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Appendix A

DSA Member List



DIRECT SELLING ASSOCIATION
1667 K Street, NW, Suite 1100, Washington, DC 20006-1660
202/452-8866 • Fax 202/452-9010
www.dsa.org

Direct Selling Company Membership Directory

Company	Products/Services	Contact Info
<u>4Life Research, LC</u>	Nutritional Supplements	<u>http://www.4life.com</u>
<u>Acara</u>	Health/Fitness/Wellness, Skincare, Spa Products	<u>http://www.acaraspa.com</u>
<u>Accentz</u>	Jewelry	<u>http://www.accentzonline.com</u>
<u>ACN, Inc.</u>	Internet Services, Telecommunications Services, Utilities	<u>http://www.acninc.com</u>
<u>AdvoCare International, LP</u>	Health/Fitness/Wellness, Nutritional Supplements, Skincare, Weight Management	<u>http://www.advocare.com</u>
<u>Aerus LLC (formerly Electrolux LLC)</u>	Homecare, Vacuum Cleaners	<u>http://www.aerusonline.com</u>
<u>Amazon Herb Company</u>	Nutritional Supplements	<u>http://www.rainforestbio.com</u>
<u>AmeriPlan USA</u>	Health/Fitness/Wellness	<u>http://www.ameriplanusa.com</u>
<u>Amkey, Inc.</u>	Business/Commercial, Health/Fitness/Wellness, Internet Services, Nutritional Supplements, Personal Care, Skincare	<u>http://www.amkey.net</u>

Amway Corporation	Business/Commercial, Home Technology, Homecare, Nutritional Supplements, Personal Care	http://www.amway.com
Arbonne International	Aromatherapy, Cosmetics, Nutritional Supplements, Skincare	http://www.arbonne.com
AtHome America, Inc.	Home Accessories/Décor	http://www.athome.com
Avalar Real Estate & Mortgage Network	Brokerage Services, Real Estate Services	http://www.avalarmortgage.com
Avala	Cosmetics, Skincare	http://www.nutrimetics.ca
The Avedis Group		http://www.avedisgroup.com
Avon Products, Inc.	Cosmetics, Fragrances, Giftware, Nutritional Supplements, Personal Care, Skincare	http://www.avon.com
Baby Splendor	Baby/Childcare	http://www.babysplendor.com
Bead Retreat Ltd.	Jewelry	http://www.beadretreat.com
Big Planet (Division of Nu Skin Enterprises)	Internet Services, Telecommunications Services	http://www.bigplanet.com
Big Yellow Box by Crayola	Educational Materials	http://www.bigyellowbox.com
The Body Shop At Home	Personal Care, Skincare	http://www.thebodyshopathome.com
Body Wise International, LLC	Nutritional Supplements	http://www.bodywise.com
Bright Minds-The Critical Thinking Company At Home	Books, Educational Materials, Software/Computers	http://www.brightminds.us

Carico International	Air Filters/Air Filtration Systems, Crystal/China, Cutlery, Tableware, Water Treatment Systems	http://www.carico.com
Celebrations By Lillian Vernon	Giftware, House and Kitchenwares	http://www.celebrationsbylillianvernon.com
Chic Pursenality, Inc.	Fashion Accessories	http://www.chicpursenality.com
Chu's Pearls, LLC	Jewelry	http://www.chuspearls.com
Claire Murray Home Gallery	Home Accessories/Décor	http://www.clairemurray.com
Conklin Company, Inc.	Animal/Pet Care, Autocare, Business/Commercial, Haircare/Hair Accessories, Health/Fitness/Wellness, Internet Services, Nutritional Supplements, Personal Care, Telecommunications Services, Water Treatment Systems	http://www.conklin.com
Cookie Lee, Inc.	Fashion Accessories, Giftware, Jewelry	http://www.cookielee.com
Cooksey Keepsakes	Photography/Photo Processing	http://www.cookseykeepsakes.com
Country Bunny Bath and Body	Aromatherapy, Audio/CDs/Cassettes, Candles/Candle Accessories, Fragrances, Personal Care, Skincare	http://www.cbunny.com
Creative Memories	Scrapbooking/Photo Albums	http://www.creativememories.com
CUTCO/Vector Marketing Corporation	Cutlery, House and Kitchenwares	http://www.cutco.com

Daisy Blue Naturals	Aromatherapy, Candles/Candle Accessories, Haircare/Hair Accessories, Homecare, Homeopathics, Personal Care, Skincare	http://www.daisybluenaturals.com
Demarle At Home, Inc.	Cookware	http://www.demarleathome.com
Destinations Fashions	Fashion Accessories	http://www.destinationsfashions.com
DeTech, Inc.	Security Systems/Devices	http://www.detech.com
Discovery Toys, Inc.	Books, Educational Materials, Software/Computers, Toys/Games, Videos	http://www.discoverytoysinc.com
Do-Re-Me & You!	Educational Materials, Toys/Games	http://www.kindermusik.com
Dudley Products, Inc.	Cosmetics, Fragrances, Haircare/Hair Accessories, Skincare	http://www.dudleyq.com
EcoQuest International	Air Filters/Air Filtration Systems, Health/Fitness/Wellness, Nutritional Supplements, Personal Care, Skincare, Water Treatment Systems, Weight Management	
Enagic USA Inc.	Water Treatment Systems	http://www.enagic.com
Energetix Magnet Therapy	Health/Fitness/Wellness, Jewelry	http://www.energetix.tv
Essential Bodywear	Lingerie/Sleepwear	http://www.essentialbodywear.com
Esther	Cosmetics	http://www.myesther.net
Ethnic Expressions	Art/Framing	http://www.ethnicexpressions.com
EverydayWealth	Financial Services	http://www.everydaywealth.com
F.A.I.T.H. Company	Fashion Accessories, Jewelry	http://www.faitco.net
Fifth Avenue Collection, Ltd.	Jewelry	http://www.fifthavenuecollection.com

<u>The Finest Accessories, Inc.</u>	Fashion Accessories, Haircare/Hair Accessories, Jewelry, Personal Care	<u>http://www.franceluxe.com</u>
<u>FirstFitness International</u>	Nutritional Supplements, Weight Management	<u>http://www.firstfitness.com</u>
<u>FreeLife International</u>	Food/Gourmet Items, Nutritional Supplements, Oral Hygiene, Personal Care, Skincare, Weight Management	<u>http://www.freelife.com</u>
<u>The Fuller Brush Company</u>	Homecare, House and Kitchenwares, Personal Care	<u>http://www.fullerbrush.com</u>
<u>Gano Excel USA, Inc.</u>	Food/Gourmet Items, Nutritional Supplements, Personal Care, Skincare	<u>http://www.ganoexcel.biz</u>
<u>The Glass Bracelet</u>	Jewelry	<u>http://www.theglassbracelet.com</u>
<u>Global Health Trax</u>	Nutritional Supplements	<u>http://www.globalhealthtrax.com</u>
<u>GNLD International</u>	Food/Gourmet Items, Haircare/Hair Accessories, Health/Fitness/Wellness, Homecare, Nutritional Supplements, Personal Care, Skincare, Water Treatment Systems, Weight Management	<u>http://www.gnld.com</u>
<u>Gold Canyon Candles, LLC</u>	Candles/Candle Accessories	<u>http://www.goldcanyoncandle.com</u>
<u>Goldshield Elite</u>	Food/Gourmet Items, Health/Fitness/Wellness, Nutritional Supplements, Oral Hygiene, Personal Care, Water Treatment Systems, Weight Management	
<u>Good Books & Company, LLC</u>	Books, Religious Books/Gifts	<u>http://www.goodbooksandcompany.com</u>

<u>The Happy Gardener</u>	Garden Accessories, Health/Fitness/Wellness, Plants/Foliage	<u>http://www.thehappygardener.info</u>
<u>Henry Beautiful</u>	Cosmetics	<u>http://www.henrybeautiful.com</u>
<u>Herbalife International of America, Inc.</u>	Cosmetics, Nutritional Supplements, Personal Care, Weight Management	<u>http://www.herbalife.com</u>
<u>Home & Garden Party, Inc.</u>	Art/Framing, Candles/Candle Accessories, Cookware, Holiday Decorations, Tableware	<u>http://www.homeandgardenparty.com</u>
<u>Home Interiors & Gifts, Inc.</u>	Giftware	<u>http://www.homeinteriors.com</u>
<u>Homemade Gourmet, Inc.</u>	Food/Gourmet Items	<u>http://www.homemadegourmet.com</u>
<u>Hsin Ten Enterprise USA, Inc.</u>	Health/Fitness/Wellness	<u>http://www.hteamericas.com</u>
<u>Hy Cite Corporation</u>	Cookware, Water Treatment Systems	<u>http://www.royalprestige.com</u>
<u>Immunotec Research Ltd.</u>	Nutritional Supplements, Personal Care, Weight Management	<u>http://www.immunotec.com</u>
<u>Innovage (formerly DS-MAX)</u>	Books, Business/Commercial, Giftware, House and Kitchenwares, Plants/Foliage, Toys/Games	<u>http://www.innovage.net</u>
<u>Inspired Aroma, Inc.</u>	Coffee/Tea/Specialty Beverages, Food/Gourmet Items, House and Kitchenwares, Tableware	<u>http://www.inspiredaroma.com</u>
<u>Integris Global, LP</u>	Health/Fitness/Wellness, Nutritional Supplements, Weight Management	<u>http://www.integris.us</u>
<u>Jafra Cosmetics International, Inc.</u>	Cosmetics, Fragrances, Skincare	<u>http://www.jafra.com</u>
<u>Jockey Person To Person</u>	Clothing/Shoes, Lingerie/Sleepwear	<u>http://www.jockeypersontoperson.com</u>

<u>Just Add Guests</u>	Food/Gourmet Items	<u>http://www.justaddguests.com/catalog/</u>
<u>Juvio Corporation</u>	Nutritional Supplements, Personal Care, Software/Computers	<u>http://www.juvio.com</u>
<u>Kara Vita, LLC</u>	Skincare	<u>http://www.karavita.com</u>
<u>Kiotis</u>	Cosmetics, Skincare	<u>http://www.kiotis.com</u>
<u>The Kirby Company</u>	Vacuum Cleaners	<u>http://www.kirby.com</u>
<u>Kirks Folly Design</u>	Jewelry	<u>http://www.kirksfolly.com</u>
<u>Kitchen Fair (Regal Ware, Inc.)</u>	Cookware, House and Kitchenwares	<u>http://www.kitchen-fair.com</u>
<u>Krystal Planet</u>	Home Technology, Utilities	<u>http://www.krystal-planet.com</u>
<u>Lady Emily</u>	Cosmetics, Skincare	<u>http://www.ladyemily.com</u>
<u>Latasia & Company</u>	Jewelry	<u>http://www.latasia.com</u>
<u>L'Bri Pure N' Natural</u>	Cosmetics, Nutritional Supplements, Skincare	<u>http://www.lbri.net & www.nutrialoe.com</u>
<u>Leaving Prints</u>	Rubber Stamps, Scrapbooking/Photo Albums	<u>http://www.leavingprints.com</u>
<u>Lia Sophia</u>	Fashion Accessories, Jewelry	<u>http://www.liasophia.com</u>
<u>LifeMist Home Products, LLC</u>	Water Treatment Systems	<u>http://www.lifemist.com</u>
<u>Lifestyles USA</u>	Haircare/Hair Accessories, Health/Fitness/Wellness, Nutritional Supplements, Skincare, Weight Management	<u>http://www.lifestyles.net</u>
<u>The Limu Company, LLC</u>	Coffee/Tea/Specialty Beverages, Nutritional Supplements	<u>http://www.thelimucompany.com</u>
<u>Living Scriptures, Inc.</u>	Audio/CDs/Cassettes, Religious Books/Gifts, Videos	<u>http://www.livingscriptures.com</u>
<u>The Longaberger Company</u>	Baskets, House and Kitchenwares	<u>http://www.longaberger.com</u>
<u>M Studio, Inc.</u>	Jewelry	<u>http://www.mstudiojewelry.com</u>

