



Direct selling

A global industry empowering
millions in India

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Foreword

FICCI

With a developing economy, and growing consumerism, various store and non-store formats have evolved to cater to the growing retail sector in India. The direct selling market at INR72 billion (2012-13) is one of the fastest growing non-store retail format, recording a double digit growth of more than 20 per cent over the past five years. The growing Indian market has attracted a large number of local and foreign direct selling companies.

Though direct selling is a relatively new industry in India, in less than two decades it has provided self-employment opportunities to more than 5 million people, out of which nearly 60 per cent are women. Besides providing additional income opportunities to direct sellers, the industry also generates direct employment. Majority of the direct selling companies outsource production, packaging and distribution of their products, thus generating direct employment across the value chain while enabling the development of the SME sector. The industry also contributes to the exchequer and in 2012-13 alone the industry generated INR10 billion in taxes. Many direct selling companies have been in the forefront by actively contributing towards social activities.

However, there has been a lack of clarity on the legislations governing this industry. We strongly believe that a clear distinction between fraudulent companies and legitimate businesses should be drawn.

We at the direct selling sub-committee give professional insight into the issues pertaining to this labour intensive direct selling industry. The sub-committee within itself has an advisory board of neutral and experienced people.

My colleague, at FICCI worked as a connectors between the industry and the researchers and adhered to quality and the timeline. I would like to express my gratitude to KPMG in India for this report.

FICCI is hopeful that this report can provide insights and actionable recommendations for putting together a conducive legal environment for the industry.



Dr. A. Didar Singh
Secretary General, FICCI

KPMG in India

Direct selling is one of the oldest, most traditional forms of selling globally, involving a direct interaction between the seller and the buyer. Today, it is a successful industry operating in over 100 countries with a market size of USD167 billion.

The direct selling industry in India is estimated to be INR72 billion (2012-13), and forms only around 0.4 per cent of the total retail sales. This is far lower than other comparable economies (one-half of China and one-tenth of Malaysia). With growth in consumer markets and increase in its penetration to globally comparable levels, the industry has the potential to reach a size of INR 645 billion by 2025.

In India, the industry has contributed significantly to women's empowerment, skill development, technology percolation and the growth of the SME sector, besides contributing to the exchequer. In addition, the industry also provides a viable form of alternative income, which promotes self-employment. Over five million people are already associated with the industry as direct sellers.

With the success of the industry, which relies on individuals to accomplish sales, a number of fraudulent businesses have also tried to emulate the form, but with malicious intentions and outcomes. This has impacted the industry, which recognises this as one of the biggest challenges to its growth. There is a need to revisit existing laws and bring about regulatory clarity to build an environment of trust in order to reap multiple benefits that the industry has to offer.



