, makes an attempt to influence other people to use the same products in anticipation of earning retail profit and/or referral commissions. They act as the brand ambassadors of the manufacturing company which focuses primarily on the most effective mode of advertising- "word of mouth".

In order to get a feel of what Network Marketing or Multi-Level Marketing is, let us first have a look at the traditional marketing distribution system. It consists of a Manufacturer, Carrying & Forwarding Agents (CFA), Super-stockiest, Distributors, Dealers, Wholesalers and finally the Retailers who sells the product to the Customers/Consumers. Apart from Manufacturers and Consumers, everyone else constituting the distribution chain is called an intermediary or middleman. We conducted a small survey in Himachal Pradesh to get an idea of traditional distribution channel and the approximate margins in terms of percentage of price paid by the consumer. The results of the survey are tabulated below:

Table 1.-Margin distribution in traditional FMCG industry

Manufacturer (includes advertisement to the tune of 20-40%)	72.5%
C&F, Super-stockiest	2.5%
Distributors/ Dealers/ Wholesalers	7.5%
Retailers	17.5%

Source: Primary survey

In this system, everyone earns, while the customer pays. As can be seen, the manufacturer gets just 30-50% of the price paid by the customer for a product which was completely produced by him. The above mentioned figures are for the FMCG industry, while the figures for beverages, soft drinks, fruits and vegetables are even more alarming, where the manufacturer or producer ends up with less than even 30% of the retail price. While the major chunk of money goes to the advertising section in drinks and beverages, the intermediaries account for a major share in fruits and vegetables. At the end of this all is the consumer, who ends up paying INR 100/- for a product whose original cost was only around INR 30/-.

As a common saying goes, "Consumption is the sole end of all economic activities". So it can be safely assumed that the consumers and the manufacturers are the two most important pillars of the market. But the above mentioned figures represent a sorry state of affair for both of them. Direct Selling came up as the most feasible and mutually beneficial solution towards the said situation.

History:

The origin of Direct Selling can be traced back to that of sales itself. By definition, "Direct selling (DS) is a retail level distribution and commercialization channel for products and services. It is based on direct contact between people. In this model, independent distributors make profits from buying and selling when they provide a product or service to a customer (World Federation of Direct Selling Associations – WFDSA, 2006)." According to FEDSA (Federation of European Direct Selling Associates), "Direct Selling is the marketing of consumer goods and services directly to consumers in their homes (the homes of friends, at their workplace or similar places away from shops), through explanation or demonstration by a salesperson, for the consumer's use or consumption." In simple words, Direct selling can be defined as a producer catering directly to the consumer.

It is a relatively less established field of marketing with its roots embedded in the concept of disintermediation which essentially means the process that eliminates or reduces the intervention of middlemen in the supply chain. Along with Network Marketing, disintermediation is also the founding principle of other contemporary business models like Franchising, E-commerce and Discount Stores / Supercenters. All of them discount the intermediaries and work towards benefitting the customer and the producer.

Network Marketing or Multi-Level Marketing (here onwards referred to as network marketing only), is by far the largest constituent of Direct Selling. According to Coughlan and Grayson (1998), a Network Marketing Organization (here onwards referred to as NMO) is defined as a company whose income depends only or principally on Direct Selling and whose direct distributors are rewarded for:

- (1) buying products or services,
- (2) selling products or services and
- (3) finding other distributors to buy and sell products or services, too.

They further state that Network Marketing Organizations account for 70% of Direct Selling revenues. The main characteristics of NMOs are:

- (a) Human resources: they do not manage a large employee sales force.
- (b) Savings: they do not invest in advertising and supply chains.
- (c) Remuneration: distributors do not earn a basic salary but a net commission in proportion to their retail mark-up.
- (d) Assistance: they offer products and business training to their distributors.
- (e) Rewards: they have a compensation plan depending on each distributor sales volume.

Direct Selling at global level is represented by World Federation of Direct Selling Association (WFDSA), founded in 1978, the organization acts as a federation of national direct selling associations. Practiced in more than 170 countries, it has attained the status of a global industry. In India, the direct selling industry came into existence in early 1990s soon after the country opened up to the global market. The positive economic condition, wide consumer base with 60% of population in age bracket of 15-60 years, rising income levels, growing demand for various product categories and increase in geographical penetration and distribution, Indian direct selling industry is poised to growth. Since its inception, it has maintained a steady growth rate which has never got into negative.

