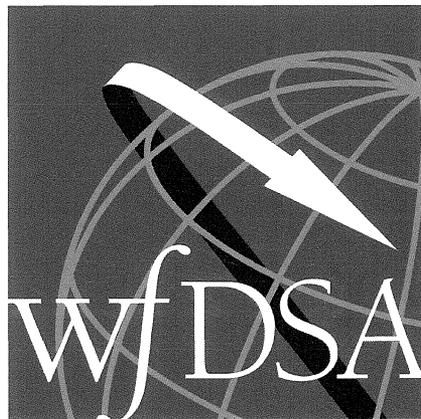


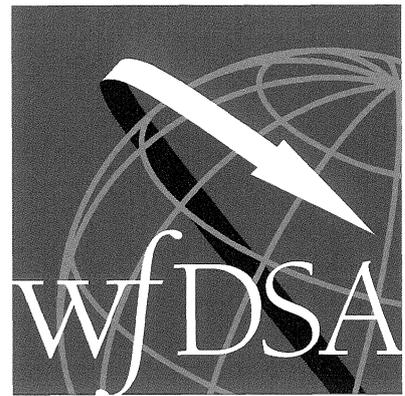
## Appendix E

World Federation of Direct Selling Associations (WFDSA)  
World Codes of Conduct

# World Codes of Conduct for Direct Selling



*World Federation of  
Direct Selling Associations*



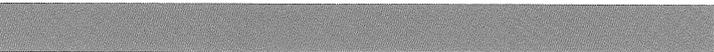
*World Federation of  
Direct Selling Associations*

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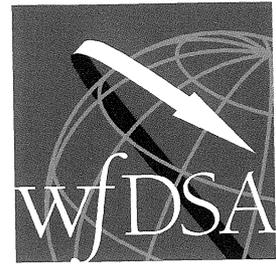
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# PREFACE



National Direct Selling Associations may publish the WFDSA Codes of Conduct differently from the manner that follows as necessity dictates.



*World Federation of  
Direct Selling Associations*

WORLD DIRECT SELLING  
CODE OF CONDUCT  
TOWARD CONSUMERS

# WORLD DIRECT SELLING CODE OF CONDUCT TOWARD CONSUMERS

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World Federation of  
Direct Selling Associations

## 1. GENERAL

### 1.1 Scope

The World Direct Selling Code of Conduct Toward Consumers (hereinafter referred to as the "Code") is published by the World Federation of Direct Selling Associations (WFDSA) for its national Direct Selling association members. The Code concerns the relations between Direct Selling companies and Direct Sellers on the one hand and consumers on the other hand. The Code is aimed at achieving the satisfaction and protection of consumers, the promotion of fair competition in the framework of free enterprise, and the enhancement of the public image of Direct Selling.

### 1.2 Glossary of Terms

For the purpose of the Code, the terms used have the following meaning:

**Direct Selling:** The marketing of consumer products directly to consumers generally in their homes or the homes of others, at their workplace and other places away from permanent retail locations, usually through explanation or demonstration of the products by a Direct Seller.

**DSAs:** Direct Selling Associations are national associations of Direct Selling companies representing the interest of the Direct Selling industry of a country.

**Company:** A Direct Selling company is a business entity which utilizes a Direct Selling organization for the marketing of products associated with its trademark or service mark or other identifying symbol and which is a member of a DSA.

**Direct Seller:** A Direct Seller is a person who is a member of a distribution system of a Direct Selling company. A Direct Seller may be an independent commercial agent, independent contractor, independent dealer or distributor, employed or self-employed representative, franchisee or the like.

**Product:** Product includes goods and services, both tangible and intangible.

**Selling:** Selling includes contacting potential customers, presenting and demonstrating products, taking of orders and delivery of goods and the collection of payment.

**Party Selling:** Selling through explanation and demonstration of products to a group of prospective customers by a Direct Seller usually in the home of a hostess who invites other persons for this purpose.

**Order Form:** Includes printed or written orders, receipts and contracts.

**Recruiting:** Any activity conducted for the purpose of inducing a person to become a Direct Seller.

**Code Administrator:** Independent person or body appointed by a DSA to monitor member companies' observance of the DSA's code and to resolve complaints under the code.

### 1.3 Associations

Every national DSA pledges to adopt a code of conduct that incorporates the substance of the provisions of the Code, as a condition of its admission and continuing membership in WFDSA.

### 1.4 Companies

Every DSA member company pledges to abide by the Code as a condition of admission and continuing membership in the DSA.

### 1.5 Direct Sellers

Direct Sellers are not bound directly by the Code, but shall be required by their companies to adhere to it or to rules of conduct meeting its standards as a condition of membership in the companies' distribution systems.

### 1.6 Self-Regulation

The Code is a measure of self-regulation by the Direct Selling industry. It is not a law, and its obligations may require a level of ethical behavior which exceeds existing legal requirements. Non-observance does not create any civil law responsibility. With termination of its membership in a DSA, a company is no longer bound by the Code, the provisions of which remain applicable to events or transactions occurring during the time a company was a member of the DSA.

### 1.7 Law

Companies and Direct Sellers are presumed to comply with the requirements of law and therefore the Code does not restate all legal obligations.

### 1.8 Standards

The Code contains standards of ethical behavior for Direct Selling companies and Direct Sellers. National DSAs may vary these standards provided that the substance of the Code is preserved or as is required by national law. It is recommended that the Code be used as evidence of industry standards.