Rajat Wahi
Partner and Head
Consumer Markets



Executive summary

What is direct selling

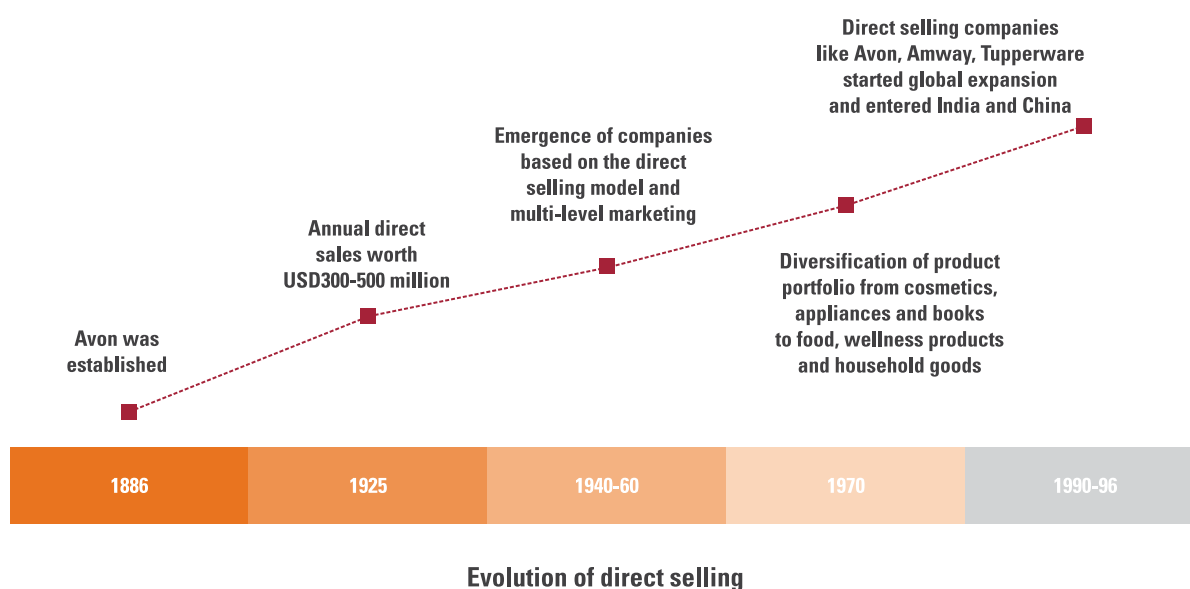
Direct selling refers to the selling of goods and services to consumers who are away from a fixed retail outlet, generally at their homes, workplace, etc., through an explanation, and demonstration of the product by sellers. It is one of the oldest modes of sales, and is similar to the traditional consumer goods retail model.

History and evolution of direct selling

The modern direct selling industry can be considered to have pioneered in the USA, with the establishment of Avon in 1886. With the success of this model, involving lower sales, and distributions costs and greater direct interaction with the consumer, the portfolio of products swelled to include cosmetics, personal care, household goods, accessories and other products, over time. The movement was supported by the engagement of women as direct sellers, who considered this opportunity as a means of

empowerment and self-reliance.

The introduction of the multi-level marketing compensation plans (MLM plans) opened another chapter in the evolution of direct selling. Introduced in the mid-twentieth century, the plan for the first time enabled consumers to benefit from the success by providing them the option to become a direct selling partner of the business. MLM plans became widely accepted and a large number of companies adopted the same including global majors like; Avon, Tupperware and Amway.



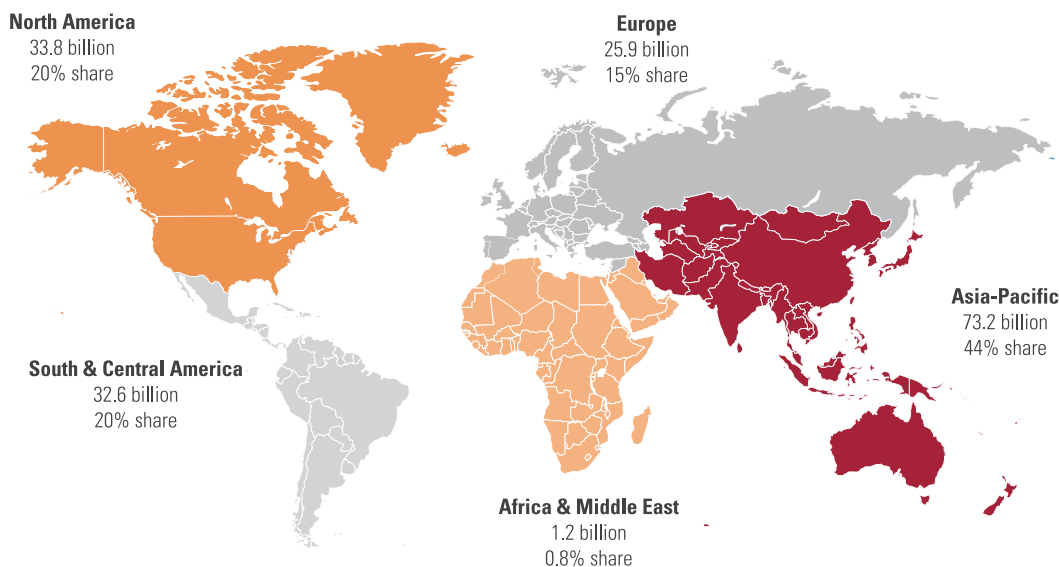
Source: www.blog.ficci.com, 9 July 2014, KPMG in India analysis