Present Indian Scenario:

Direct Selling could become the backbone of the economy if its awareness, acceptance and proper communication

infrastructure are strengthened. It grew at 22% during 2011-12, with its sales revenue expanding from INR 52,294 million in 2010-11 to INR 63,851 million in 2011-12 (PHDCCI, Annual Survey Report, 2011-2012). Since then, the growth rate has slowed down considerably. PHDCCI-IDSAs Annual Survey Report 2015-16 revealed that the gross sales by the Direct Selling Industry stands at INR 83,085 million in 2015-16 as against INR 79,583 million in 2014-15, INR 74,722 million in 2013-14 and INR 71,641 million in 2012-13. The Direct Selling Industry registered a growth rate of 4.4% in 2015-16 as compared 6.5% in 2014-15. The survey also declared that during 2015-16, the growth sentiments of Direct Selling industry have declined on various factors such as lack of proper regulatory framework, lengthy product approvals, occurrence of fraudulent activities, declining foreign investments, complex process for registration of Direct Sellers,

Slow down of demand in the economy, among others impacting the confidence of not only stakeholders but also consumers. Amway Global Entrepreneurship report establishes that 74% population of India has a positive attitude towards entrepreneurship and 59% of them can actually imagine establishing their own businesses. On their entrepreneurial index, they place India at 26th rank in the world out of 45 most entrepreneurship ready countries in the world.

Going ahead, most of the respondents felt that economic reforms undertaken by the Government are highly commendable and would lead to desired outcomes in the coming times. The Direct Selling Entities are extremely hopeful on Government's support in recuperating business sentiments in the economy particularly for Direct Selling.

The Challenges Faced:

Even though Network Marketing has a glorious history of over 100 years to go with its global presence, the path has not been easy. The legitimacy of the industry has been questioned several times in various countries, though it has come out tougher and stronger every time (Conn, 1990). In India also, the story has not been different, with quite a few challenges thrown towards various Network Marketing Organizations (NMO). Time and again, NMOs come under fire with regards to success chances of the distributors, money circulation act and other factors.

Till September 2016, the only law or regulatory document that was somewhat (wrongly) connected to the Network Marketing industry was the Prize Chits and Money Circulation Schemes (Banning Act) 1978. Which in itself undermined the legal status of the said industry. This law is specifically made for the companies which operate on "money for recruitment" or "money circulation" plans. This act bans companies to make money collections only based

upon a future promise of "better than market" returns. However, this law, does not in any way cover or represent the Network Marketing industry, though it does apply to the Ponzi schemes operating in the name of NMOs.

Starting late nineties till around 2015, the couple of decades were a period of mass looting in the name of NMOs. People established various Ponzi schemes in the name of NMOs wherein the only source of income was recruitment of new members who were charged a hefty amount just to get themselves enrolled in the system that promised them big payouts without working. These "Get Rich Quick" traps promoted themselves as just like being big NMOs like Amway, Avon etc., but a little better as they had just started and promised a placement at the top of the matrix. This in itself is contrary to the NMO's founding principle of equal opportunity which prohibits any difference of reward for joining early or late and the only thing they reward is work done in terms of creating a balanced network structure, training their respective group on company products and sales in order to achieve a substantial turnover making them eligible to earn a commission on their as well as their group sales.

If one is vigilant and aware enough, he can easily differentiate between a genuine NMO and a Ponzi scheme. For a novice, both would be the same. Some key differentiators between them are:

1. Genuine NMOs are product based and not joining based
2. History of the organisation
3. Quality of the products
4. No Front loading (No huge entry fee)
5. Reward for work and not for joining early
6. Infrastructure/ Investment base of the company

Due to no clear regulations governing the industry, the industry has often come under fire from various quarters. This has been a case with every country where the industry makes an entry. There are various complaints and lawsuits filed by individuals, organizations or state claiming them to be some sort of scams or frauds. These complaints are often wrongly registered under Prize Chits and Money Circulation Schemes (Banning Act) 1978 as the awareness level of the investigating officers regarding NMOs is minimal. This has led to various big issues like companies winding up their operations in the country, top distributors getting terminated, arrest of key officials etc.