### 1.9 Extra-territorial Effect

Every national DSA pledges that it will require each member as a condition to admission and continuing membership in the DSA to comply with the WFDSA World Codes of Conduct for Direct Selling with regard to direct selling activities outside of its home country, unless those activities are under the jurisdiction of Codes of Conduct of another country's DSA, to which the member also belongs.

## 2. CONDUCT TOWARD CONSUMERS

### 2.1 Prohibited Practices

Direct Sellers shall not use misleading, deceptive or unfair sales practices.

### 2.2 Identification

From the beginning of the sales presentation, Direct Sellers shall, without request, truthfully identify themselves to the prospective customer, and shall also identify their company, their products and

the purpose of their solicitation. In party selling, Direct Sellers shall make clear the purpose of the occasion to the hostess and the participants.

### **2.3 Explanation and Demonstration**

Explanation and demonstration of the product offered shall be accurate and complete, in particular with regard to price and, if applicable, credit price, terms of payment, cooling off period and/or return rights, terms of guarantee and after-sales service, and delivery.

### **2.4 Answers to Questions**

Direct Sellers shall give accurate and understandable answers to all questions from consumers concerning the product and the offer.

### **2.5 Order Form**

A written order form shall be delivered to the customer at the time of sale, which shall identify the company and the Direct Seller and contain the full name, permanent address and telephone number of the company or the Direct Seller, and all material terms of the sale. All terms shall be clearly legible.

### **2.6 Verbal Promises**

Direct Sellers shall only make verbal promises concerning the product which are authorized by the company.

### **2.7 Cooling-off and Return of Goods**

Companies and Direct Sellers shall make sure that any order form contains, whether it is a legal requirement or not, a cooling-off clause permitting the customer to withdraw from the order within a specified period of time and to obtain reimbursement of any payment or goods traded in. Companies and Direct Sellers offering an unconditional right of return shall provide it in writing.

### **2.8 Guarantee and After-Sales Service**

Terms of a guarantee or a warranty, details and limitation of after-sales service, the name and address of the guarantor, the duration of the guarantee and the remedial action open to the purchaser shall be clearly set out in the order form or other accompanying literature or provided with the product.

### **2.9 Literature**

Promotional literature, advertisements or mailings shall not contain any product description, claims or illustrations which are deceptive or misleading, and shall contain the name and address or telephone number of the company or the Direct Seller.

### **2.10 Testimonials**

Companies and Direct Sellers shall not refer to any testimonial or endorsement which is not authorized, not true, obsolete or otherwise no longer applicable, not related to their offer or used in any way likely to mislead the consumer.

### **2.11 Comparison and Denigration**

Companies and Direct Sellers shall refrain from using comparisons which are likely to mislead and which are incompatible with principles of fair competition. Points of comparison shall not be unfairly selected and shall be based on facts which can be substantiated. Companies and Direct Sellers shall not unfairly denigrate any firm or product directly or by implication. Companies and Direct Sellers shall not take unfair advantage of the goodwill attached to the trade name and symbol of another firm or product.

### **2.12 Respect of Privacy**

Personal or telephone contact shall be made in a reasonable manner and during reasonable hours to avoid intrusiveness. A Direct Seller shall discontinue a demonstration or sales presentation upon the request of the consumer.

### **2.13 Fairness**

Direct Sellers shall not abuse the trust of individual consumers, shall respect the lack of commercial experience of consumers and shall not exploit a consumer's age, illness, lack of understanding or lack of language knowledge.

### **2.14 Referral Selling**

Companies and Direct Sellers shall not induce a customer to purchase goods or services based upon the representation that a customer can reduce or recover the purchase price by referring prospective customers to the sellers for similar purchases, if such reductions or recovery are contingent upon some unsure future event.

### **2.15 Delivery**

Companies and Direct Sellers shall fulfill the customer's order in a timely manner

## **3. CODE ENFORCEMENT**

### **3.1 Companies' Responsibility**

The primary responsibility for the observance of the Code shall rest with each company. In case of any breach of the Code, companies shall make every reasonable effort to satisfy the complainant.

### **3.2 DSAs' Responsibility**

DSAs shall provide a person responsible for complaint handling. DSAs shall make every reasonable effort to ensure that complaints are settled.

### **3.3 Code Administrator**

Each DSA shall appoint an independent person or body as Code Administrator. The Code Administrator shall monitor companies' observance of the Code by appropriate actions. The Code Administrator shall settle any unresolved complaint of consumers based on breaches of the Code.

### **3.4 Actions**

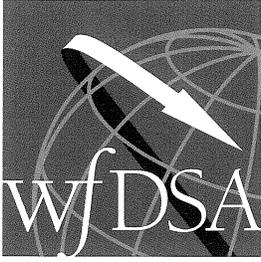
Actions to be decided on by companies, DSAs or Code Administrators may include cancellation of orders, return of goods purchased, refund of payments or other appropriate actions, including warnings to Direct Sellers, cancellation or termination of Direct Sellers' contracts or other relationships with the company, warnings to companies, exclusion of companies from DSA membership, and the publication of such actions and sanctions.

### **3.5 Complaint Handling**

Companies, DSAs and Code Administrators shall establish complaint handling procedures and ensure that receipt of any complaint is confirmed within a short time and decisions are made within a reasonable time. Handling of consumer complaints shall be free of charge to the consumer.