The success of MLM compensation plans however, led to a number of fraudulent money circulation schemes globally. The scammers posed as direct selling enterprises to gain from the popularity of the direct selling MLM plans. It has taken significant time in different economies to distinguish between the two, and recognise direct selling as a legitimate business model. Acknowledging the importance of direct selling as a sales and distribution model and its potential for promoting self-employment, governments across

the globe have taken firm steps to distinguish it from artificial money circulation and Ponzi schemes. This has primarily been done either (a) by introducing specific legislations to govern the direct selling industry, or (b) by recognising direct selling as a rightful business model within existing consumer laws. The industry also self-regulates by creation of specific and stringent guidelines for its members, which are governed by local associations accredited by a global association.

Today, direct selling is a US\$167 billion (2012) industry globally, engaging over 89 million direct sellers. Asia-Pacific forms the largest direct selling market with a share of 44 per cent followed by North America, Central and South America (20 per cent share, each) and Europe (15 per cent).

2012



Source: WFSDA, KPMG in India analysis

Direct selling in India

Modern direct selling can be considered to have been kick-started in India in 1980s. The industry witnessed major growth post-liberalisation with many global players entering the Indian market. Amway was one of the first major global direct selling companies to enter India in the year 1995, which was followed by companies like; Avon, Oriflame and Tupperware in 1996. Around the same time Modicare was one the first few Indian companies to adopt this channel of distribution.¹

Today, the direct selling market in India is estimated to be around INR72 billion.¹ Our interactions with industry stakeholders suggest that the industry has also created a positive impact on several other social and economic parameters:

- a. Additional income opportunities: Direct selling provides additional income opportunities to a large number of people and promotes micro-entrepreneurship. Currently, over 5 million direct sellers are estimated to be engaged with the industry, and are projected to grow further with the growth of the industry. In addition to providing income opportunities, direct selling

also imparts transferable skills in sales and management, which can be used outside the direct selling industry, as well.

- b. Women empowerment: Direct selling offers self-employment opportunities to a large number of people, especially women. Direct selling gives women the flexibility to manage their time and balance their work and personal lives. The industry in FY13 is estimated to have provided self-employment to 3.4 million female distributors. Many companies work towards the empowerment of women.
- c. Development of the SME sector: Many direct selling companies rely on SMEs for manufacturing their products. In a lot of cases, the direct selling companies impart the manufacturing know-how, technology and processes to enable the SMEs to produce excellent products. Many direct selling companies also invest in providing the right equipment and machines to the SMEs for production. Driven by these initiatives, several SMEs have now developed capabilities to cater to the needs of other

MNCs and have commenced supplying to them, in the process promoting India as a manufacturing destination.

- d. Employment generation: Besides providing additional income opportunities to direct sellers, the industry also generates a large number of jobs. Majority of the direct selling companies outsource production, packaging and distribution of their products, thus generating direct employment across the value chain.
- e. CSR initiatives: In terms of responsibilities towards society, direct selling companies have been in the forefront. Many of the companies involved in direct selling actively contribute towards social activities. Avon's Breast Cancer Crusade and Amway's Sunrise project for education are well known for their social impact.