Amway India CEO William Pinckney was arrested by Andhra Pradesh Police on 26th May 2014 on the charges of financial irregularities by the company. He was later released on bail after serving two-month jail term on 28th July 2014. This not only defamed Amway but it also raised

questions over the entire industry's survival. "We have been profoundly dismayed that this unnecessary detention occurred at all, and are even more troubled that it lasted so long; Our focus is squarely on efforts to ensure that nothing like this happens again." Amway chairman Steve Van Andel and president Doug DeVos said in a joint statement after Pinckney's bail.

Mary Kay had to wind up its Indian operations primarily due to unfavourable regulatory environment. Many other NMOs including QNET and RCM faced similar challenges. This brought huge disrepute to the industry and adversely effected the plans of other Multinational NMOs thinking about venturing into India.

The Fight:

William Pinckney's arrest proved to be the last straw to break the camel's back. After that all the NMOs operating in India joined hands and went full throttle towards drawing a clear line between Ponzi schemes and genuine NMOs. After that, massive efforts were launched to apprise the Government and public regarding the factual information of NMOs. PHDCCI in collaboration with IDSA conducted a huge survey and published a comprehensive report for 2015-16 on the industry with a special reference to India. The key points from the report are:

1. The industry was growing at an impressive rate of over 20% P.A. till the financial year 2011-2012; but after that due to various challenges faced as discussed above, the growth rate declined to the level of 4.4% in FY 2015-16.
2. IDSA members contributed a total tax (direct and indirect) amounting to INR 1258 Crores in FY 2015-16.
3. According to the survey, the number of active direct sellers in the country stands at 40,31,262 in 2015-16 representing Year-On-Year growth of 2.6% over the last year.
4. Women occupy a major share at 57% as against 43% occupied by men.
5. According to the survey, Direct Selling Entities have contributed approximately INR 82 Crores in CSR activities including but not limited to health and human services, old age homes, orphanages, education, women empowerment, girl child protection, environment protection etc.
6. Consumer survey suggested 89% of population are aware of Direct Selling and NMOs; out of which 65% have actually bought a product from the said companies. Interestingly, 54% of the consumers are willing to join Direct Selling Industry.

Another encouraging report was Amway-Indicus Global Entrepreneurship Report 2016 which studied over 50000

people in 45 countries across America, Europe and Asia. The survey concluded that 77% people have positive attitude towards self-employment whereas 43% of them can think about starting their own business. It further states that independence and self-fulfillment are the most appealing aspects to start a business.

This prompted Amway to conduct an India specific entrepreneurship survey for which they tied hands with one of the premier consultancies- Indicus. The Amway-Indicus Entrepreneurship Report 2016 calculated the Entrepreneurial Confidence Index across all Indian states. The three factors they studied to calculate the said index were Entrepreneurial attitude, Infrastructure Support and Supportive Governance. The study positioned Gujarat as the most entrepreneurship ready state followed by Himachal Pradesh and Delhi in terms of Current Entrepreneurial Confidence Index. While calculating the Future Entrepreneurial Readiness Index, Gujrat again emerged as the leader followed closely by Delhi and Punjab.

They also suggest that India would have the youngest and largest population in the world by the year 2026. While Kerala (78 percent), Punjab (77 percent) and Uttarakhand (76 percent) were the states with the most positive attitude towards entrepreneurship, more than half the respondents in Uttarakhand (57 percent), the highest in any state, said they could imagine starting their own business. Concluding, it said that 73 percent of the respondents believed that anyone can be trained/ educated to be an entrepreneur, nearly 50 percent of respondents were considering to start their own business. Also 45 percent of all respondents said that the environment to begin a business in their state has improved over the past 5 years and 63 percent respondents sighted 'fear of failure' as the biggest obstacle in starting one's own business.

Another significant survey "Direct 2016" was conducted by KPMG in collaboration with FICCI which highlighted the contribution of Direct Selling to building India and correlated the industry with major initiatives/ movements started by the Government of India like Make in India, Skill India, Startup India etc. The key contributions of Direct Selling industry according to the said report are as mentioned below:

- Skill India initiative: Collectively, IDSA affiliates have trained more than 10 Lakh individuals on soft skills, sales and marketing skills, leadership skills etc. Additionally, it helps MSMEs bring their production facilities and skills to higher standards through transfer of know-how.
- Make in India: One of the mandatory conditions for the global Direct Selling giants like Amway, Avon, Oriflame etc. was mandatory association with MSMEs.