<u>Mannatech, Inc.</u>	Nutritional Supplements, Skincare, Weight Management	<u>http://www.mannatech.com</u>
<u>Market America, Inc.</u>	Autocare, Homecare, Internet Services, Nutritional Supplements, Personal Care	<u>http://www.marketamerica.com</u>
<u>Market Day Gourmet</u>	Food/Gourmet Items	<u>http://www.marketdaygourmet.com</u>
<u>Mary Kay Inc.</u>	Cosmetics, Skincare	<u>http://www.marykay.com</u>
<u>Melaleuca, Inc.</u>	Homecare, Nutritional Supplements, Personal Care	<u>http://www.melaleuca.com</u>
<u>National Companies, Inc.</u>	Animal/Pet Care, Benefits Packages, Fragrances, Group Buying Service, Internet Services, Jewelry, Nutritional Supplements, Security Systems/Devices, Skincare, Telecommunications Services, Videos, Weight Management	<u>http://www.bign.com</u>
<u>Nature's of Scandinavia</u>	Health/Fitness/Wellness, Nutritional Supplements, Skincare	<u>http://www.naturesofscandinavia.com</u>
<u>Nefful U.S.A., Inc.</u>	Fashion Accessories, Lingerie/Sleepwear	
<u>NestFamily</u>	Audio/CDs/Cassettes, Educational Materials, Videos	<u>http://www.nestfamily.com</u>
<u>New Vision USA, Inc.</u>	Food/Gourmet Items, Nutritional Supplements, Personal Care, Skincare, Weight Management	<u>http://www.newvision.com</u>

[Neways
International](#)

Animal/Pet Care,
Aromatherapy, Autocare,
Cosmetics, Haircare/Hair
Accessories,
Health/Fitness/Wellness,
Nutritional Supplements,
Oral Hygiene, Personal
Care, Skincare, Weight
Management

<http://www.neways.com>

[Nexx, LLC](#)

Telecommunications
Services

<http://www.nexx.net>

[NHT Global, Inc.](#)

Cosmetics,
Health/Fitness/Wellness,
Nutritional Supplements,
Skincare, Weight
Management

<http://www.naturalhealthtrendsCorp.com>

[Nikken, Inc.](#)

Aromatherapy, Cosmetics,
Health/Fitness/Wellness,
Jewelry, Nutritional
Supplements, Personal Care,
Skincare, Water Treatment
Systems

<http://www.nikken.com>

[Noevir USA, Inc.](#)

Cosmetics, Haircare/Hair
Accessories, Nutritional
Supplements, Personal Care,
Skincare

<http://www.noevirusa.com>

[Northern Lights At
Home](#)

Candles/Candle Accessories

<http://www.northernlightsathome.com>

[Nouveau
Cosmeceuticals,
LLC](#)

Cosmetics, Haircare/Hair
Accessories, Skincare

<http://www.bynouveau.com>

[NSA](#)

Nutritional Supplements

<http://www.juiceplus.com>

<u>Nu Skin Enterprises</u>	Cosmetics, Fragrances, Haircare/Hair Accessories, Health/Fitness/Wellness, Internet Services, Nutritional Supplements, Oral Hygiene, Personal Care, Photography/Photo Processing, Skincare, Telecommunications Services, Weight Management	<u>http://www.nuskin.com</u>
<u>NuVANTE</u>	Health/Fitness/Wellness, Personal Care, Skincare	<u>http://www.nuvante.com</u>
<u>Oasis LifeSciences</u>	Nutritional Supplements	<u>http://www.oasisnetwork.com</u>
<u>Oreck Corporation</u>	Homecare	<u>http://www.oreck.com</u>
<u>Orenda International, LLC</u>	Nutritional Supplements	<u>http://www.orendainternational.com</u>
<u>Our Own Image</u>	Home Accessories/Décor	<u>http://www.ourownimage.com</u>
<u>OurHouse, a Division of EnvirOx, LLC</u>	Business/Commercial	<u>http://www.ourhouseworks.com</u>
<u>Oxyfresh Worldwide, Inc.</u>	Animal/Pet Care, Haircare/Hair Accessories, Homecare, Nutritional Supplements, Oral Hygiene, Personal Care, Skincare	<u>http://www.oxyfresh.com</u>
<u>The Pampered Chef</u>	Cookware, House and Kitchenwares	<u>http://www.pamperedchef.com</u>
<u>PartyLite Gifts, Inc.</u>	Candles/Candle Accessories	<u>http://www.partylite.com</u>
<u>Pharmanex (Division of Nu Skin Enterprises)</u>	Nutritional Supplements, Weight Management	<u>http://www.pharmanex.com</u>

<u>PM-International Nutrition and Cosmetics</u>	Health/Fitness/Wellness, Skincare	<u>http://www.pm-international.com</u>
<u>Pola, Inc.</u>	Cosmetics, Food/Gourmet Items, Fragrances, Haircare/Hair Accessories, Health/Fitness/Wellness, Nutritional Supplements, Skincare	<u>http://www.pola.com</u>
<u>Premier Designs, Inc.</u>	Jewelry	<u>http://www.premierdesigns.com</u>
<u>Pre-Paid Legal Services, Inc.</u>	Legal Services	<u>http://www.prepaidlegal.com</u>
<u>Primerica Financial Services</u>	Financial Services	<u>http://www.primerica.com</u>
<u>Princess House, Inc.</u>	Cookware, Crystal/China, Tableware	<u>http://www.princesshouse.com</u>
<u>Private Quarters</u>	Home Accessories/Décor	<u>http://www.myprivatequarters.com</u>
<u>Pro Monde Travel</u>	Travel	<u>http://www.promondetravel.com</u>
<u>Purely Gourmet LLC</u>	Food/Gourmet Items	<u>http://www.purelygourmet.com</u>
<u>Quixtar Inc.</u>	Health/Fitness/Wellness, Personal Care	<u>http://www.quixtar-inc.com</u> <u>http://www.alticor.com</u> <u>http://www.amway.com</u>
<u>RBC Life Sciences</u>	Nutritional Supplements, Skincare	<u>http://www.royalbodycare.com</u>
<u>Regal Ware, Inc.</u>	Cookware, Cutlery, Tableware, Water Treatment Systems	<u>http://www.regalware.com</u>
<u>Reliv International, Inc.</u>	Nutritional Supplements, Personal Care	<u>http://www.reliv.com</u>
<u>Rena Ware International, Inc.</u>	Cookware, Water Treatment Systems	<u>http://www.renaware.com</u>
<u>Rexair, Inc.</u>	Homecare, Vacuum Cleaners	<u>http://www.rainbowsystem.com</u>

Richmont Direct	Art/Framing, Candles/Candle Accessories, Cookware, Garden Accessories, Holiday Decorations, House and Kitchenwares, Jewelry, Photography/Photo Processing, Tableware	http://www.richmontdirect.com
Saladmaster, Inc. (Regal Ware, Inc.)	Cookware	http://www.saladmaster.com
A Sandy Clough Tea	Coffee/Tea/Specialty Beverages, Giftware	http://www.asandycloughtea.com
Sarah Coventry	Jewelry	http://www.sarahcoventry.com
Seaborne, LLC	Nutritional Supplements	
SeneGence International	Cosmetics, Personal Care	http://www.senegence.com
Sensaria Natural Bodycare, Inc.	Haircare/Hair Accessories, Skincare	http://www.sensaria.com
Setting Traditions	Tableware	http://www.settingtraditions.com
Shaklee Corporation	Air Filters/Air Filtration Systems, Cosmetics, Health/Fitness/Wellness, Homecare, Nutritional Supplements, Personal Care, Skincare, Water Treatment Systems, Weight Management	http://www.shaklee.com
Share the Wealth	Haircare/Hair Accessories, Personal Care	http://www.johnamico.com
Shure Pets, Inc.	Animal/Pet Care	http://www.shurepets.com
Signature HomeStyles	Home Accessories/Décor	http://www.signaturehomestyles.com
Silpada Designs	Jewelry	http://www.silpada.com
SimplyFun, LLC	Toys/Games	http://www.simplyfun.com

SMC Specialty Merchandise Corp.	Aromatherapy, Art/Framing, Baskets, Candles/Candle Accessories, Cookware, Crystal/China, Cutlery, Fashion Accessories, Fragrances, Garden Accessories, Giftware, Holiday Decorations, Home Technology, House and Kitchenwares, Jewelry, Party Supplies, Personal Care, Religious Books/Gifts, Skincare, Tableware, Toys/Games	http://smcorp.com
Southern Living At HOME	Books, Garden Accessories, Home Accessories/Décor	http://www.southernlivingathome.com
The Southwestern Company	Books, Software/Computers	http://www.southwestern.com
Spa Style	Aromatherapy, Candles/Candle Accessories, Personal Care, Skincare, Spa Products	http://www.spa-style.com
Sportron International, Inc.	Homecare, Nutritional Supplements, Skincare, Weight Management	http://www.sportron.com
Stampin' Up!	Rubber Stamps, Scrapbooking/Photo Albums	http://www.stampinup.com
Stanley Home Products	Cosmetics, Health/Fitness/Wellness, Homecare, Personal Care, Skincare	http://www.shponline.com
Sunrider International	Cosmetics, Homecare, Nutritional Supplements, Personal Care, Skincare	http://www.sunrider.com
SwissJust	Aromatherapy, Cosmetics, Fragrances, Health/Fitness/Wellness, Homeopathics, Personal Care, Skincare	http://www.swissjustusa.com

<u>Symmetry Corporation</u>	Health/Fitness/Wellness, Homecare, Personal Care, Water Treatment Systems, Weight Management	<u>http://www.symmcorp.com</u>
<u>Tahitian Noni International</u>	Nutritional Supplements	<u>http://www.TahitianNoni.com</u>
<u>Take Shape for Life, Inc.-Medifast</u>	Health/Fitness/Wellness, Weight Management	<u>http://www.takeshapeforlife.com</u>
<u>Tanner Companies, LLC</u>	Clothing/Shoes, Fashion Accessories	<u>http://www.doncaster.com</u>
<u>TARRAH Cosmetics, Inc.</u>	Skincare	<u>http://www.tarra.com</u>
<u>Taste of Gourmet</u>	Food/Gourmet Items	<u>http://www.tasteofgourmet.com</u>
<u>Tastefully Simple, Inc.</u>	Food/Gourmet Items	<u>http://www.tastefullysimple.com</u>
<u>Tealightful Treasures</u>	Coffee/Tea/Specialty Beverages, Food/Gourmet Items, Giftware, Tableware	<u>http://www.tealightfultreasures.com</u>
<u>Thirty-One Gifts</u>	Aromatherapy, Candles/Candle Accessories, Giftware, Jewelry	<u>http://www.thirtyonegifts.com</u>
<u>Three Girls Who</u>	Fashion Accessories, Jewelry	<u>http://www.threegirlswho.com</u>
<u>Tianshi Health Products, Inc.</u>	Nutritional Supplements	<u>http://www.tiens.com</u>
<u>Tomboy Tools, Inc.</u>	Scrapbooking/Photo Albums, Tools	<u>http://www.tomboytools.com</u>
<u>Travel Reaction</u>	Travel	<u>http://www.travelreaction.com</u>
<u>The Traveling Vineyard</u>	Food/Gourmet Items, Party Supplies, Tableware, Wine/Wine Accessories	<u>http://www.thetravelingvineyard.com</u>
<u>Tristar Enterprises, LLC</u>	Vacuum Cleaners	<u>http://www.tristarclean.com</u>
<u>Tupperware Brands</u>	Cosmetics, House and Kitchenwares, Toys/Games	<u>http://www.tupperware.com</u>