1. IDSA, PHD Chamber, ICREAR, Direct Selling News, Industry Discussions

f. Contribution to the government exchequer: The operating model for direct selling generates tax contributions to the government across its value chain. Total tax contribution by the direct selling industry to the government in FY13 alone is estimated to be INR10 billion. This includes direct and

indirect tax contributions through corporate income taxes, import duties and VAT.

Going forward, the industry has the potential to create a significant social and economic impact in India. Our estimates suggest that the industry has the potential to reach a size of

INR645 billion by 2025, driven by growth in consumer markets and increase in the penetration of direct selling to globally comparable levels. This could however be contingent on creating an enabling environment for the industry, and mitigation of some of the challenges it is facing today.

1

Immense market potential of INR 645 billion...

Direct selling market size in India

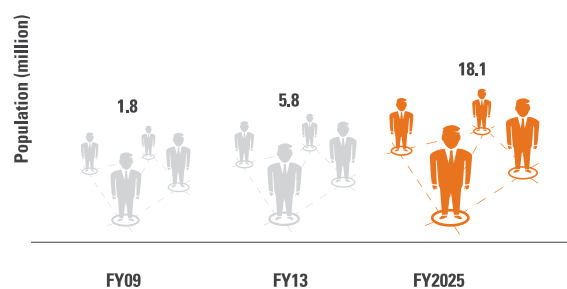


Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

2

...offering self-employment opportunities to 18 million

Self-employment opportunities

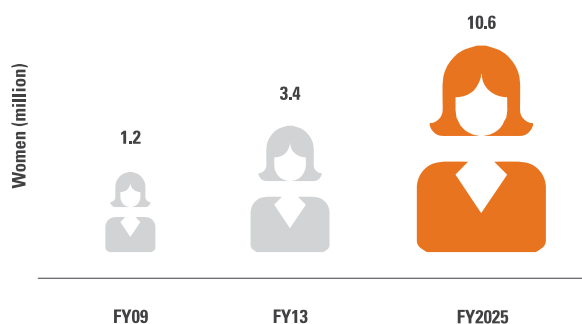


Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

3

With the potential to economically empower ~11 million women

Women empowerment

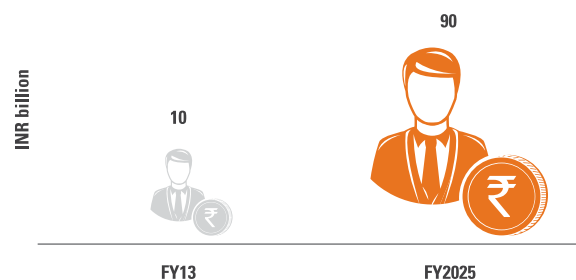


Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

4

...and the ability to contribute INR 90 billion to the exchequer

Tax



Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

5

.. with CSR contribution of INR 0.5 billion



6

and employment to 2.5 million people



Challenges: Direct selling in India

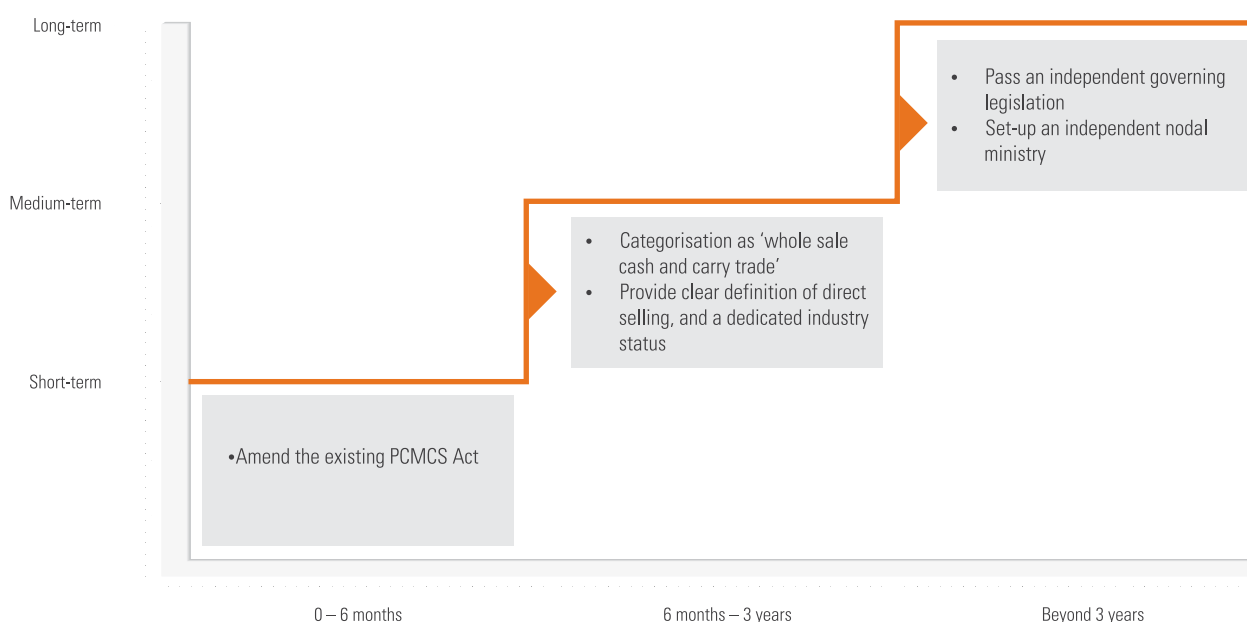
Similar to the traditional consumer industries, the direct selling industry faces challenges in setting-up manufacturing facilities, dealing with import duties, etc. A daunting challenge for the direct selling industry in India is lack of regulatory clarity. Due to this, often direct selling companies are mistaken for fraudulent pyramid/ponzi schemes. States like; Andhra Pradesh, Kerala, Sikkim and union

territories like Chandigarh, have on several occasions mistook legitimate direct selling companies with fraudulent players because of absence of required regulatory clarification.