They were not allowed to import more than 35% of their products from their manufacturing facilities outside India. Now, realizing the huge potential in Indian market and to reiterate their commitment to the same, most of the companies including Oriflame, Avon, Tupperware have set up their own state of art manufacturing units in the country. The most notable being Amway manufacturing unit at Madurai, Tamil Nadu set up at an estimated cost of over 550 Crores.

- **Women Empowerment:** Traditionally, Direct Selling has been dominated by women. The ratio of male: female stands at 43:57 in India presently. This clearly establishes it as women dominated industry. This is because of some primary reasons such as home based business opportunities, training, easy/ no prerequisite entry, safety, flexibility etc.
- **Digital India and eCommerce:** The world has gone digital and Direct Selling industry is two steps ahead. All the companies have their Web/ App registration and order placement platforms. Most of the distributors hail from tier II or Tier III cities or rural areas. By teaching them to use digital platforms, NMOs are keeping up with the Govt.'s initiative. While Vestige was amongst the first ones to develop a fully functional mobile app, Amway distributed fully loaded 2300 tablets to its

senior distributors. More than 30% orders are placed through digital platforms. All the IDSA affiliates are having their secure payment gateways which increase transparency and plug leakages from the system. Various modes of digital payments such as Debit/Credit cards, digital wallets, Aadhar Enabled Payment System (APES), Net banking, Unified Payment Interface (UPI) etc. are being used for this.

- **Startup India:** Likewise, Direct Selling has been empowering various MSMEs by providing them with the technical know-how and supporting them with their established R&D departments. They even support MSMEs with incubation partnership opportunities.

The Solution:

All the above mentioned initiatives from the leading NMOs like Amway, Vestige, Avon, Oriflame etc. did not go unnoticed and the State and Centre governments began taking a note of their tireless efforts towards framing proper legislative and regulatory framework in the country. Finally, on 26th October 2016, Ministry of Consumer Affairs issued and notified Model Guidelines on Direct Selling. PHDCCI-IDSA Annual Survey Report 2015-16 summarizes the Government's key initiatives that eventually led to formulation and release of these model guidelines in the table below:

Table 2. Key initiatives of Government since 2011

September 2011	Specific guidelines for Direct Selling in the state of Kerala introduced.
October 2012	Rajasthan Government came up with Guidelines on Direct Selling Industry.
October 2014	Ministry of Consumer Affairs, Government of India proposed for creating a new law on Direct Selling in the light of the law and practices across the globe in consultation with the Industry represented by IDSA, Other Chambers of Commerce, Consumer Groups along with the concerned Ministries of Government of India.
December 2014	Ministry of Consumer Affairs, Food and Public Distribution has convened an inter-ministerial meeting network to discuss entire gamut of Direct Selling.
September 2015	The Indian Institute of Corporate Affairs (IICA), Ministry of Corporate Affairs, Government of India presented a "Whitepaper on Regulation of Direct Selling in India."
November 2015	4th inter-ministerial meeting held under Chairmanship of Secretary of Ministry of Consumer Affairs, Food and Public Distribution, Government of India on legislation of Direct Selling.
September 2016	Model Guidelines on Direct Selling released by Ministry of Consumer Affairs, Food and Public Distribution, Government of India on 9 th September 2016. These are guiding principles for State Governments to consider regulating the business of 'Direct Selling' and Multi-Level Marketing (MLM) and strengthen the existing regulatory mechanism on Direct Selling and MLM, for preventing fraud and protecting the legitimate rights and interests of consumers.