Two Sisters Gourmet	Food/Gourmet Items, House and Kitchenwares	http://www.twosistersgourmet.com
Unicity International, Inc.	Health/Fitness/Wellness, Nutritional Supplements, Personal Care, Water Treatment Systems	http://www.unicitynetwork.com
Unique Baby Boutique, Inc.	Baby/Childcare	
U.S. Safety & Engineering Corporation	Security Systems/Devices	
USANA Health Sciences, Inc.	Haircare/Hair Accessories, Health/Fitness/Wellness, Nutritional Supplements, Oral Hygiene, Personal Care, Skincare, Weight Management	http://www.usana.com
Usborne Books at Home	Books	http://www.ubah.com
Vantel Pearls in the Oyster	Jewelry	http://www.vantelpearls.com
Vision For Life International	Health/Fitness/Wellness, Homecare, Nutritional Supplements, Personal Care, Weight Management	http://www.V4L.com
Vita Craft Corporation	Cookware, Crystal/China, Cutlery, Tableware	
VIVA Life Science, Inc.	Haircare/Hair Accessories, Health/Fitness/Wellness, Nutritional Supplements, Personal Care, Skincare, Weight Management	http://www.vivalife.com
Viviane Woodard	Cosmetics, Fragrances, Haircare/Hair Accessories, Nutritional Supplements, Personal Care, Skincare	http://www.goviv.com
Vorwerk USA Co., L.P.	Home Appliances	http://www.thermomix.com

<u>Weekenders USA, Inc.</u>	Clothing/Shoes, Fashion Accessories	<u>http://www.weekenders.com</u>
<u>Wildtree Herbs, Inc.</u>	Food/Gourmet Items	<u>http://www.wildtreeherbs.com</u>
<u>WineShop At Home</u>	Food/Gourmet Items, Party Supplies, Tableware, Wine/Wine Accessories	<u>http://www.wineshopathome.com</u>
<u>World Book, Inc.</u>	Encyclopedias	<u>http://www.worldbook.com</u>
<u>XanGo LLC</u>	Nutritional Supplements	<u>http://www.xango.net</u>
<u>XELR8</u>	Food/Gourmet Items, Health/Fitness/Wellness, Nutritional Supplements, Weight Management	<u>http://www.xelr8.com</u>
<u>Yoffi Fine Jewelry</u>	Fashion Accessories, Jewelry	<u>http://www.sell-yoffi.com</u> <u>http://www.myyoffi.com/leigh04</u>
<u>YourNetPlus.Com, Inc.</u>	Internet Services	<u>http://www.yournetplus.com</u>
<u>Zermat International, LLC</u>	Cosmetics, Personal Care	<u>http://www.zermat.com.mx</u>

Appendix B

2004 DSA Fact Sheet



FACT SHEET

2004 DIRECT SELLING GROWTH & OUTLOOK SURVEY

2003 U.S. Retail Sales \$29.55 Billion

Percent of Sales by Major Product Group

Home/family care (cookware, appliances, etc.)	32.0
Personal care (cosmetics, jewelry, etc.)	29.4
Services/other	15.4
Wellness (weight loss products, vitamins, etc.)	15.3
Leisure/educational (books, videos, toys, etc.)	7.9

Percent of Sales by Location/Medium

Face-to-face selling	73.1
In the home	61.9
In the work place	6.7
At a temporary location (fair, exhibition, etc.)	3.9
Other locations (salesperson's office, etc.)	0.6
Remote selling	26.9
Phone	15.6
Internet (World Wide Web, e-mail)	10.8
Other (mail, fax, etc.)	0.5

Percent of Sales by Census Region

South	36.0
West	24.8
Midwest	23.1
Northeast	16.1

Percent of Sales by Sales Strategy

Individual/person-to-person	69.0
Party plan/group	28.5
Customer placing order directly with firm (in follow-up to a prior face-to-face solicitation)	1.7
Other	0.8

Compensation Structure

(Multilevel vs. single level)

Percent of firms	81.9/18.1
Percent of sales dollars	75.7/24.3
Percent of salespeople	82.4/17.6

2003 U.S. Salespeople 13.3 Million

Percent of Salespeople by Work Status

Independent contractors	99.9
Employees	0.1

Percent of Salespeople by Distributorship Type

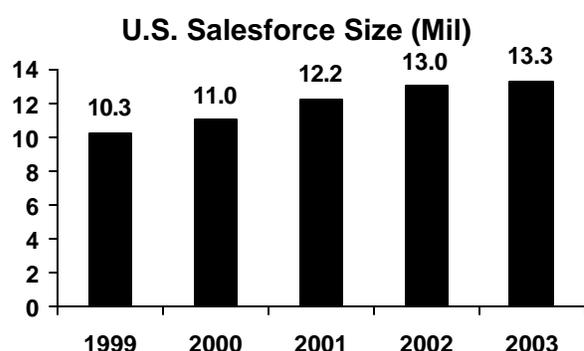
One-person distributorship--female	71.9
One-person distributorship--male	16.7
Two-person distributorship	10.3
Multi-person distributorship	1.1

Percent of Salespeople by Hours Worked

Fewer than 30 hours per week	85.1
30-39 hours per week	7.6
40 hours or more per week	7.3

Percent of Salespeople by Gender

Female	79.9
Male	20.1



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Appendix C

Comments of the Direct Selling Association on the
FTC Trade Regulation Rule on Disclosure Requirements and
Prohibitions Concerning Franchising and Business Opportunity
Ventures (April 7, 1995 and February 28, 1997)

**BEFORE THE
FEDERAL TRADE COMMISSION**

**COMMENTS OF
THE DIRECT SELLING ASSOCIATION**

ON

**THE COMMISSION'S REQUEST FOR COMMENTS CONCERNING
TRADE REGULATION RULE ON
DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING
FRANCHISING AND BUSINESS OPPORTUNITY VENTURES**

**16 C.F.R. Part 436--Comment
60 Fed. Reg. 17656 (April 7, 1995)**

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Dated: August 8, 1995

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I. INTRODUCTION

This Comment of the Direct Selling Association (“DSA”) is in response to the Request for Comment Concerning the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures¹ (“Request for Comments”).

DSA is the national trade association representing over 150 companies which sell their products and services by personal presentation and demonstration, primarily in the home. Our membership, with 6.2 million direct sellers, includes some of the nation's most well-known commercial names which constitute 95% of all direct selling in the United States. The home party and person-to-person sales methods used by our companies and their independent contractor salesforces have become an integral part of the American landscape.

The typical individual direct seller is a woman who operates her own business part-time from her home. Her financial goals are simple -- to earn enough extra income for gifts, tuition, or family vacation -- in short, to supplement family income. The direct seller, as a micro-entrepreneur, is the quintessential small business person.²

DSA believes that franchises and business opportunities are very different and these differences should be recognized by the Federal Trade Commission (“FTC” or “Commission”).³ Therefore, DSA’s Comments are limited to the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures⁴ (the “Franchise Rule”) as it relates to business opportunities, not franchises.

DSA strongly supports consumer awareness in all transactions, including business opportunities. In fact, the Direct Selling Education Foundation (“DSEF”) produces and distributes a number of consumer brochures including “Promises, Check ‘em Out! Business Opportunity Fraud.”⁵ This brochure, originally published in cooperation with the National District Attorneys Association’s Economic Crime Project, is designed to better the decision-making of consumers when entering into a new business. Further, DSA is a proud supporter of many national consumer organizations and a strong promoter of the highest standards of business conduct in the direct selling industry. The DSA Code of Ethics has been widely praised by the law enforcement and consumer protection communities.

DSA and several of its member companies, including Amway Corporation, Avon Products and Mary Kay Cosmetics commented during the rulemaking process of the Franchise Rule in 1978 and during periodic reviews of the rule. Although direct selling is neither a franchise nor a business opportunity, DSA takes an interest in rules concerning such for several reasons. First, the offering of a direct selling opportunity (the paying of money to start a business), assuming it crossed a triggering dollar amount, could be considered a business opportunity by law enforcement. Second,

¹ 60 Fed. Reg. 17,656 (April 7, 1995).

² A profile of a typical direct seller is attached as Appendix I.

³ A more detailed discussion of these differences is located infra, at 3-5.

⁴ 16 C.F.R. Part 436.

⁵ See, Appendix II. The DSEF brochure entitled “Pyramid Schemes: Not What They Seem!” was prepared in cooperation with the FTC.

because a franchise and a business opportunity are quite different and yet easily confused, DSA would welcome the divorce of business opportunity regulation from the Franchise Rule through a separate definition of a business opportunity.

In the direct selling industry, sellers enter into a contract with a direct selling company giving the seller the right to sell that company's products or services. The relationship of a direct seller to a direct selling company is that of an independent contractor⁶ who is not subject to the control or direction of the company. Upon signing the distributor agreement, some direct selling companies will give an option to a direct seller to purchase a start-up kit, while other companies require the seller to purchase a start-up kit. These start-up kits typically contain some product samples, promotional literature, and similar materials. Approximately 75% of all DSA members' sales kits cost less than \$100, and nearly 85% of all members' sales kits cost under \$200. DSA is not aware of any member company sales kit that costs over \$500. Rarely, if ever, are these sales kits sold at a profit to the direct selling company.

As in many areas of commerce, the possibility of fraud will always exist in the offering of business opportunities. The Federal Trade Commission must take great care in regulating such activities to ensure that its rules truly separate the wheat from the chaff, and do not impose burdensome regulations on legitimate businesses, including honest direct selling companies.

II. Response to Request for Comments

A. General Comments on the Rule (Questions 1-4, 6)

DSA believes that franchises and business opportunities are very different and the overlapping definition of a "franchise" is unnecessary and subject to confusion. Because of the differences between the two marketing methods, DSA's Comments are limited to the Franchise Rule as it relates to business opportunities, not franchises.

The Franchise Rule, through the promotion of certain standards of conduct benefits consumers, law enforcers, and the business community. The Franchise Rule sets forth a general course of conduct for all in the business opportunity marketplace. Further, when a consumer has a good deal of money to risk, he or she has an affirmative obligation to investigate and evaluate that risk. Because a consumer may not have ready access to information such as business experience, and litigation and bankruptcy history, disclosures on the part of the offeror become important.

⁶ 26 U.S.C. § 3508 (1986).

B. Application of the Franchise Rule to Business Opportunities (Questions 9-16)

1. General Comments (Questions 9-12)

The Franchise Rule provides important protection to those who enter into a business opportunity and risk a significant sum of money. As the Commission knows, the disclosure burdens contained in the Franchise Rule would be unnecessary for consumers and inordinately burdensome for offerors in situations where the money at risk is minimal.⁷

2. Franchises and Business Opportunities Should be Defined Differently, and Any Business Opportunity Definition Should Follow State Laws in this Area (Question 13).