Such uncertainty is likely impeding the growth and reputation of direct selling companies in India. In many cases, due to absence of clarity, representatives of the direct selling

companies have been harassed by the local police and state governments. Such incidences tend to hinder the growth of the industry and can have an adverse effect on consumer confidence.

We recommend the following road-map that can be considered by the government/regulators in the future to benefit this industry.



Source: KPMG in India analysis



01

Amendment in the PCMCS Act

The PCMCS Act does not explicitly address schemes which involve genuine sale of products or services, but some jurisdictions have attempted to read those situations into the Act. Amendment in the PCMCS Act is needed to make the distinction clear between direct selling (including MLM plans) involving the genuine sale of products, and fraudulent pyramid money circulation schemes.

02

Need to streamline FDI policy

The operating structure of many direct selling companies has close proximity to a wholesale cash and carry trade, where products are sold by manufacturers (usually direct selling companies) to distributors entailing sale to end customers. Indian regulators should classify 'direct selling' as a 'whole sale cash and carry trade' with 100 per cent foreign investment under the automatic or government approval route.

03

Need for a clear definition

The 'direct selling model' needs to be defined under a specific legislation in India. Moreover, given the numerous social as well as economic benefits of this specialised channel of distribution, direct selling should be given a separate 'industry' status.

04

Need for a governing legislation

At present, direct selling falls under the purview of state legislation and is governed by a large number of ministries/ departments at the centre, state and local levels. The multiplicity of regulatory bodies has resulted in multiple regulations governing this sector. These should be streamlined for the smooth performance of this sector.

05

Need for a nodal ministry

There is no single nodal ministry at the centre at present and, hence, the grievances of this sector tend to go unheard. Given that the sector is predominantly based on consumer interactions, the Ministry of Consumer Affairs may be appointed as the nodal ministry for the direct selling industry.



How is this report organised?