### **3.6 Publication**

DSAs shall publish the Code and make it known as widely as possible. Printed copies shall be made available free of charge to the public.



*World Federation of  
Direct Selling Associations*

**WORLD DIRECT SELLING  
CODE OF CONDUCT  
TOWARD DIRECT SELLERS,  
BETWEEN DIRECT SELLERS  
AND BETWEEN COMPANIES**

# WORLD DIRECT SELLING CODE OF CONDUCT TOWARD DIRECT SELLERS, BETWEEN DIRECT SELLERS AND BETWEEN COMPANIES



World Federation of  
Direct Selling Associations

## A. GENERAL

### A.a Scope

The World Direct Selling Code of Conduct toward Direct Sellers, between Direct Sellers, and between Companies (hereinafter referred to as the "Code") is published by the World Federation of Direct Selling Associations (WFDSA) for its national Direct Selling association members. The Code concerns the relations between Direct Selling companies and Direct Sellers, between Direct Sellers, and between Direct Selling companies. The Code is aimed at the protection of Direct Sellers, the promotion of fair competition in the framework of free enterprise, the enhancement of the public image of Direct Selling and the ethical representation of the Direct Selling industry's earning opportunity.

### A.b Glossary of Terms

For the purpose of the Code, the terms used have the following meaning:

**Direct Selling:** The marketing of consumer products directly to consumers generally in their homes or the homes of others, at their workplace and other places away from permanent retail locations, usually through explanation or demonstration of the products by a Direct Seller.

**DSAs:** Direct Selling Associations are national associations of Direct Selling companies representing the interest of the Direct Selling industry of a country.

**Company:** A Direct Selling company is a business entity which utilizes a Direct Selling organization for the marketing of products associated with its trademark or service mark or other identifying symbol and which is a member of a DSA.

**Direct Seller:** A Direct Seller is a person who is a member of a distribution system of a Direct Selling company. A Direct Seller may be an independent commercial agent, independent contractor, independent dealer or distributor, employed or self-employed representative, franchisee or the like.

**Product:** Product includes goods and services, both tangible and intangible.

**Recruiting:** Any activity conducted for the purpose of inducing a person to become a Direct Seller.

**Code Administrator:** Independent person or body appointed by a DSA to monitor member companies' observance of the DSA's code and to resolve complaints under the code.

### A.c Associations

Every national DSA pledges to adopt a code of conduct that incorporates the substance of the provisions of the Code, as a condition of admission and continuing membership in WFDSA.

### A.d Companies

Every DSA member company pledges to abide by the Code as a condition of admission and continuing membership in the DSA.

### A.e Direct Sellers

Direct Sellers are not bound directly by the Code, but shall be required by their companies to adhere to it or to rules of conduct meeting its standards as a condition of membership in the companies' distribution systems.

### A.f Self-Regulation

The Code is a measure of self-regulation by the Direct Selling industry. It is not a law, and its obligations may require a level of ethical behavior which exceeds existing legal requirements. Non-observance does not create any civil law responsibility. With termination of its membership in a DSA, a company is no longer bound by the Code, the provisions of which remain applicable to events or transactions occurring during the time a company was a member of the DSA.

### A.g Law

Companies and Direct Sellers are presumed to comply with the requirements of law and therefore the Code does not restate all legal obligations.

### A.h Standards

The Code contains standards of ethical behavior for Direct Selling companies and Direct Sellers. National DSAs may vary these standards provided that the substance of the Code is preserved or as is required by national law. It is recommended that the Code be used as evidence of industry standards.

### A.i Extra-territorial Effect

Every national DSA pledges that it will require each member as a condition to admission and continuing membership in the DSA to comply with the WFDSA World Codes of Conduct for Direct Selling with regard to direct selling activities outside of its home country, unless those activities are under the jurisdiction of Codes of Conduct of another country's DSA to which the member also belongs.

## B. CONDUCT TOWARD DIRECT SELLERS

### B.a Direct Sellers' Compliance

Companies shall require their Direct Sellers, as a condition of membership in the Companies' distribution systems, to comply with the Code or with rules of conduct which meet its standards.

### B.b Recruiting

Companies and Direct Sellers shall not use misleading, deceptive or unfair recruiting practices.

### B.c Business Information

Information provided by the company to its Direct Sellers and to prospective Direct Sellers concerning the opportunity and related rights and obligations shall be accurate and complete. Companies shall not make any factual representation to a prospective recruit which cannot be verified or make any promise which cannot be

fulfilled. Companies shall not present the advantages of the selling opportunity to any prospective recruit in a false or deceptive manner.

### **B.d Earnings Claims**

Companies and Direct Sellers shall not misrepresent the actual or potential sales or earnings of their Direct Sellers. Any earnings or sales representations made shall be based upon documented facts.

### **B.e Relationship**

Companies shall give their Direct Sellers either a written agreement to be signed by both the company and the Direct Seller or a written statement, containing all essential details of the relationship between the Direct Seller and the company. Companies shall inform their Direct Sellers of their legal obligations, including any applicable licenses, registrations and taxes.

### **B.f Fees**

Companies and Direct Sellers shall not ask other Direct Sellers 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 business.