The Request for Comments notes that in the Franchise Rule there is no definition of a “business opportunity” and acknowledges that a business opportunity is defined as a “franchise”.⁸ However, franchises and business opportunities are not the same, and the list below highlights some of the many differences between the two marketing methods.⁹

- Franchisees are often required to make a significant financial investment in the operation of the franchise. By contrast, a direct seller's investment is minimal -- most direct sellers invest less than \$500 to engage in direct selling. The low risks involved in a direct selling business make regulation unnecessary and counterproductive.
- When a direct seller ceases operations, the direct selling company is required in most instances by the DSA Code of Ethics and some state laws¹⁰ to repurchase from the seller any inventory, sales kits, demonstration materials, etc., at 90% of the cost paid by the direct seller. Few, if any, franchisors offer such a benefit to their franchisees.
- Franchisors exercise a significant amount of control over their franchisees including limitations on locations and products sold. By contrast, direct sellers are independent contractors who determine themselves when and where to sell, to whom to sell, which products to sell, and how much to sell.
- Franchisors often dictate the terms and conditions of a franchisee's purchase of inventory. A direct seller, on the other hand, determines which products to purchase including which products to offer to their customers.
- Franchise agreements will occasionally restrict from whom franchisees can purchase supplies, equipment and inventory. Unlike franchisees, many direct sellers are not prohibited from selling the products of competitors.

⁷ Statement of Basis and Purpose Relating to Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures [“Statement”] at § V.A.3, 43 Fed. Reg. 59,614, 59,705-06; Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures; Promulgation of Final Interpretive Guides, § I.A.2(c), 44 Fed. Reg. 49,966, 49,968 [“Interpretive Guides”].

⁸ 60 Fed. Reg., 17,656-57.

⁹ States with franchise laws and/or business opportunity laws have recognized the differences between the two. See, e.g., Ark. § 4-72-201 et seq.; Del. § 2551 et seq.; Ill § 705 et seq.; Ind. § 23-2-2.5 et seq.; Mich. § 445.1501 et seq.; § Minn. § 80C.01 et seq.

¹⁰ See, infra, at Appendix IV.

- A franchisor receives a percentage of the franchisee's gross receipts. A direct selling company is not entitled to such a percentage and the direct seller receives commissions and bonuses based upon the amount of goods she sells.
- Franchisees are required to pay advertising fees to the franchisor where direct sellers are *not* saddled with such requirements.
- Direct sellers sell part-time and use their money to supplement their family incomes. By contrast, most franchisees are in business full time and are dependent upon the business for their sole or significant financial support.

Because of the many differences between franchises and business opportunities, it makes sense for the Commission to adopt a separate definition of business opportunities. Further, although DSA supports an increase in the \$500 threshold,¹¹ any definition of a business opportunity should, at minimum, maintain the current threshold.¹² Further, any business opportunity definition should specifically include language in the Franchise Rule itself, similar to that language in the Interpretive Guides which exclude from the definition of required payments those payments made at a bona-fide wholesale price for a reasonable amount of inventory.¹³ DSA suggests that a definition of a business opportunity also specifically *exclude* the sale of sales demonstration and materials furnished at cost for use in making sales and not for resale. This exclusion is implied in the Interpretive Guides and specifically stated in nearly all of the business opportunity state laws.¹⁴ Adoption of such a provision would provide consistency for the business community. The North American Security Administrators Association (NASAA) Model Business Opportunity Sales Act also contains a \$500 threshold and an exemption for “the not-for-profit sale of sales demonstration, material, or samples or...inventory sold to the purchaser at a bona-fide wholesale price.”¹⁵

¹¹ See, *infra*, at 6.

¹² The comments to the Franchise Rule state that

...[T]he rule should focus upon those franchisees who have made a personally significant monetary investment and who cannot extricate themselves from the unsatisfactory relationship without suffering a financial setback. Implicit in the concept of franchising, as viewed by the Commission, is the assumption of a financial risk by the franchisee in entering into a franchise relationship...Where a franchisee makes no significant investment in the franchise business, he assumes only a limited risk, and the protection of the rule is inappropriate.”

Statement, at § V.A.3.; 43 Fed. Reg., at 59,704. “The [\$500] exemption reflects the Commission’s policy determination that a significant financial risk on the part of the franchisee is a necessary element of a franchise.” Interpretive Guides, at § I.A.3; 44 Fed. Reg. at, 49,966, 68.

¹³ *Id.*, at, § I.A.1.c.; 49,967.

¹⁴ Conn. 36-504(6); Fla. 559.801(1)(d); 1995 Ill. Laws Chapter 815, Act 5 (to be codified § 5-5.10(b)(7)); Ind. 24-5-8-1; Ky. 367.807(1)(d) (1994 Supp.); La. 51:1821; Maine 4691.3.B; Md. Business Reg. 14-104(2); N.C. 66-94.; Ohio 1331.01(G); 71 Okla. 803.7; S.C. 39-57-20(4); S.D. 37-25A-3(7); Tex. 5069-16.05(1); Utah 13-15-2(1)(b)(ii); Va. 59.1-263.A; Wash. 19.110.040(6).

¹⁵ 1 NASAA Rep. (CCH) ¶ 4222 (Model Code § 200.G).

Some 21 states have business opportunity laws,¹⁶ and many of these states have developed excellent definitions of a business opportunity which can be looked to for guidance. DSA members companies operate in all fifty states, and it would benefit these companies if any federal definition of a business opportunity followed state statutes in this area. For the convenience of the Commission and staff, DSA has offered as Appendix III the business opportunity definitions from Florida, Illinois, Indiana, Ohio and Virginia.

4. The Franchise Rule Covering Business Opportunities, or a Business Opportunity Rule Should Not Specifically Include Multilevel Marketing (Question 13(b))

As the Commission knows, multilevel marketing is a legitimate and widely accepted method of marketing and distributing goods and services.¹⁷ As such, multilevel marketing should not be singled out a business opportunity definition. In fact, multilevel marketing, easily distinguished from illegal pyramids, requires very little, if any, up-front investment, is based upon the sale of real products to real consumers, and is a business method relied upon by millions of Americans for products and the supplementation of family income.

On the other hand, pyramid schemes require “a person seeking to become a distributor to pay a large sum of money, either as an entry fee (usually called a ‘headhunting’ fee) or for the purchase of a large amount of non-returnable inventory (a practice known as ‘inventory loading’).”¹⁸ Legitimate multilevel marketing should therefore not be confused with illegal pyramid schemes. Several recent anti-pyramid statutes have acknowledged that multilevel marketing is a legitimate business method.¹⁹ Rather than regulating multilevel marketing, these states have focused on outlawing pyramid schemes instead of adding to the burdens of honest businesspeople.

Inclusion of multilevel marketing in the definition of a business opportunity is unnecessary, unwarranted, and clearly inappropriate. Finally, any multilevel marketing business operation crossing the \$500 threshold in the Franchise Rule would be required to comply with the rule, therefore rendering any specific inclusion of multilevel marketing unnecessary.

¹⁶ Cal. Civ. Code § 1812 *et seq.*; Conn. 36-503 *et seq.*; Fla. Stat. Ann. § 559.80 (West 1995 Supp.) *et seq.*; Ga. Code Ann. § 10-1-410 *et seq.*; 1995 Ill. Laws Chapter 815, Act 5 (to be codified as § 5-1 *et seq.*); Ind. Code Ann. § 24-5-8 *et seq.*; Iowa Code Ann. § 523B (West 1995 Supp.); Ky. Rev. Stat. Ann. § 367.801 (Baldwin 1994 Supp.) *et seq.*; La. 51:1821 *et seq.*; Maine Rev. Stat. Ann. 32 § 4691 *et seq.*; Md. Business Reg. 14-101 *et seq.*; Mich. Comp. Laws Ann. § 445.902 *et seq.*; Neb. Rev. Stat. § 59 *et seq.*; N.C. 66-94 *et seq.*; Ohio Rev. Code Ann. § 1331.01 *et seq.*; 71 Okla. 801 *et seq.*; S.C. 39-57-10 *et seq.*; S.D. Codified Laws Ann. § 37-25A *et seq.*; Tex. Rev. Civ. Stat. Ann. art. 5069-16 *et seq.*; Utah Code Ann. § 13-15 *et seq.*; Va. Code Ann. § 59.1-262 *et seq.*; Wash. Rev. Code Ann. § 19.110 (West 1995) *et seq.*

¹⁷ *Amway*, 93 F.T.C. 618 (1979).

¹⁸ *Id.*, at 715. *See, also, In re Koscot Interplanetary, Inc.*, 86 F.T.C. 1106 (1975) *aff'd mem., sub nom. Turner v. F.T.C.*, 580 F.2d 701 (D.C. Cir. 1978); *In re Ger-Ro-Mar*, 84 F.T.C. 95 (1975), *aff'd in part, rev'd in part sub nom. Ger-Ro-Mar*, 518 F.2d 233 (2d Cir. 1975); *In re Holiday Magic, Inc.*, 84 F.T.C. 748 (1974).

¹⁹ Okla. Session Law __, H.B. 1338 (45 Legis., 1st Sess., 1995), § 1072.7; 1995 Texas Gen. Laws ch. 436; N.J. S. 166 (passed Senate).

5. The Required Payments Threshold Should be Increased to \$1000.

As stated above, the \$500 threshold was the product of careful deliberation to create an adequate balance between consumers and affected industries, and although the majority of DSA members are well below the \$500 threshold, there are some who are close now, and may be closer in the future. Based upon the Consumer Price Index ["CPI"] over the preceding 17 years, \$500 in 1978 would be \$1,135.95 in 1994 dollars.²⁰ Similarly, \$500 in 1978, if uninvested, would have a buying power in 1994 of only \$206.70.²¹ After this current rule review process is over, it is unclear when the next review process will occur. If the next review is not until the next century, \$500 in 1978 dollars could easily be worth as little \$125.

Raising the threshold would still protect consumers.²² The \$500 threshold was a good idea in 1978 and the use of a threshold today still carefully balances the concerns of various parties. For the Franchise Rule or any business opportunity regulation to remain consistent, logical, and workable, it must take into account the changes in the American economy.

C. Earnings Information

1. Background (Questions 19-28)

DSA presumes that one of the most basic questions a prospective purchaser will ask is "how much money can I make?" Direct selling companies are very cautious about the earnings information provided to prospective direct sellers. Further, our industry has established a standard of accuracy and fairness to which our members must adhere. The DSA Code of Ethics ("DSA Code") states that "[n]o member company shall misrepresent the actual or potential earnings of its independent salespeople. Any earnings or sales representations that are made by member companies shall be based on documented facts."²³

The Commission has spoken at least twice on the issue of earnings claims made by direct selling companies.²⁴ In Amway, the Commission ordered that company to cease and desist from:

²⁰ U.S. Dep't. of Labor, Bureau of Labor Statistics, (CPI-U). The calculation was derived assuming that \$500 in 1978 was invested at a rate equal to the CPI in every year since 1978.

²¹ Id.

²² Jonathan Barker of the National Consumers League notes that his office has not logged any appreciable increase in business opportunity complaints in recent years. Further, most complaints received are from consumers who have lost between \$1,000 and \$10,000. Telephone Conversation with Jonathan Barker, Vice President, National Consumers League (July 24, 1995). A 1980 study of the Iowa Attorney General's office showed that the average Iowa business opportunity fraud victim lost \$5,400 and the money lost ranged from \$2,000 to \$40,000. "Examples of Public Education Techniques in a Campaign Against Business Opportunity Fraud", Iowa Attorney General's Office. See, also, "Undercover Blitz Targets Business-Opportunity Scams" Wall Street Journal, July 19, 1995 (noting that two consumers were defrauded of between \$1,500 and \$6,000).

²³ DSA Code, § A.7. The DSA Code also states that "[n]o member company of the Association shall engage in any deceptive, unlawful, or unethical consumer or recruiting practice." DSA Code § A.1.

²⁴ Amway, supra; NuSkin, 59 Fed. Reg. 3639 (F.T.C. 1994) (proposed consent agreement) ; 59 Fed. Reg. 23,867 (F.T.C. 1994) (final consent agreement).