Direct selling market

This report provides the reader with an introduction to the direct selling industry both globally and in India. The report highlights the growth drivers, the socio-economic benefits and the

potential that this industry holds. It discusses the challenges being faced by the industry and strives to offer potential solutions that may help address the industry challenges.



Section 1:

This section of the report provides an overview of the global direct selling industry. It begins with the evolution and history of direct selling and highlights that the direct selling industry is a well-established global industry. The section throws light on how the industry, at a global level regulates itself and is regulated by the government.



Section 2:

This section provides a closer look at the direct selling market in India. It discusses the history of the industry in India and goes on to describe the socio-economic contributions made by the industry through certain case studies.



Section 3:

The section discusses the opportunity potential of the industry by 2025 and the growth drivers for the direct selling market in India. It also establishes the potential socio-economic benefits that the industry may help generate by 2025.



Section 4:

This section brings out the challenges faced by the direct selling industry in India based on our interactions with various stakeholders in the industry and trade associations.



Section 5:

This section highlights the need for policy intervention and details out actionable recommendations to create an enabling environment for the industry.



Section 6:

The last section further segregates the potential direct selling market opportunity across some of the key states.





Global direct selling market

Direct selling is essentially the marketing of products and services directly to consumers in a person-to-person manner, away from permanent retail locations.

Direct selling is a dynamic and rapidly expanding channel of distribution for the marketing of products and services. While there is no universal definition of direct selling, different countries, associations and individuals have defined the sector differently. It can be broadly understood as the 'selling of goods and services to the consumers away from a fixed retail outlet, generally in their homes, workplace, etc., through explanation and demonstration of the product by

direct sellers'. Direct sales generally benefit from the explanation and demonstration of products made by an independent direct salesperson to the consumer. Being a specialised channel of distribution, which is neither wholesale nor retail, it covers both business-to-business and business-to-consumers aspects.

Despite its differences, in many ways, direct selling is similar to traditional consumer goods retail. In both cases:

- the distributors/direct sellers, can earn a commission, when the sale of the product takes place.
- earning of sales commission may be based on one's own sales as well as on the cumulative sales of the group built by the seller, similar to commissions in traditional sales environments.

The similarities between the two formats have been highlighted graphically in Annexure 3.

Direct selling v/s Direct marketing



Direct selling and direct marketing are often confused to be the same thing and are taken as interchangeable terms. Both terms are actually very different from each other and a clear understanding of the difference will help direct selling maintain its own identity.

The crucial difference between both the methods hinge on the mode of publicity that a firm uses to generate awareness in the market. While Direct Marketing uses one or more advertising mediums, Direct Selling relies on direct engagement with the purchaser to generate a specific response or call to action that can be measured.

Direct Marketing is a type of advertising in which companies communicate directly to the customers through formats like online advertisements, direct mail, text messaging and telemarketing. Direct Selling on the other hand involves marketing and demonstration of a product or service directly to the customer usually through a personal contact/relationship with the salesperson.

Source: Discussions with National Law School, Bangalore, Industry Discussions

Direct selling, which is an established global industry, evolved in the 1920s and 1930s in the USA.

Global direct selling market evolution:

Direct selling is a dynamic and rapidly expanding channel of distribution for the marketing of products and services. Direct sales generally depend on the explanation and demonstration made by an independent direct salesperson to the consumer. Being a specialised channel of distribution, it covers both business-to-business and business-to-consumer aspects.