### **B.g Termination**

On the termination of a Direct Seller's relationship with a company, companies shall buy back any unsold but saleable product inventory, including promotional material, sales aids and kits, and credit the Direct Seller's original net cost thereof less a handling charge to the Direct Seller up to 10% of the net purchase price and less any benefit received by the Direct Seller based on the original purchase of the returned goods.

### **B.h Inventory**

Companies shall not require or encourage Direct Sellers to purchase product inventory in unreasonably large amounts. The following should be taken into account when determining the appropriate amount of product inventory: the relationship of inventory to realistic sales possibilities, the nature of competitiveness of the products and the market environment, and the company's product return and refund policies.

### **B.i Remuneration and Accounts**

Companies shall provide Direct Sellers with periodic accounts concerning, as applicable, sales, purchases, details of earnings, commissions, bonuses, discounts, deliveries, cancellations and other relevant data, in accordance with the company's arrangement with the Direct Sellers. All monies due shall be paid and any withholdings made in a commercially reasonable manner.

### **B.j Education and Training**

Companies shall provide adequate education and training to enable Direct Sellers to operate ethically. This may be accomplished by training sessions or through written manuals or guides, or audio-visual materials.

## **C. CONDUCT BETWEEN COMPANIES**

### **C.a Principle**

Member companies of each DSA are requested to conduct themselves fairly towards other members.

### **C.b Enticement**

Companies and Direct Sellers should not entice away or solicit any Direct Sellers by systematic enticement towards other companies' Direct Sellers.

### **C.c Denigration**

Companies shall not unfairly denigrate nor allow their Direct Sellers to unfairly denigrate another company's product, its sales and marketing plan or any other feature of that company.

## **D. CODE ENFORCEMENT**

### **D.a Companies' Responsibility**

The primary responsibility for the observance of the Code shall rest with each individual company. In case of any breach of the Code, companies shall make every reasonable effort to satisfy the complainant.

### **D.b DSAs' Responsibility**

DSAs shall provide a person responsible for complaint handling. DSAs shall make every reasonable effort to ensure that complaints are settled.

### **D.c Code Administrator**

Each DSA shall appoint an independent person or body as Code Administrator. The Code Administrator shall monitor companies observance of the Code by appropriate actions. The Code Administrator shall settle any unresolved complaint of Direct Sellers based on breaches of the Code.

### **D.d Actions**

Actions to be determined by the Code Administrator against a company regarding complaints of a Direct Seller concerning breaches of the Code may include termination of the Direct Seller's contract or relationship with the company, refund of payments, issuance of a warning to the company or its Direct Sellers, or other appropriate actions and the publication of such actions or sanctions.

### **D.e Complaint Handling**

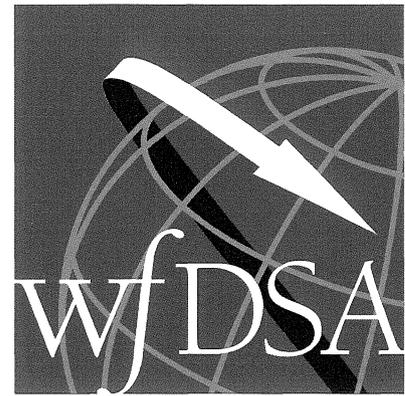
Companies, DSAs and Code Administrators shall establish complaint handling procedures and ensure that receipt of any complaint is confirmed within a short time and decisions are made within a reasonable time.

### **D.f Companies Complaints**

Complaints of a company about another company or a DSA shall be resolved either by the Code Administrator or an independent arbitrator. Individual DSAs shall define details of their own procedures.

### **D.g Publication**

DSAs shall publish the Code and make it known as widely as possible. Printed copies shall be made available free of charge to the public.



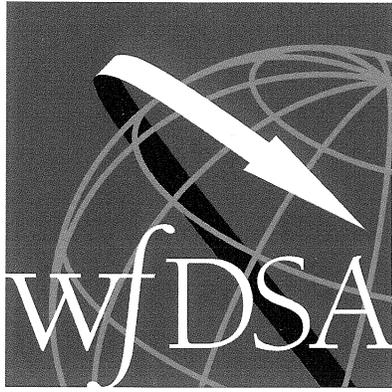
*World Federation of  
Direct Selling Associations*

## HOW TO FILE A COMPLAINT

If you have a complaint against a direct selling company that is a member of a Direct Selling Association (DSA) for any business practice you believe is unethical or illegal and a possible violation of the Code of Conduct, we recommend the following available options:

1. First, try to resolve the matter directly with the company. Every company that is a member of a Direct Selling Association (DSA) must adhere to their Code of Ethics and should have a Code Compliance officer. Try to resolve your complaint with that person. Your complaint should be in writing, and should include the following basic information:
  - The date and details of the incident
  - The parties involved
  - If possible, identify the Code violation you believe has occurred
  - Efforts you have made to resolve the matter
  - List the amount and code of product and, if relevant, include invoices or other supporting documents
  - Any responses the other parties have made to resolve the matter
  - The current status of the complaint
  - How you would like to see the complaint resolved or remedied.
2. If you are still not satisfied, contact the Code Administrator in the country where the possible violation occurred and provide them with a description of your complaint in writing. Every DSA should also have a Code Administrator or some independent entity that administers their Code of Ethics. You can contact the Code Administrator directly with your complaint. A list of Code Administrators with their phone numbers and e-mail addresses (where available) is on the WFDSA Web site located at [www.wfdsa.org](http://www.wfdsa.org).
3. If there is no DSA in the country where the Code violation occurred, or if the company is not a member of that country's DSA but IS a member of a DSA in another country (please see WFDSA country list at [http://www.wfdsa.org/membership\\_directory](http://www.wfdsa.org/membership_directory)), then you can send your complaint to the DSA in that country where the company is a member. All DSAs that are members of the WFDSA pledge to abide by the World Code of Conduct ([http://www.wfdsa.org/consumers\\_direct/codes.asp](http://www.wfdsa.org/consumers_direct/codes.asp)) as a minimum standard of ethical behavior. The World Code provides extra-territorial effect, which means that you can still be protected, and file a complaint, even though the company or distributor is not a part of that country's DSA, or there is no DSA in that country.