1. Misrepresenting in any manner the past, present, or future profits, earnings, or sales from such participation. 2. Representing, by implication, by use of hypothetical examples, or otherwise, that distributors earn or achieve from such participation any stated amount of profits, earnings, or sales in excess of the average profits, earnings or sales of all distributors in any recent year respondents may select, unless in conjunction therewith such average profits, earnings, or sales is clearly and conspicuously disclosed, or the percent of all distributors who actually achieved such stated profits, earnings, or sales in such year is clearly and conspicuously disclosed.²⁵

The Commission's position was reaffirmed in NuSkin.²⁶ The Amway case, the NuSkin consent decree and the DSA Code are used as earnings claims guideposts for the direct selling industry. While DSA is not necessarily advocating that the Commission adopt the Amway holding or its progeny, our industry would object to any earnings disclosure requirements that deviate from existing law.

2. Possible Required Earnings Disclosures (Questions 29-39)

Like all other disclosure requirements, any earnings disclosure mandates developed by the Commission should be triggered only if a business opportunity crosses the thresholds in the existing Franchise Rule, and those suggested by DSA in these Comments. Because neither franchises nor business opportunities are industries, but rather marketing methods, it would be difficult, if not impossible, for the FTC to develop a “one size fits all” earnings disclosure rule or requirement. Direct sellers are micro-entrepreneurs, and if the disclosures currently offered by franchisors were mandated to be offered by direct sellers or their companies, the burdens would be significant and harsh. DSA believes that any new standard which departs from existing law, including, sections 5 and 13(b) of the FTC Act is unnecessary.

It is crucial for the Commission to understand that because direct sellers themselves often recruit new businesspeople, they are the ones who will be required to shoulder the burdens of any new disclosure requirements. Direct sellers are micro-small businesses and it would be a significant hardship for them to comply with the disclosure requirements dictated by the Franchise Rule.

D. Possible Exemptions and Special Circumstances (Questions 40-45)

1. The Commission Should Adopt a Safe Harbor for Those Companies that Provide a Buyback Guarantee.

The Commission should adopt a safe-harbor from any business opportunity disclosures or regulation for those companies that offer a buyback policy. The DSA Code requires all direct selling companies to, in general, repurchase at 90%, all inventory on hand from a terminating direct seller if that inventory was purchased one year prior to termination.²⁷ Although only in effect for two years, the buyback policy has been widely praised by law enforcement officials and consumer advocates. Although not specified in the DSA Code, subsequent interpretations of the

²⁵ Amway, 93 F.T.C., at 738.

²⁶ NuSkin, 59 Fed. Reg., at 3642; § IV.

²⁷ DSA Code § A.6.

DSA Code are clear that the inventory repurchase section also requires companies to repurchase sales kits, demonstration and other promotional materials. The NASAA Model Business Opportunity Act contains a comment suggesting that states might consider a buyback policy.²⁸

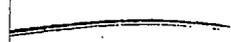
The most recent legislative examples of a buyback policy are in Oklahoma,²⁹ Texas³⁰ and New Jersey³¹ and are attached as Appendix IV. Because the buyback policy is very useful to prevent inventory loading and provides a valuable assurance to prospective direct sellers that their risks of entering and exiting a direct selling business are minimal, we suggest that the FTC adopt a safe harbor provision for all companies that provide for a buyback policy consistent with the DSA Code, the Oklahoma and Texas laws, and the New Jersey legislation.

III. Conclusion

Some confusion has been caused by the Commission's use of the word "franchise" to define both franchises and business opportunities. DSA requests the Commission to adopt a separate definition of a "business opportunity" and raise the triggering threshold. A business opportunity definition should not include multilevel marketing, which is a perfectly legitimate method of operation.

Finally, DSA believes that consumers have an affirmative obligation to investigate purchases of business opportunities, particularly if the consumer is being asked to part with a good deal of money. There are some activities, like direct selling, that pose low risks, and offer ease of entry and exit that should not be regulated. DSA assumes the Commission will keep any dollar thresholds intact, while adopting a safe-harbor for companies that offer an inventory repurchase, and add an exclusion for the sale of not-for-profit sales kits, and similar items.

Respectfully submitted,


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²⁸ 1 NASAA Rep. (CCH) ¶ 4221.

²⁹ Session Law __, H.B. 1338 (45 Legis., 1st. Sess., 1995). § 1072.7

³⁰ 1995 Texas Gen. Laws ch. 436.

³¹ S. 166 (passed Senate).

**BEFORE THE
FEDERAL TRADE COMMISSION**

**COMMENTS OF
THE DIRECT SELLING ASSOCIATION**

ON

**THE FEDERAL TRADE COMMISSION
TRADE REGULATION RULE ON
DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING
FRANCHISING AND BUSINESS OPPORTUNITY VENTURES**

**16 C.F.R. Part 436--Comment
62 Fed. Reg. 9115 (February 28, 1997)**

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I. INTRODUCTION

This Comment of the Direct Selling Association (DSA) is in response to the Advance Notice of Proposed Rulemaking on the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures issued on February 28, 1997.¹

DSA is the national trade association representing 180 companies which sell their products and services by personal presentation and demonstration, primarily in the home. The direct selling industry attracts individuals who seek job flexibility, with low start-up costs and minimal work experience. Many direct sellers are women, minorities and the elderly who work on a part-time basis to supplement their income. In 1995 there were approximately 7.2 million direct sellers in the United States. Our association represents 95% of all direct sales and salespeople in the United States and includes some of the nation's most well-known commercial names. The home party and person-to-person sales methods used by our companies and their independent contractor salesforces have become an integral part of the American landscape. The direct seller, as a micro-entrepreneur, is the quintessential small business person.

DSA welcomes the Commission's consideration of separating franchises and business opportunities for rulemaking purposes and appreciates the chance to offer our industry's perspective on business opportunities. DSA and several of its member companies, including Amway Corporation, Avon Products and Mary Kay Cosmetics commented during the rulemaking process of the Franchise Rule in 1978 and during periodic reviews of the rule. We are happy to participate in the further development of a business opportunity rule.

Our industry is committed, as a public service, to reducing business opportunity fraud. To that end, through the Direct Selling Education Foundation, our public education foundation, DSA developed a consumer brochure in cooperation with the National District Attorneys Association Economic Crime Project. This brochure is reprinted in Appendix I. DSA takes an interest in rules concerning such matters because of possible confusion between our direct selling activities and the business opportunities which involve significant financial risk. We wish to avoid any mistaken characterization of direct selling as analogous to "franchises" or "business opportunities" which require large cost outlays.

In the direct selling industry, sellers enter into a contract with a direct selling company giving the seller the right to sell that company's products or services. Over 99.8% of direct sellers are independent contractors.² Upon signing the distributor agreement, some direct selling companies require the seller to purchase a start-up kit, while other companies make purchase of the kit an option. These start-up kits typically contain some product samples, promotional literature, and training and sales aids. DSA member sales kit range in price from less than \$100 to near \$500. It is not unusual for these sales kits to be sold at a not-for-profit basis by the company.

We urge that the Federal Trade Commission take great care in regulating business opportunities activities to ensure that its rules do not impose unnecessary and inappropriate regulations on direct selling companies and their salespeople.

¹ 62 CFR Reg. 9115 (February 28, 1997).

² 26 U.S.C. § 3508 (1986).

II. BUSINESS OPPORTUNITY FRAUD (Questions 8-10)

A. General Information (Questions 8-9)

DSA members do not require substantial investments, large sales kit purchases, or inventory purchases of individuals who wish to sell for them. Historically, direct selling activities have not been treated as business opportunities within the context of the Commission's jurisdiction and regulation nor within state laws which regulate this area.³ DSA is not aware of any trade associations that represent business opportunities *per se*.

We understand that the Commission is interested in distinguishing between loss-prone businesses and profitable ones; however, failure of a person to make profit in a business should not be a touchstone for regulation. There are millions of legitimate businesses which fail for financial reasons but which do not deserve special regulation. The basis for any consumer statute or regulation should be the propensity for fraud, not mere potential failure of the business.

B. Distinguishing Between Fraudulent and Legitimate Businesses (Question 10)

There are certain characteristics which distinguish fraudulent business opportunities from legitimate businesses. Some of these are:

- A large up-front payment;
- The absence of an effective inventory and sales aids repurchase policy;
- Pressure to participate; and
- Promises or guarantees of large returns in short periods of time with minimal effort.

DSA has a Code of Ethics, the provisions of which are useful in combating the evils of business opportunity fraud. DSA requires its members to adhere to an inventory repurchase program, and it prohibits undocumented and outrageous earnings claims and any other misrepresentation in the recruiting process. DSA believes these policies, which it encourages the Commission to consider, are features which distinguish the legitimate opportunities offered by DSA members from those which involve significant financial risk, a propensity for fraud, or blatant illegality.⁴

III. DEFINING A BUSINESS OPPORTUNITY (Questions 11, 12, 14-15)

A. Creating a Definition of a Business Opportunity (Questions 14-15)

DSA encourages the Commission to adopt a definition of "business opportunity" which is consistent with existing state laws. Such a definition, unlike that put forth in the proposed rulemaking, would provide consistency and uniformity for direct selling and other businesses seeking to determine coverage or non-coverage by the law. Unlike the state laws, the proposed

³ See, 62 Fed. Reg., 9117.

⁴ See, Appendix 4.

definition is too broad and could include direct selling within its coverage. This would be unprecedented.

At least twenty-two states have business opportunity laws,⁵ and many of these states have developed definitions of a business opportunity which can be looked to for guidance. Direct selling exists in all fifty states, and would benefit if a federal definition of a business opportunity was consistent with state statutes in this area. For the convenience of the Commission and staff, DSA has offered as Appendix II the business opportunity definitions from Florida, Illinois, and Virginia. We believe that any one of these definitions would be appropriate for adoption by the Commission as they meet both the Commission's needs and would ameliorate our industry's concerns about potential confusion between direct selling activities and the "business opportunities" which are covered under existing state laws.

B. A Business Opportunity Definition Should Specify that Payments are Required

Where there is no required payment to participate in a marketing plan and where payments which are made are subject to *bona fide* refund there is no need for the disclosures and other protections of the proposed rule. The FTC's proposed definition would apply to payments without any mention as to whether those payments are required. We suggest that the proposed rule, like the FTC existing rule, should recognize that coverage under the rule should be triggered only when certain minimum payments (as described below) are required in order to participate.⁶

C. A Business Opportunity Definition Should Include a \$1,000 Threshold (Question 11)

The business opportunity threshold should not be lowered. In fact, lowering the threshold would complicate compliance for direct sellers without imparting any significant protections for to those individuals. There are 7.2 million direct sellers nationwide, and the industry has a very high attrition rate due to the temporary and part-time nature of 90% of our salesforce. In fact, our industry is recruiting on the average, over 70,000 new people per week. Additionally, 6% of U.S. households currently have an active direct seller living there, and 13% of U.S. households have a person who has been a direct seller in the past living in that household. These individuals are paying little or nothing to engage in direct selling. However, if the business opportunity regulations were applied to direct sellers, these individuals who have made a low-cost commitment to the program would receive lengthy and potentially confusing disclosure documents. As these

⁵ Cal. Civ. Code § 1812 et seq.; Conn. 36-503 et seq.; Fla. Stat. Ann. § 559.80 (West 1995 Supp.) et seq.; Ga. Code Ann. § 10-1-410 et seq.; Ill. Rev. Stat. ch. 815 § 5/1 et seq.; Ind. Code Ann. § 24-5-8 et seq.; Iowa Code Ann. § 523B (West 1995 Supp.); Ky. Rev. Stat. Ann. § 367.801 (Baldwin 1994 Supp.) et seq.; La. 51:1821 et seq.; Maine Rev. Stat. Ann. 32 § 4691 et seq.; Md. Business Reg. 14-101 et seq.; Mich. Comp. Laws Ann. § 445.902 et seq.; Minn. Stat. Ann. § 80C.01 et seq.; Neb. Rev. Stat. § 59 et seq.; N.C. 66-94 et seq.; Ohio Rev. Code Ann. § 1331.01 et seq.; 71 Okla. 801 et seq.; S.C. 39-57-10 et seq.; S.D. Codified Laws Ann. § 37-25A et seq.; Tex. Rev. Civ. Stat. Ann. art. 5069-16 et seq.; Utah Code Ann. § 13-15 et seq.; Va. Code Ann. § 59.1-262 et seq.; Wash. Rev. Code Ann. § 19.110 (West 1995) et seq.