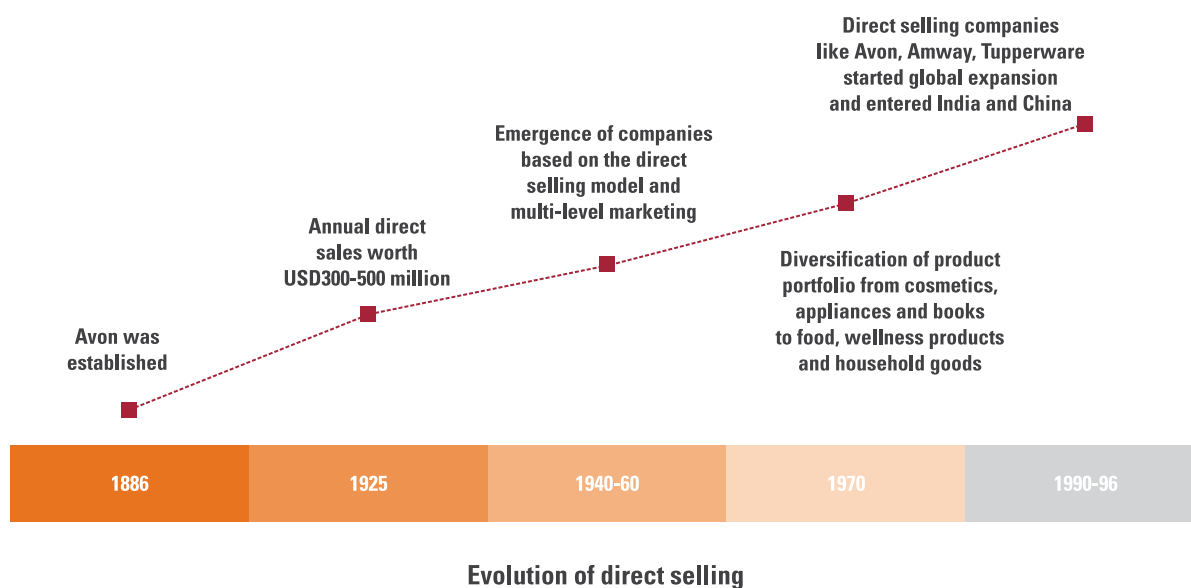
Direct selling started with hawkers and peddlers, who travelled great

distances to sell unbranded products and services. Doorbells, catalogues and purchase orders were centuries away from the early direct seller who relied on his instincts and common sense to make a living through selling. The early direct seller exchanged pottery, stone weapons, tools, agricultural products and raw materials with people from other lands.²

They later evolved into independent salesmen who went from door to door and house to house selling

branded products in an urbanised environment.²

Beginning in the mid to late 1800s, direct selling companies were formed in USA offering various products directly to the final consumer. Avon, which today is one of the largest direct selling companies, was established in 1886, initially represented a means for women to earn money and work outside their homes, and by 1920 topped its revenue at USD1 million.²



Source: The Indian Direct Selling Industry - Annual Surveys, IDSA, Industry Discussions

2. Socio-Economic Impact of Direct Selling, ICREAR

With the development in the direct selling model, multi-level marketing saw growth 1950 onwards.

Development and acceptance: In the mid-1920s estimates of the volume of annual direct sales ranged from USD 300-500 million. The global market evolved between 1920s and 1930s in the USA driven by the need to regulate marketing and distribution costs, and the need for live demonstration for certain products in the absence of technology.

The period between 1970 and 1990 the direct selling industry saw significant change. The industry started with sale of products like cosmetics and household appliances through the direct selling channel, but after 1970 many direct selling companies diversified their product portfolios to a larger number of products such as household goods, food and wellness products. The period also witnessed improvement in technology. Many new marketing techniques and strategies were developed and new distribution and retail channels emerged; as a result direct selling companies modified strategies to benefit from these technological advancements. Women became a major part of the industry. Many young women who found it difficult to simultaneously manage full time jobs and their families joined the workforce; they

also got an opportunity to provide for their families.

MLM and its wide-spread use:

Nutriline founded in 1934 adopted the MLM compensation plan in 1945. MLM provided the opportunity for product demonstrations, add on sales, new product introductions, customised selling and direct feedback from the customers, but unlike single level marketing, the MLM distributors could create their own business by recruiting and training new distributors under them, creating a down line earning revenue from their own sales and the sales of distributors they enroll. Benefits were earned on the total sales of the Multi Level Network and were shared among everyone who contributed to generating the sale.