The Code of Conduct is here to protect the consumers of our products and our business opportunity. Help the WFDSA ensure that we maintain the highest ethical standards possible around the world.



*World Federation of  
Direct Selling Associations*

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Appendix F

Moral Suasion: Development of the U.S. Direct Selling  
Association Industry Code of Ethics, Thomas R. Wotruba  
(1995)

# **MORAL SUASION**

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**DEVELOPMENT OF THE  
U.S. DIRECT SELLING ASSOCIATION  
INDUSTRY CODE OF ETHICS**

**THOMAS R. WOTRUBA, PH. D.**

The Direct Selling Education Foundation (DSEF) is a Washington, D.C. not-for-profit public educational organization. It is tax-exempt and contributions to it are tax-deductible.

DSEF's mission is "to serve the public interest with education, information and research, thereby enhancing acceptance and public awareness of direct selling in the global marketplace." The Foundation funds consumer and academic symposia in the United States and abroad, provides speakers and teaching materials for university marketing professors, develops and distributes consumer information literature and audiovisual materials and maintains a library in Washington, D.C.

*Moral Suasion: Development of the U.S. Direct Selling Association Industry Code of Ethics*

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1666 K Street, N.W., Suite 1010, Washington, D.C. 20006  
Telephone (202) 293-5760; Fax (202) 293-7483

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Printed in the United States

**moral suasion:** Persuasion exerted or acting  
through and upon the moral  
nature and sense.

*"Who thought that moral  
suasion needed to be aided  
by legislation?"*

*- Sir Charles W. Dilke  
London, December 15, 1885*

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## FOREWORD

The past quarter century has witnessed a proliferation of codes of ethics written by individual corporations and associations of companies. In *Moral Suasion*, Professor Tom Wotruba calls this period and its plethora of codes an "ethical renaissance," but I am not quite as ready to so praise us business people. Having observed up close and ugly the tawdry doings of savings and loan operators in my home state, the reprehensible activities of Wall Street raiders of the '80s, and the seemingly endless parade of fraud allegations in business and government, I think we may still be a little shy of an "ethical renaissance." All this "bad" business has gone on despite the fact that it has been proven over and over that it is good business to always do the right thing.

As Professor Wotruba reminds us, the U.S. consumer movement was reawakened in the 1960s, creating woe to those companies and industries that did not heed the demands of consumer advocates and their calls for new consumer rights. We should also remember the fresh impetus given to developing codes of ethics from the discoveries beginning in 1973 by the Department of Justice, Internal Revenue Service, and the Securities and Exchange Commission of widespread corruption and bribery by leading U.S. corporations in their foreign dealings. The foreign corrupt trade practice laws that emanated from these revelations berthed many a new code of ethics, as does each newly uncovered bit of corporate misconduct.

Having said this, I believe the story of the evolution of a code of ethics for the direct selling industry as chronicled by Professor Wotruba to be one of the great, positive business stories of the 20th century. In the forty years I've made my living as a direct seller, I have seen the industry emerge from much reviled to much praised, thanks in large measure to a concentrated, deliberate, and continuous effort to establish and promote the highest ethical standards. In fact, these very words are used to describe the most critical imperative of the industry's strategy for growth, called "Plan 2000."

Sadly, while the U.S. Direct Selling Association, one of 41 DSAs around the world, was creating, improving, implementing, and amending its consumer code of ethics, certain direct selling companies (both members and non-members of the Association) were engaged in unethical recruiting practices in the United States and globally. In many cases, since no strong industry body existed in many nations outside the U.S. to promote self-regulation, these questionable operators sowed the seeds of consumer rage in many a market, inevitably leading to over-regulation, and a tarnished public image. I watched in horror, for example, as the markets I helped open as a member of Tupperware's European expansion team in the early 1960s were closed or nearly closed to direct selling as a result of the unethical business practices of a handful of unsavory operators. In the words of Herbert Spencer, "No one can be perfectly moral till all are moral."

Professor Wotruba's work illuminates what should be obvious: It takes decades to create the consumer environment of trust and acceptance in which direct selling thrives and the entrepreneurial skills of millions are unleashed. Decades. To achieve this requires what I call "generational thinking." Generational thinking is extremely difficult to practice in a business environment that

puts great pressure on immediate sales and profit gains. It is even more difficult to practice when you are a part of the governance body of an association of widely diverse and very entrepreneurial businesses, public and private, large and small.