⁶ Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures; Promulgation of Final Interpretive Guides, 44 Fed. Reg. 49,966, § I.A.1, 49,967 ["Interpretive Guides"].

individuals are protected by the low costs for participating and a *bona fide* repurchase policy, these lengthy documents would not serve to provide the individuals with greater protection.

By lowering the threshold, the business opportunity requirements could impose significant costs on the direct selling industry. Marketing plans would have to be revised, information and documents reprinted, and documents disseminated and explained to the individual sellers and those they recruit. This flurry of information would not provide additional benefits to a potential participant, but it could raise the initial amount in costs for the company--and ultimately, the participant--to engage in direct selling.

Not only should the threshold not be lowered, but the threshold should be raised. Numerous business opportunity actions cite frauds in amounts well above the suggested \$1,000 threshold.⁷ These cases suggest that individuals are being defrauded for significant amounts of money beyond their initial required investment. Also, a *bona fide* repurchase provision protects consumers from being defrauded even through a minimal investment. That minimal investment, when subject to a *bona fide* repurchase policy, should not be a *per se* trigger of a business opportunity law.

The threshold should also be raised to reflect inflation over the past twenty years. Based upon the Consumer Price Index ["CPI"], \$500 in 1978 would be the equivalent of over \$1,200 in 1997 dollars.⁸ Similarly, what would have the buying power of \$500 in 1978 would have a buying power of less than \$200 in 1997.⁹ If the Commission establishes a business opportunity rule as a result of this rulemaking process, it is unclear when the next review process would occur. The direct selling industry would encourage a threshold that adequately anticipates and reflects the inflationary costs of the current threshold.

D. A Business Opportunity Rule Should Contain an Exemption for the Purchase of Sales Kits and Certain Inventory

When there is a *bona fide* repurchase policy, the business opportunity rule should specifically exclude from a definition of payments which trigger a threshold, those payments which are made at a *bona fide* wholesale price for a reasonable amount of inventory.¹⁰ DSA suggests that a definition of a business opportunity also specifically exclude payments for sales demonstration material furnished at cost for use in making sales, if provided on a not-for-profit basis, and if not for resale. This exclusion is specifically stated in nearly all of the business opportunity state laws and implied in the Interpretive Guides.¹¹ Adoption of such a provision would provide consistency for the

⁷ A 1980 study of the Iowa Attorney General's office showed that the average Iowa business opportunity fraud victim lost \$5,400 and the money lost ranged from \$2,000 to \$40,000. "Examples of Public Education Techniques in a Campaign Against Business Opportunity Fraud", Iowa Attorney General's Office. See, also, "Undercover Blitz Targets Business-Opportunity Scams" Wall Street Journal, July 19, 1995 (noting that two consumers were defrauded of between \$1,500 and \$6,000). See, e.g., In Re Marquette, FTC File No. X950076, (opportunity sold for nearly \$5,000); Florida v. Unique Gems Int'l. Corp., No. 97-4977 (Fla. Cir. Ct., 11th Jud. Cir., Dade Co.) (opportunity cost \$3,000).

⁸ U.S. Dep't. of Labor, Bureau of Labor Statistics, (CPI-U) 1982-1986=100. The calculation was derived assuming that \$500 in 1978 was invested at a rate equal to the CPI in every year since 1978.

⁹ Id.

¹⁰ Ill. Rev. Stat. ch. 815 § 5/1 et seq.; Interpretive Guides, at, § I.A.1.c.; 49,967.

¹¹ Conn. 36-504(6); Fla. 559.801(1)(d); 1995 Ill. Laws Chapter 815, Act 5 (to be codified § 5-5.10(b)(7)); Ind. 24-5-8-1; Ky. 367.807(1)(d) (1994 Supp.); La. 51:1821; Maine 4691.3.B; Md. Business Reg. 14-

business community. The North American Security Administrators Association (NASAA) Model Business Opportunity Sales Act also contains an exemption for "the not-for-profit sale of sales demonstration, material, or samples or . . . inventory sold to the purchaser at a *bona fide* wholesale price."¹²

IV. ESTABLISHMENT OF AN EXCLUSION FOR THOSE COMPANIES THAT PROVIDE AN INVENTORY REPURCHASE GUARANTEE

The Commission should adopt an exclusion from any business opportunity disclosures or regulation for those companies that offer an inventory repurchase plan, or buyback. The DSA Code requires all direct selling companies to repurchase at 90%, all inventory on hand from a terminating direct seller if that inventory was purchased within one year prior to termination.¹³ The repurchase obligation also requires companies to repurchase sales kits, demonstration and other promotional materials. A copy of the DSA Code of Ethics is reprinted in Appendix IV. In effect for four years, the buyback policy has been widely praised by law enforcement officials and consumer advocates. The NASAA Model Business Opportunity Act contains a comment suggesting that states might consider enacting a buyback policy.¹⁴ DSA suggests that the buyback policy must be real, demonstrable, and in line with existing industry and legal standards in order to qualify for such an exclusion.

The most recent legislative examples of a buyback policy are in the new state anti-pyramid laws of Oklahoma,¹⁵ and Texas,¹⁶ which are attached as Appendix III. The buyback policy provides a valuable assurance to direct sellers that the risks of entering and exiting their direct selling activities are minimal.¹⁷ We suggest that the FTC adopt an exclusion from the definition of business opportunity for all companies that provide for a buyback policy consistent with the DSA Code, and the state laws.

In summary, *bona fide* repurchase provisions protect individuals and should be encouraged by the Commission.¹⁸ Legitimate business should not be penalized for creating standards to protect participants. Businesses which falsely promise to repurchase inventory should be prosecuted as frauds.

104(2); N.C. 66-94.; Ohio 1331.01(G); 71 Okla. 803.7; S.C. 39-57-20(4); S.D. 37-25A-3(7); Tex. 5069-16.05(1); Utah 13-15-2(1)(b)(ii); Va. 59.1-263.A; Wash. 19.110.040(6).

¹² 1 NASAA Rep. (CCH) ¶ 4222 (Model Code § 200.G).

¹³ DSA Code § A.7. The Code allows for some minor exclusions, i.e., if the company clearly discloses to salespeople prior to purchase that the products are seasonal, discounted, or special promotion products.

¹⁴ 1 NASAA Rep. (CCH) ¶ 4221.

¹⁵ Okla. Stat. Ann. tit. 21 § 1071 *et seq.* (1997 Supp.).

¹⁶ Tex. Bus. & Com. § 17.461 (1997 Supp.).

¹⁷ Five states and Puerto Rico have mandatory buyback requirements for multilevel companies. Ga. Code Ann. § 10-1-415(d)(1); La. Admin. Code tit. 16, § III.501; Mass. Ann. Laws ch. 93, § 69(c) (Law Co-op.); Md. Code Ann. Bus. Reg. § 14-302; Wyo. Stat. sec. 40-3-105; P.R. Laws Ann. tit. 10, sec. 997b.a.

¹⁸ Some state laws actually include the promise to repurchase inventory as a term within the definition of a "business opportunity". A *bona fide* repurchase policy should not be a trigger for business opportunity coverage, however. Instead, a *bona fide* policy should be seen as minimizing the need for coverage under business opportunity regulations.

V. PRE-SALE DISCLOSURES (Questions 16-17)

DSA has explained in this submission that coverage of direct sellers under this rule is inappropriate and unnecessary. Correspondingly, DSA asserts that "pre-sale disclosures" are unnecessary in the context of direct selling activities where the risks of financial loss are low by virtue of small costs to participate and the existence of a legitimate repurchase policy.

VI. CONCLUSION

DSA is pleased to have the opportunity to participate in the creation of a new rule to better guide consumers, legitimate businesses, and law enforcement agencies as to business opportunities. DSA supports, within the definition of a business opportunity, a \$1,000 threshold which would provide ample consumer protection without placing undue burdens on direct selling activities. Also, DSA supports an exclusion from the definition of a business opportunity the not-for-profit sale of sales demonstration, material, or samples or inventory sold to the purchaser at a bona-fide wholesale price. Finally, a business opportunity rule should also include an exclusion for those companies that have a real, workable buyback policy for goods returned in the marketable condition. The direct selling industry looks forward to the Notice of Proposed Rulemaking and appreciates the Commission's attention to our concerns.

Respectfully submitted,

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Appendix D

DSA Code of Ethics

DSA CODE OF ETHICS

WITH EXPLANATIONS

Note: Explanatory provisions appear in italics.

PREAMBLE

The Direct Selling Association, recognizing that companies engaged in direct selling assume certain responsibilities toward customers arising out of the personal-contact method of distribution of their products and services, hereby sets forth the basic fair and ethical principles and practices to which member companies of the association will continue to adhere in the conduct of their business.

A. CODE OF CONDUCT

1. Deceptive or Unlawful Consumer or Recruiting Practices

No member company of the Association shall engage in any deceptive, unlawful or unethical consumer or recruiting practice. Member companies shall ensure that no statements, promises or testimonials are made which are likely to mislead consumers or prospective salespeople.

2. Products or Services

The offer of products or services for sale by member companies of the Association shall be accurate and truthful as to price, grade, quality, make, value, performance, quantity, currency of model and availability. A consumer's order for products and services shall be fulfilled in a timely manner.

3. Terms of Sale

A written order or receipt shall be delivered to the customer at the time of sale, which sets forth in language that is clear and free of ambiguity:

- a. All the terms and conditions of sale, with specification of the total amount the customer will be required to pay, including all interest, service charges and fees, and other costs and expenses as required by federal and state law;
- b. The name and address of the salesperson or the member firm represented.

4. Warranties and Guarantees

The terms of any warranty or guarantee offered by the seller in connection with the sale shall be furnished to the buyer in a manner that fully conforms to federal and state warranty and guarantee laws and regulations. The manufacturer, distributor and/or seller shall fully and promptly perform in accordance with the terms of all warranties and guarantees offered to consumers.

5. Identification and Privacy

Sellers shall truthfully identify themselves, their company, their products and the purposes of their solicitation to the

1. Prior to 1993, the Code protected only the ultimate users or consumers of our products and services. The 1993 amendments extended protection to our independent sales representatives. The amendments were not intended to include "proselytizing" or salesforce raiding disputes within the jurisdiction of the Code, except to the extent that such disputes involve allegations of deceptive, unlawful or unethical recruiting practices or behaviors aimed at potential salespeople. As used in this section, "unethical" means violative of the U.S. DSA Code of Ethics.

prospective customer. Contact with the consumer shall be made in a reasonable manner and during reasonable hours to avoid intrusiveness. A demonstration or sales presentation shall discontinue upon the request of the consumer.