October 2016	Model Guidelines on Direct Selling are issued by the Ministry of Consumer Affairs, Food and Public Distribution, Government of India and are notified by the Ministry on 26th October 2016.
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Source: PHDCCI-IDSAs Annual Survey Report 2015-16

The key clauses of the said model guidelines are as follows:

1. **Clause 1. Definitions:** This clause clearly defines the key terms related to industry like Direct Selling, Prospect, Direct Selling entity, Cooling-off Period, Pyramid scheme etc. It defines direct selling as marketing, distribution and sale of goods or providing of services as a part of network of direct selling other than under a pyramid scheme. It further defines pyramid schemes as a multi layered network of subscribers to a scheme formed by subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, as a result of enrolment, action or performance of additional subscribers to the scheme.
2. **Clause 2. Conditions for setting up of Direct Selling business:** This includes registration process, mandatory orientation session, payment of dues, buy-back guarantees etc. It mandates the direct sellers to be a registered legal entity under laws of India and should pay all dues and make withholdings from direct sellers in a commercially reasonable manner. It also mandates the companies to provide a mandatory orientation session to all prospective direct sellers providing fair and accurate information on all aspects of the direct selling operation. A buy-back/money back guarantee of at least 30 days is also mandated through this clause.
3. **Clause 3. Conditions for conduct of Direct Selling business:** Regarding owning a trademark or any other identification mark, identity cards to distributors, updated website, digitalization, tax compliance, no entry or renewal fees etc. Proper KYC including and not limited to verified proof of address, proof of identity, PAN etc. of all direct sellers must be maintained along with a website having all relevant details of the entity, contact information, its management, products, product quality certifications etc. It should also have a Complaint Redressal system which should ensure that grievances are addressed within a span of 45 days. Under no circumstances should they engage in any misleading, deceptive or unfair recruiting practices and cause or permit any conduct that is misleading with regard to any material particulars.
4. **Clause 4. Conditions for Direct Selling contract between Distributor and Direct Selling Entity:** This mandates a written agreement in compliance with the Indian Contract Act, 1872. It should not compel or induce the direct seller to purchase goods or services in an amount that exceeds what can be expected to be sold to consumers within a reasonable period of time. It should also have an allowance towards termination of contract with a reasonable notice.
5. **Clause 5. Certain obligations of Direct Sellers:** Regarding fair business and product presentations, KYC records etc. It directs them to carry their identity cards and not visit the customer's premises without prior appointment/approval. He should make all statements in truthful manner regarding his identity, company claims and the products sold.
6. **Clause 6. Relationship between Direct Selling Entity and Direct Seller:** Shall be determined as per written agreement between the parties which shall contain the rights and obligations of both towards each other and conduct of direct selling business.
7. **Clause 7. Conduct for the Protection of Consumer:** Regarding protection of all private information provided by the customer. The entity shall be guided by the provision of the Consumer Protection Act 1986. It shall also constitute a Grievance Redressal Committee with at least three officers of the direct selling entity. It should have a clear mention regarding the warranty on products and replacement in case of defects or malfunction of goods.
8. **Clause 8. Prohibition of Pyramid Scheme & Money Circulation Scheme** stating that no one is allowed to run such schemes in the name of direct selling.
9. **Clause 9. Appointment of Monitoring Authority:** The nodal authority on Direct Selling to be the Department of Consumer Affairs at Union and respective State Governments. The State Governments are required to set up supervisory/ monitoring mechanism towards direct selling activities. They shall also submit an undertaking of compliance with these guidelines to the Department of Consumer Affairs.

Conclusion & the Way Forward:

Despite all the good work initiated and done by the genuine NMOs, the industry still remains one of the most misunderstood industries operating today. Everyone has an opinion about Network Marketing or Multi-Level Marketing, whether they have been involved with it or not, and understandably there are more negative opinions than positive. People who actually have a bit of understanding in their regard generally form a positive opinion specifically about the products offered by NMOs. But, situations have

changed over a period of last two decades and people are becoming more and more aware about the opportunity this industry offers to the customers. This is primarily due to the efforts of the genuine NMOs to differentiate themselves from the money circulation schemes.

Network Marketing is fast developing into an area of study and research among the masses. It has secured a place in the syllabus for commerce and management undergraduate/postgraduate programmes in most of Indian Universities and colleges. Increasingly more and more researches, surveys and studies are being conducted in the field. The number of advertising campaigns launched by a few heavyweights like Amway and Oriflame has also played a part in apprising general public regarding the credit worthiness of the industry.

In spite of all the challenges, the industry still maintained a steady growth rate of 12.13% CAGR during last eight years. Now with the introduction of all the regulatory framework, it is bound to make great progress. The PHDCCI predicts the industry to touch 25000 Crores by FY 2024-25. The investors maintain a positive outlook and the number of people opting for NMO distributorship as a career is increasing every year. The awareness levels are rising and the future surely looks promising.

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