As chairman of the U.S. DSA for two terms in the early 1990s, I was privileged to champion the work of our ethics task force as it moved to address U.S. industry recruiting practices. I described this effort to enhance our 20-year-old code of ethics as one in which we would "protect the consumers of our opportunity as we do the consumers of our products and services." This amendment to the code has now been adopted, and debate still continues as to ways in which it can be improved and administered.

Fortuitously, the leadership of our global organization, the World Federation of Direct Selling Associations (WFDSA), has embraced the concept of a World Code of Ethics, to be ratified by all DSAs around the world in 1995. The intergenerational work of a far-seeking group of association leaders will now spread around the globe into more than 100 nations served by WFDSA companies. An agent for this will be the educational activities in the public interest of the U.S. based Direct Selling Education Foundation, a public, not a private, foundation. DSEF is, through generous grants by member companies, now extending its consumer and academic educational programs, a major thrust of which is to support government and nongovernmental consumer protection groups, to many other nations.

There is, of course, a caveat. The work of decades can still be unravelled in days by unprincipled, greedy business practitioners. The volunteer and professional leadership of all DSAs will need to be vigilant to the practices of their independent contractor sales forces, and open to further modifications and improvements to this World Code.

The work of today's WFDSA leadership cannot be fairly judged until 2020, when we would hope to ask Professor Tom Wotruba to write another chapter to *Moral Suasion*. For now, I would like to express on behalf of the 15 million active direct seller members and the 1,000+ corporations of the WFDSA, heartfelt thanks to Professor Wotruba for reminding us of our past and pointing the way to an ethical future course.

Dick Bartlett  
Mary Kay Corporation  
Dallas, Texas, March 1995

## ACKNOWLEDGEMENT

The author gratefully acknowledges the encouragement of Richard C. Bartlett of Mary Kay Corporation as well as financial support from the latter to undertake this project. Many persons were most helpful in providing information and recollections upon which much of this historical case study is founded. Those persons are mentioned at the end of the References section. In addition, the encouragement and suggestions of Marlene W. Futterman of the Direct Selling Education Foundation are especially noted here, for she assisted many times in finding names, addresses, phone numbers, and suggested persons to contact. Everyone I approached in the Direct Selling Association was most cooperative in their time and effort in tracking down documents and other sources. In particular, my work was helped immensely by the assistance of Jay Hescoek, who always responded promptly to my questions and requests, and who truly is a fountain of knowledge about the history of DSA. To all, my sincere thanks.

Tom Wotruba  
San Diego State University

# **Moral Suasion:**

## **Development of the U.S. Direct Selling Association Industry Code of Ethics**

### **INTRODUCTION**

This is a narrative about how a code of ethics was developed and enacted for and by member companies in the U.S. Direct Selling Association (DSA). It is a documentation of the activities, attitudes, and aspirations that occurred to produce this code, a policy statement that made and continues to make a substantial impact on the collective behavior of companies making up the direct selling industry. The intention is not to provide a critical analysis of what was done, nor to build any theory or normative model based on this experience. Instead, the primary purpose is to relate the facts and circumstances in an impartial manner, thereby providing an historical case study as a vehicle for learning and analysis by others.

This code of ethics was instituted in 1970. Hindsight clearly confirms what was apparent to many at that time -- a substantial displeasure existed among many Americans about the practices of business and the treatment of the consumer. The beneficent premise of a market economy was being implicitly questioned if not explicitly disputed by many vocal critics and their followers, with ethical issues emerging as central to this maelstrom. As these reactions evolved and synthesized, they stimulated increased and threatened legislation, intensified government regulation, and substantial consumer activism. Business responded in various ways, including denial, rationalization, blaming others, and self-approration, but also introspection and reform.

It was within this context that member companies of the DSA -- firms whose selling and distribution methods involve personal sales calls direct to consumers individually at their homes or at parties hosted by consumers -- constructed a code of ethics that mandated procedures for all Association members. Since many of the criticisms of business at that time related to its selling practices, this achievement represented a remarkable step for an industry whose life blood of revenues depended completely on the efforts of its salespeople. It is even more notable because the vast majority of salespeople for these direct selling firms were then and are today independent contractors. To commit to a code of ethics involving sales practices of independent contractors who have a great deal of autonomy in their business behavior was indeed accepting a risky responsibility, especially if the intention of these industry executives to abide by the code was genuine. Events subsequent to 1970 showed not only that the intention was genuine, but also that direct selling industry members actively strove to better the code through amendments in code content and administrative procedures along with active attempts to publicize the code among consumers of its

companies' products.

This story of the DSA Code of Ethics unfolds in four Parts. First is an overview of the events and conditions prior to 1970 that most likely had great influence on those executives in DSA member firms who devised, debated, and finally decreed the Code. Second is a chronicle of activities leading up to the formulation of the Code, along with the enactment event itself and a brief discussion of the content and character of the initial version of the Code affirmed in 1970. Third is a description of the events and trends that occurred in the marketplace and regulatory environments following the Code enactment, along with a discussion of DSA experiences in implementing and promoting the Code and the impact that it produced. Fourth is a presentation of Code amendments and administrative process modifications from its inception through 1993 along with brief comments about the future. A short post script notes some of the underlying dimensions or themes that permeate this narrative. Some informational appendices are included as well as a bibliography of referenced sources for those curious enough to pursue further reading.