6. Pyramid Schemes

For the purpose of this Code, pyramid or endless chain schemes shall be considered consumer transactions actionable under this Code. The Code Administrator shall determine whether such pyramid or endless chain schemes constitute a violation of this Code in accordance with applicable federal, state and/or local law or regulation.

7. Inventory Purchases

a. Any member company with a marketing plan that involves selling products directly or indirectly to independent salespeople shall clearly state, in its recruiting literature, sales manual, or contract with the independent salespeople, that the company will repurchase on reasonable commercial terms currently marketable inventory, in the possession of that salesperson and purchased by that salesperson for resale prior to the date of termination of the salesperson's business relationship with the company or its independent salespeople. For purposes of this Code, "reasonable commercial terms" shall include the repurchase of marketable inventory within twelve (12) months from the salesperson's date of purchase at not less than 90 percent of the salesperson's original net cost less appropriate set offs and legal claims, if any. For purposes of this Code, products shall not be considered "currently marketable" if returned for repurchase after the products' commercially reasonable usable or shelf life period has passed; nor shall products be considered "currently marketable" if the company clearly discloses to salespeople prior to purchase that the products are seasonal, discontinued, or special promotion products and are not subject to the repurchase obligation.

b. Any member company with a marketing plan which requires independent salespeople to purchase company-produced promotional materials, sales aids or kits shall clearly state, in its recruiting literature, sales manual or contract with the independent salespeople, that the company will repurchase these items on reasonable commercial terms.

Any member company with a marketing plan which provides its independent salespeople with any financial benefit related to the sales of company-produced promotional materials, sales aids or kits shall clearly state, in its recruiting literature, sales manual or contract with the independent salespeople, that the company will repurchase, on reasonable commercial terms, currently marketable company-produced promotional materials, sales aids or kits.

A member company shall clearly state in its recruiting literature, sales manual or contract with the independent salespeople if any items not otherwise covered by this Section are ineligible for repurchase by the company.

6. The definition of an "illegal pyramid" is based upon existing standards of law as reflected in In the matter of Amway, 93 FTC 618 (1979) and the anti-pyramid laws of Kentucky, Louisiana, Montana, Oklahoma, and Texas. In accordance with these laws, member companies shall remunerate direct sellers primarily on the basis of sales of products, including services, purchased by any person for actual use or consumption. Such remuneration may include compensation based on sales to individual direct sellers for their own actual use or consumption.

7a. The purpose of the buyback is to eliminate the potential harm of "inventory loading;" i.e., the practice of loading up salespeople with inventory they are unable or unlikely to be able to sell or use within a reasonable time period. Inventory loading has historically been accomplished by giving sellers financial incentives for sales without regard to ultimate sales to or use by actual consumers. The repurchase provisions of the Code are meant to deter inventory loading and to protect distributors from financial harm which might result from inventory loading.

"Inventory" is considered to include both tangible and intangible product; i.e., both goods and services. "Current marketability" of inventory shall be determined on the basis of the specific condition of the product. Factors to be considered by the Code Administrator when determining "current marketability" are condition of the goods and whether or not the products have been used or opened.

Changes in marketplace demand, product formulation, or labeling are not sufficient grounds for a claim by the company that a product is no longer "marketable." Nor does the ingestible nature of certain products limit per se the current marketability of those products. Government regulation which may arguably restrict or limit the ultimate resalability of a product does not limit its "current marketability" for purposes of the Code.

State statutes mandate that certain buyback provisions required by law must be described in a direct seller's contract. While acknowledging that the contract is probably the most effective place for such information, the DSA Code allows for placement of the provision in either "recruiting literature or contract." The DSA Code is meant to emphasize that the disclosure must be in writing and be clearly stated. Wherever disclosed, the buyback requirement shall be construed as a contractual obligation of the company.

A company shall not place any unreasonable (e.g., procedural) impediments in the way of salespeople seeking to sell back products to the company.

The buyback process should be as efficient as possible and designed to facilitate buyback of products. The buyback provisions apply to all terminating distributors who otherwise qualify for such repurchase, including distributors who are not new to a particular company, or those who have left a company to sell for another company.

8. Earnings Representations

No member company shall misrepresent the actual or potential sales or earnings of its independent salespeople. Any earnings or sales representations that are made by member companies shall be based on documented facts.

9. Inventory Loading

A member company shall not require or encourage an independent salesperson to purchase inventory in an amount which unreasonably exceeds that which can be expected to be resold and/or consumed within a reasonable period of time.

10. Payment of Fees

Neither member companies nor their representatives shall ask individuals to assume unreasonably high entrance fees, training fees, franchise fees, fees for promotional materials or other fees related solely to the right to participate in the direct selling business.

7b. 1998 amendments made it clear that sales aids, kits and promotional materials, while not inventory or necessarily intended for resale, are subject to the repurchase requirement if a company requires their purchase or if there is a financial incentive associated with their sale. It was recognized that "loading" of these items can cause the same harm to plan participants as loading of "inventory."

With respect to the final paragraph of Section 7b., disclosure of an item's eligibility or ineligibility for the buyback is key. Provided that repurchase is not required by this Code provision, for those items a company chooses not to repurchase, the company should clearly and conspicuously disclose to the buyer that the items are not subject to the repurchase requirement. Under such disclosure, a refusal to take an item back will not constitute a violation providing the member is acting in good faith and not attempting to evade the repurchase requirement.

8. There is ample legal precedent in the form of FTC decisions to afford guidance on the subject of earnings representations. While not controlling, these precedents should be used by the Code Administrator in making determinations as to the substantiation of company earnings claims.

The Code's simple prohibition of misrepresentations was intended, in part, to avoid unduly encumbering start-up companies that have little or no actual earnings history with their compensation plan or established companies that are testing or launching new compensation plans. The prohibition approach is meant to require that companies in these circumstances need only ensure that their promotional literature and public statements clearly indicate that the compensation plan is new and that any charts, illustrations and stated examples of income under the plan are potential in nature and not based upon the actual performance of any individual(s).

9. See, Code Explanatory §7a. regarding inventory loading.

10. High entrance fees can be an element of pyramid schemes, in which individuals are encouraged to expend large upfront costs, without receiving product of like value. These fees then become the mechanism driving the pyramid and placing participants at risk of financial harm. Some state laws have requirements that fees be returned similar to the repurchase provisions delineated in Code §7a. The Code eliminates the harm of large fees by prohibiting unreasonably high fees. The Code Administrator is empowered to determine when a fee is "unreasonably high." For example, if a refund is offered for only a portion of an entrance fee, to cover what could be described as inventory, and there is nothing else given or received for the balance of the entrance fee, such as a training program, that portion of the entrance fee may be deemed to be unreasonably high by the Code Administrator. This Code section reinforces the provision in Code Part B. Responsibilities and Duties requiring companies to address the Code violations of their independent contractor salesforce.

B. RESPONSIBILITIES AND DUTIES

1. Prompt Investigation and No Independent Contractor Defense

In the event any consumer shall complain that the salesperson or representative offering for sale the products or services of a member company has engaged in any improper course of conduct pertaining to the sales presentation of its goods or services, the member company shall promptly investigate the complaint and shall take such steps as it may find appropriate and necessary under the circumstances to cause the redress of any wrongs which its investigation discloses to have been committed.

Member companies will be considered responsible for Code violations by their solicitors and representatives where the Administrator finds, after considering all the facts, that a violation of the Code has occurred. For the purposes of this Code, in the interest of fostering consumer protection, companies shall voluntarily not raise the independent contractor status of salespersons distributing their products or services under its trademark or trade name as a defense against Code violation allegations and such action shall not be construed to be a waiver of the companies' right to raise such defense under any other circumstance.

The members subscribing to this Code recognize that its success will require diligence in creating an awareness among their employees and/or the independent wholesalers and retailers marketing the member's products or services of the member's obligations under the Code. No subscribing party shall in any way attempt to persuade, induce or coerce another party to breach this Code, and the subscribers hereto agree that the inducing of the breach of this Code is considered a violation of the Code.

2. Required Publication

All member companies are required to submit to DSA, along with its application for membership or in the case of existing members along with their next dues payment, a proposed program as to how the company plans on publicizing DSA's Code of Ethics to its sales people and consumers. The plan shall contain, at a minimum, one of the following:

- a. an inclusion on the company's Web site of DSA's Code of Ethics with a step-by-step explanation as to how to file a complaint; or
- b. a link from the company's Web site to DSA's Code of Ethics with a clear, bold faced statement as to how to make the connection; or
- c. an inclusion of the company's Code of Ethics, or its complainant process, in its Web site, or with an explanation of how a complainant may appeal to the DSA Code Administrator in the event the complainant is not satisfied with the resolution under the company code, or the company's complaint process, with a reference to the Web site of DSA's Code of Ethics.

All members, after submission of their program, are required to state annually, along with paying their dues, that the program remains effective or indicate any change.

C. ADMINISTRATION

1. Interpretation and Execution

The Board of Directors of the Direct Selling Association shall appoint a Code Administrator to serve for a fixed term to be set by the Board prior to appointment. The Board shall have the authority to discharge the Administrator for cause only. The Board shall provide sufficient authority to enable the Administrator to properly discharge the responsibilities entrusted to the Administrator under this Code.

The Administrator will be responsible directly and solely to the Board. The Board of Directors will establish all regulations necessary to administer the provisions of this Code.

2. Code Administrator

The Administrator shall be a person of recognized integrity, knowledgeable in the industry, and of a stature that will command respect by the industry and from the public. He shall appoint a staff adequate and competent to assist him in the discharge of his duties. During his term of office, neither the Administrator nor any member of his staff shall be an officer, director, employee, or substantial stockholder in any member or affiliate of the DSA. The Administrator shall disclose all holdings of stock in any member company prior to appointment and shall also disclose any subsequent purchases of such stock to the Board of Directors. The Administrator shall also have the same rights of indemnification as the Directors and Officers have under the bylaws of the Direct Selling Association.

The Administrator, in accordance with the regulations established by the Board of Directors as provided herein, shall hear and determine all charges against members subscribing hereto, affording such members or persons an opportunity to be heard fully. The Administrator shall have the power to originate any proceedings, and shall at all times have the full cooperation of all members.

3. Procedure

The Administrator shall determine whether a violation of the Code has occurred in accordance with the regulations promulgated hereunder. The Administrator shall answer as promptly as possible all queries posed by members relating to the Code and its application,

and, when appropriate, may suggest, for consideration by the Board of Directors, new regulations, definitions, or other implementations to make the Code more effective.

If, in the judgment of the Code Administrator, a complaint is beyond the Administrator's scope of expertise or resources, the Code Administrator may decline to exercise jurisdiction in the matter and may, in his or her discretion, recommend to the complainant another forum in which the complaint can be addressed.

The Administrator shall undertake through his office to maintain and improve all relations with better business bureaus and other organizations, both private and public, with a view toward improving the industry's relations with the public and receiving information from such organizations relating to the industry's sales activities.

D. REGULATIONS FOR ENFORCEMENT OF DSA CODE OF ETHICS

1. Receipt of Complaint

Upon receipt of a complaint from a bona fide consumer or where the Administrator has reason to believe that a member has violated the Code of Ethics, the Administrator shall forward a copy of the complaint, if any, to the accused member together with a letter notifying the member that a preliminary investigation of a specified possible violation pursuant to Section 3 is being conducted and requesting the member's cooperation in supplying necessary information, documentation and explanatory comment. If a written complaint is not the basis of the Administrator's investigation, then the Administrator shall provide written notice as to the basis of his reason to believe that a violation has occurred. Further, the Code Administrator shall honor any requests for confidential treatment of the identity of the complaining party made by that party.