## PART ONE

### PRE-CODE CONDITIONS AND EVENTS

The decade of the 1960s provides the setting within which the DSA Code of Ethics was conceived. As this decade progressed, various scenarios unfolded and some specific events occurred that compelled the attention of executives in direct selling firms and most other business organizations as well. Within the overall marketplace was the burgeoning of consumerism. Government officials were reacting to, and in some cases, leading the consumer movement with speeches, legislative proposals, and encouragement of tougher postures by regulatory agencies. Some hard-hitting articles appeared in law reviews aimed especially at direct selling practices. All these events stirred considerable debate among academicians and industry members concerning remedies for the problems posed, often focusing on the pros and cons of government regulation versus self-regulation. The aggregate impact of all these scenarios and events was an upsurge in overall sensitivity to matters of ethics in the marketplace and the business world.

#### Consumerism

The consumer movement was not a completely new phenomenon in the 1960s. Periods of consumer unrest also occurred in the early 1900s and again in the 1930s (Herrmann 1970). The first episode influenced the enactment of such legislation as the Pure Food and Drug Act of 1906 as well as the creation of the Federal Trade Commission (FTC) in 1914. The second episode, born out of the depression, kindled a strengthening of earlier legislation and an expansion of the FTC's regulatory authority against deceptive practices in the marketplace via the Wheeler-Lea Act of 1938. (Wagner 1971). But many observers called these two early periods "fads" as compared with the 1960s happenings (Kotler 1972). The consumer movement of the 1960s emerged against a backdrop of numerous popular books, such as Vance Packard's *The Hidden Persuaders* (1957) and *The Waste Makers* (1960), Rachel Carson's *The Silent Spring* (1962), David Caplovitz's *The Poor Pay More* (1963), Jessica Mitford's *The American Way of Death* (1963), and Ralph Nader's *Unsafe at Any Speed* (1965), and brought a profusion of advocacy groups and well-recognized individual movement leaders (Mayer 1989). Of particular relevance to direct selling was Pierre Berton's *The Big Sell* (1963), which was subtitled "An Introduction to the Black Arts of Door-to-Door Salesmanship & Other Techniques." In addition, a proliferation of scholarly papers and popular articles on consumerism began during this time and has continued even into the 1990s (Brobeck 1990). The enduring impact of the 1960s consumer movement was evidenced in a major 1976 study of the American public in which 74% of the respondents believed that consumers get a "better deal" because of the things the consumer movement has done (Louis Harris 1977).

Consumerism was not any single person's brainchild, but took shape and evolved through a multiplicity of events, attitudes, and reactions in a wide variety of locations and settings (Day and Aaker 1970). Its essence is captured in this definition: "Consumerism is a social movement seeking

to augment the rights and powers of buyers in relation to sellers" (Kotler 1972). Its underlying causes were many. Social and economic factors such as advancing education and income generated greater interest among consumers in new technologies. But the resulting product complexities, coupled with an increasingly impersonal marketplace and deceptive or unfathomable advertising and sales practices produced apprehensiveness and often frustration. Inflation and growing environmental problems reinforced these feelings of skepticism about the role and responsibility of business firms --especially their standards of conduct and concern for customers. As a consequence, a belief emerged among many consumers that the buyer side of the buyer-seller transaction needed more clout to gain fair treatment. One article accentuated this conclusion in its definition of consumerism as "the organized efforts of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living" (Buskirk and Rothe 1970, p. 62).

An indication of some specific issues and opinions prevalent at this time is provided by the results of a national sample of consumers taken in 1971 (Barksdale and Darden 1972). Table 1 presents a sample of findings from the seven sections of that study, showing what percent of consumers agreed or disagreed with each statement tested (the respondents who were "uncertain" are omitted from the table). Thus, in 1971 the majority of consumers felt that manufacturers did not have a consumer-oriented philosophy but rather were more interested in making profits. In addition, consumers who believed product quality had not improved outnumbered those who felt product quality had improved, and a two-thirds majority believed that advertising did not present a true picture of product advertised. Most disagreed that product repair and maintenance was getting better, and most did not agree that consumer problems were becoming less serious nor were they less important than other problems of families. Ralph Nader's work was positively rated by a majority of consumers, and an even larger majority favored greater government involvement in regulating marketing activities. As the study's authors noted, these results signaled considerable discontent, frustration, and even antagonism, all of which could lead to increased government control through legislation if not given effective attention by business.

Politicians and government officials were not inattentive to this consumer movement, but made some major impacts on its vitality. President John F. Kennedy was the first chief executive to actively support the consumer movement when, in his March 15, 1962 message to Congress on protecting the consumer interest, he asserted four consumer rights: (1) the right to safety; (2) the right to be heard; (3) the right to be informed; and (4) the right to choose. Six years later, President Lyndon B. Johnson presented a message on the American consumer to Congress in which he proposed an eight-point program:

1. Crackdown on fraud and deception in sales.
2. Launch a major study of automobile insurance.
3. Protect Americans against hazardous radiation from television sets and other electronic equipment.

4. Close gaps in our system of poultry inspection.
5. Guard the consumer's health against unwholesome fish.
6. Move to prevent death and accident on our waterways.
7. Add new meaning to warranties and guarantees, and seek ways to improve repair work and servicing.
8. Appoint a government lawyer to represent the consumer.