2. Cooperation with the Code Administrator

In the event a member refuses to cooperate with the Administrator and refuses to supply necessary information, documentation and explanatory comment, the Administrator shall serve upon the member, by registered mail, a notice affording the member an opportunity to appear before the Appeals Review Panel on a certain date to show cause why its membership in the Direct Selling Association should not be terminated. In the event the member refuses to cooperate with the Administrator or to request a review by the Appeals Review Panel, the DSA Board of Directors, or a designated part thereof, may vote to terminate the membership of the member.

3. Informal Investigation and Disposition Procedure

The Administrator shall conduct a preliminary investigation, making such investigative contacts as are necessary to reach an informed decision as to the alleged Code violation. If the Administrator determines, after the informal investigation, that there is no need for further action or that the Code violation allegation lacks merit, further investigation and administrative action on the matter shall terminate and the complaining party shall be so notified.

The Administrator may, at his discretion, remedy an alleged Code violation through informal, oral and written communication with the accused member company.

If the Administrator determines that the allegation has sufficient merit, in that the apparent violations are of such a nature, scope or frequency so as to require remedial action pursuant to Part E and that the best interests of consumers, the association and the direct selling industry require remedial action, he shall notify the member of his decision, the reasoning and facts which produced it, and the nature of the remedy he believes should be effected. The Administrator's notice shall offer the member an opportunity to voluntarily consent to accept the suggested remedies without the necessity of a Section 4 hearing. If the member desires to dispose of the matter in this informal manner it will, within 20 days, advise the Administrator, in writing, of its willingness to consent. The letter to the Administrator may state that the member's willingness to consent does not constitute an admission or belief that the Code has been violated.

4. Appeals Review Panel

An Appeals Review Panel consisting of five representatives from active member companies shall be selected by the Executive Committee of DSA's Board of Directors. Each member shall serve for a term of three years. The five members shall be selected in a manner that represents a cross-section of the industry. When an appeal is made by a member company, the Chairman of the DSA Board of Directors shall select three of the five members of the Appeals Review Panel to constitute a three-person panel to review the appeal, and shall name one of them Chairman of that panel. When possible, no company of the three shall sell a product that specifically competes with the Appellant, and every effort shall be made to avoid conflicts in selecting the panel. If for any reason, a member of the panel cannot fulfill his or her duties or fill out a term for any reason, the Chairman of the Board of DSA can replace that person with a new appointment for the remainder of the unfulfilled term with the concurrence of the Executive Committee.

5. Appeals Review Procedure

If a member company objects to the imposition of a remedial action by the Administrator, it shall have a right to request a review of the Administrator's decision by the Appeals Review Panel. A member company must make such a request in writing submitted to the Administrator within 14 days of being notified of the remedial action by the Administrator. Within 10 days of receiving such a request, the Administrator shall notify the Chairman of the Board of DSA who at that time shall select the three-person panel in accordance

with Section 4 above. That selection shall take place within 30 days of the member’s request for the review.

As soon as the panel has been selected, the Administrator shall inform the Appellant of the names of the panelists, including the name of the chairman of the panel. Within 14 days of that notification, the Administrator shall send a copy of the Complaint and all relevant documents, including an explanation of the basis of the decision to impose remedial action, to the panelists with copies to the Appellant. Upon receipt of such information, the Appellant shall have 14 days to file with the panel its reasons for arguing that remedial action should not be imposed along with any additional documents that are relevant. Copies of that information should also be sent to the Administrator.

Once the information has been received by the panelists from both the Administrator and the member company, the panel will complete its review within 30 days or as soon thereafter as practicable. The panel shall decide whether the Administrator’s decision to impose remedial action was reasonable under all of the facts and circumstances involved and shall either confirm the Administrator’s decision, overrule it, or impose a lesser sanction under Part E. The panel shall be free to contact the Administrator and the Appellant and any other persons who may be relevant witnesses to the Complaint, formally or informally as deemed appropriate. A decision by the panel shall be final and shall be promptly communicated both to the Administrator and the Appellant. The costs involved in the appeal such as costs of photocopying, telephone, fax, and mailing, shall be borne by the Appellant.

6. Codes of Ethics of Member Companies

a. Approval by Administrator

If a complaint is against a member company that has a code of ethics which has been registered with the DSA Code of Ethics Administrator, and the Administrator has issued an opinion that the company code is compatible with DSA’s Code of Ethics, the Complainant must first exhaust all remedies under the company code of ethics before filing a complaint with DSA’s Code Administrator. If the Complainant has exhausted those remedies and is of the opinion that the company’s disposition of the Complaint was unsatisfactory, the Complainant can appeal the company’s decision to the DSA Code Administrator. The Complainant must first notify the company of the intent to appeal to DSA. The Complainant must also forward all relevant documentation from the company code proceeding to DSA’s Administrator.

After receiving such an appeal, the Administrator shall confer with the company to obtain any additional information concerning the matter as well as an explanation for the company’s decision. The Administrator shall decide whether the company’s resolution of the complaint was reasonable under all of the facts and circumstances involved. If the Administrator decides in the negative, the Administrator shall work with the company in an effort to resolve the matter satisfactorily to all parties. If the Administrator finds that the member company will not cooperate in that effort, the Administrator can impose remedial action in accordance with DSA’s Code of Ethics. The Complainant shall bear all costs of an appeal from a decision under a company code, including such costs as photocopying, telephone, fax, and mailing charges.

b. Alternative Enforcement Process

In certain instances, a member company may provide a process whereby complaints can be addressed and which provide an equally acceptable vehicle for complaint resolution. In such instances—provided the process has been formally reviewed and approved by the DSA Code Administrator—the member company’s process may be substituted for and the member company relieved of, adherence to the provision of Section D. Regulations for Enforcement of the DSA Code of Ethics.* In order for a member company’s enforcement process to be approved as an alternative to Section D, the process must contain all the following elements:

1. The company has adopted an investigation and review process that substantially mirrors that presented in Section D and contains at more than one level the formal review of complaints regarding its salespersons or representatives;
2. The company has adopted an appeal process to the steps outlined in Paragraph 1 above that includes review by a neutral and competent third party, as approved by the DSA Code of Ethics Administrator.
3. The company offers a satisfaction guarantee or the equivalent on product sales to consumers who are not salespersons or representatives of the member company; and
4. The company advises its salespersons or representatives of the dispute resolution process in a sufficiently transparent manner including notices on its web site and in appropriate literature.

c. If a member company meets the above requirements of paragraph b., DSA will indicate on its web site that the member company’s Code of Ethics is an approved Alternative taking precedence over the DSA’s Code of Ethics Section D-Regulations for Enforcement of DSA Code of Ethics.

d. Those companies that are on the Company Code Alternative list will be exempt from the required publication provisions of Section B.2 of the Code and will not have to show on their web sites or in separate literature that complaints against the company should be

*However, no company code would take precedence over the provision of DSA’s Code of Ethics dealing with deceptive or unlawful consumer or recruiting practices; identification and privacy; or pyramid schemes.

filed with the DSA Code of Ethics Administrator. The DSA Code of Ethics web site will indicate, however, that all member companies are subject to all other provisions of the DSA Code of Ethics. Further, if the DSA Code of Ethics Administrator finds that any company on the Alternative list has failed to comply with the requirements for such a listing the Administrator may remove that company from the list.

E. POWERS OF THE ADMINISTRATOR

1. Remedies

If, pursuant to the hearing provided for in Part D Section 3, the Administrator determines that the accused member has committed a Code of Ethics violation or violations, the Administrator is hereby empowered to impose the following remedies, either individually or concurrently, upon the accused member:

- a.** Request complete restitution to the complainant of monies paid for the accused member's products which were the subject of the Code complaint;
- b.** Request the replacement or repair of any accused member's product, the sale of which was the source of the Code complaint;
- c.** Request the payment of a voluntary contribution to a special assessment fund which shall be used for purposes of publicizing and disseminating the Code and related information. The contribution may range up to \$1,000 per violation of the Code.
- d.** Request the accused member to submit to the Administrator a written commitment to abide by the DSA Code of Ethics in future transactions and to exercise due diligence to assure there will be no recurrence of the practice leading to the subject Code complaint.

2. Case Closed

If the Administrator determines that there has been compliance with all imposed remedies in a particular case, he shall close the matter.

3. Refusal to Comply

If a member refuses to voluntarily comply with any remedy imposed by the Administrator, and has not requested a review by the Appeals Review Panel, the DSA Board of Directors, or designated part thereof, may conclude that the member should be suspended or terminated from membership in the Association. In that event the Administrator shall notify the member of such a decision by registered mail and shall remind the member of its right to have the Administrator's original decision reviewed by the Appeals Review Panel in accordance with Part D Section 5 (Appeals Review Procedure) of this Code.

4. Appeal for Reinstatement After Suspension or Termination

If the suspension or termination is not appealed, or if it is confirmed by the Appeals Review Panel, a suspended member, after at least ninety days, and a terminated member, after at least one year, may request the opportunity to have its suspension or termination reviewed by the Appeals Review Panel which may in its discretion reinstate membership.

5. Referral to State or Federal Agency

In the event a member is suspended or terminated, and continues to refuse to comply with any remedy imposed by the Administrator within 30 days after suspension or termination, the Administrator may then consult with independent legal counsel to determine whether the facts that have been ascertained amount to a violation of state or federal law. If it is determined that such a violation may have occurred, the Administrator shall so notify the accused member by certified or registered mail, return receipt requested, and if appropriate action has not been taken by the accused member, and communicated to the Administrator after 15 days following such notice, the Administrator may submit the relevant data concerning the complaint to the appropriate federal or local agency.

F. RESTRICTIONS

1. At no time during an investigation or the hearing of charges against a member shall the Administrator or member of the Appeals Review Panel confer with anyone at any time concerning any alleged violation of the Code, except as provided herein and as may be necessary to conduct the investigation and hold a hearing. Any information ascertained during an investigation or hearing shall be treated as confidential, except in cases where the accused member has been determined to have violated federal, state or local statutes. At no time during the investigation or the hearing of charges shall the Administrator or a member of the Appeals Review Panel confer with a competitor of the member alleged to be in violation of the Code, except when it may be necessary to call a competitor concerning the facts, in which case the competitor shall be used only for the purpose of discussing the facts. At no time shall a competitor participate in the Administrator's or in the Appeals Review Panel's disposition of a complaint.

2. Upon request by the Administrator to any member, all documents directly relating to an alleged violation shall be delivered to the Administrator. Any such information obtained by the Administrator shall be held in confidence in accord with the terms of these regulations and the Code. Whenever the Administrator, either by his own determination or pursuant to a decision by the Appeals Review Panel, terminates an action which was begun under the Code, a record of the member accused shall be wiped clean and all documents, memoranda or other written material shall either be destroyed or returned, as may be deemed appropriate by the Administrator, except

to the extent necessary for defending a legal challenge to the Administrator's or Appeals Review Panel's handling of a matter, or for submitting relevant data concerning a complaint to a local, state or federal agency. At no time during proceedings under this Code regulation or under the Code shall the Administrator or member of the Appeals Review Panel either unilaterally or through the DSA issue a press release concerning allegations or findings of a violation of the Code unless specifically authorized to do so by the Executive Committee of DSA's Board of Directors.

G. RESIGNATION

Resignation from the Association by an accused company prior to completion of any proceedings constituted under this Code shall not be grounds for termination of said proceedings, and a determination as to the Code violation shall be rendered by the Administrator at his or her discretion, irrespective of the accused company's continued membership in the Association or participation in the complaint resolution proceedings.

H. AMENDMENTS

This Code may be amended by vote of two thirds of the Board of Directors.

As Adopted
June 15, 1970

As Amended
by Board of Directors through
December 3, 2002