His first point was especially cogent for selling organizations, and he elaborated on it in his speech as follows:

Every spring, when families turn their thoughts to household improvements, the shady operator goes to work. His office may be a telephone booth, a briefcase which he carries from door to door, or a car which he drives from state to state. His sales brochure may be a catchy newspaper advertisement. With false and deceptive offers of attractive home repairs or items that are more promise than product, he preys most of all on those who are least able to protect themselves: the poor, the elderly, the ignorant. Too often -- and too late -- the victim discovers that he has been swindled: that he has paid too much, that he has received inferior work, and that he has mortgaged himself into long-term debt. Some even lose their homes. A recent report of the National Better Business Bureau estimates that deceptive practices in the home improvement field alone cost the consumer between \$500 million and \$1 billion yearly.

Sales rackets are not limited to home improvements. And sales rackets of all types are on the increase. As the law now stands, there is no effective way to stop these unscrupulous practices when they are discovered. The legal machinery may drag on for two or three years before the violator can be ordered to cease and desist. In the meantime, countless more Americans are cheated. In matters so flagrantly deceptive, the consumer and the honest businessman deserve greater -- and speedier -- protection (Johnson 1968).

President Richard M. Nixon likewise made special efforts to recognize and remedy consumer

problems in two messages to Congress, one in 1969 (October 30) and the next in 1971 (February 24). He proposed a Buyer's Bill of Rights that would incorporate the following provisions:

1. Create an Office of Consumer Affairs in the Executive Office of the President (done in 1971);
2. Establish a product safety program in the Department of Health, Education, and Welfare;
3. Propose a Consumer Fraud Prevention Act to be enforced by the Department of Justice and the Federal Trade Commission;
4. Ask interested private citizens to study the adequacy of existing procedures for the resolution of disputes arising out of consumer transactions;
5. Propose a Fair Warranty Disclosure Act;
6. Propose a Consumer Products Test Methods Act;
7. Resubmit the Drug Identification Act;
8. Establish a National Business Council to assist the business community in meeting its responsibilities to the consumer; and
9. Other reforms, such as a Consumer Fraud Clearinghouse in the Federal Trade Commission.

In his speech presenting this package of proposals, President Nixon emphasized that the success of our free enterprise system depends largely on the mutual trust and goodwill of those who consume and those who produce or provide (Nixon 1971).

A particularly powerful contribution to the consumerism movement was provided by Senator Warren G. Magnuson and Jean Carper in their book titled *The Dark Side of the Marketplace: The Plight of the American Consumer* (Magnuson and Carper 1968). This book, written when Senator Magnuson was Chairman of the Senate Commerce Committee, recounted numerous tales of woe regarding consumers' economic welfare in Part One of the book and health and safety issues in Part Two. Much of the material in Part One involves episodes of fraudulent or misleading behavior by door-to-door salesmen, and the authors note in the book's introduction that "We [presumably the Senate Commerce Committee] are now studying measures to curtail fraudulent door-to-door salesmen . . . ." Regardless of the extent to which the scenarios in this book represented typical or atypical business practices, a strong picture was painted of widespread consumer plight at the devious and unscrupulous hands of many who sell for a living. This picture undoubtedly made a convincing impression on many readers, influencing their perception of the image and character of

direct selling.

In addition to the authors and government officials cited, many additional consumer activists gained recognition during the era of the 1960s for their outspoken oratory and their leadership in watchdog groups. Perhaps most prominent was Ralph Nader who, assisted by his "Nader's Raiders," became the personification of the consumer movement to most Americans (Mueller 1969). Nader was directly or indirectly responsible for setting up dozens of public interest organizations such as the Center for the Study of Responsive Law, Center for Auto Safety, Public Interest Research Group, and the Center for Law and Social Policy (Buckhorn 1972; Gorey 1975; Marshall 1971; McCarry 1972). Others of major note included Esther Peterson, who was the White House consumer adviser during the mid-1960s (Demkovich 1978) and Betty Furness, who became White House consumer advisor in the late 1960s and attained strong public recognition through her work as a television consumer reporter (Herman 1967). Table 2 lists these and other notable contributors to the consumer movement who gained attention from the public and the press during the 1960s and beyond.

### Political-Legal Climate

One impact of the myriad efforts in consumerism was a direct impetus for much legislative activity. Senator Magnuson, both a powerful federal legislator and a prominent consumer activist, echoed the sentiments of many consumerists and their political supporters by stating:

The Government must work to make the consumer choice fully effective. The consumer must be protected against unsafe products, against misleading information, and against the deceitful practices of a few businessmen that can undermine the confidence in the vast majority of diligent and reputable firms (Magnuson and Carper 1968, p. xiii).

The plea for government action was tempered by acknowledging that these undesirable practices emanated from only "a few" businessmen, though elsewhere the same source intimated a more endemic ill by stating that "consumer deception is not merely a small hurt suffered by a gullible few and a minor irritant to legitimate business, *it is a significant social problem* (Magnuson and Carper, pp. 59-60; italics theirs).

When these statements were made, the pace of federal legislation was accelerating. A substantial number of regulatory achievements were already firmly in place since the 1890 Sherman Antitrust Act, the patriarch of this developing regulatory genealogy. Table 3 lists some of the major federal legislation aimed at promoting fair competition and protecting consumers that was passed prior to the 1970 enactment of the DSA Code of Ethics. But the regulatory proliferation continued beyond 1970. For example, 25 "additions to the arsenal of regulatory power" passed by Congress during 1974-1978 were listed by Weidenbaum (1979).