This marked a major shift in the direct selling industry since the plan for the first time enabled the consumers to benefit from the success of the product by providing them the option to become a direct selling partner of the business. MLM plans became widely accepted and a large number of companies adopted the same, including global majors like Avon, Tupperware and Amway.

The 1990s saw a growth in the global direct selling market with

major players expanding globally and entering emerging markets like Brazil, China and India.

Emulation by ponzi schemes and the need for legislation: With the popularity of MLM, pyramid schemes, a type of fraud, came up posing as MLM programs. This has been a cause of concern for the direct selling industry globally. Several governments around the world have been taking enforcement actions and creating laws to tackle alleged pyramid schemes, including schemes disguised as MLM programs. These laws and enforcement actions draw clear distinctions between legitimate direct selling businesses, where participants earn income based on the sale of products to end user consumers, and illegal pyramid schemes, where compensation is based on recruiting others into the scheme.

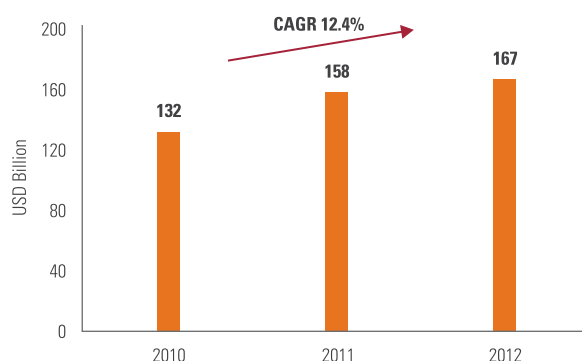
Today, the customer still benefits from this personal and convenient way of purchasing products. Direct selling, which is more than a century old trading method, is practiced in more than 170 countries and has the status of a global industry.



Global direct selling is currently a USD 167 billion market and employs around 90 million people worldwide.

Global Direct Selling Market Size

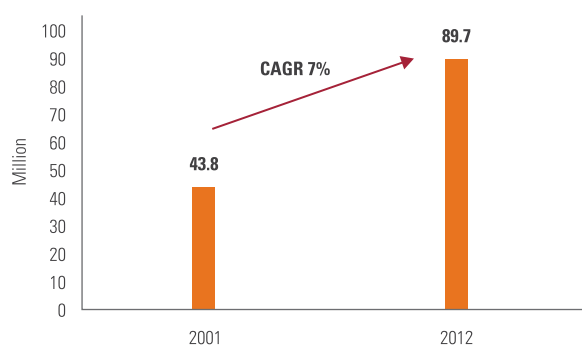
Direct selling is a USD167 billion industry globally. While the industry grew at a low rate of 5.4 per cent in 2012, over 2011 (growth rate of 19.7 per cent), due to global economic slowdown, the long term growth prospects of the industry remain robust.



Source: WFSDA website, Date 14 July 2014

Number of Direct sellers

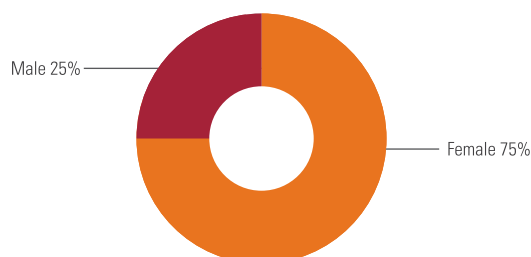
The direct selling industry tends to benefit from in-person contact for the demonstration and sale of products, and therefore provides business entrepreneurship opportunities for a large number of people. The opportunities in the industry has more than doubled over the last 11 years (2001-2012), and the number of direct sellers have increased to 89.7 million direct sellers in 2012 from 43.8 million direct sellers in 2001.



Source: WFSDA website, Date 14 July 2014

Gender-wise participation in the Industry

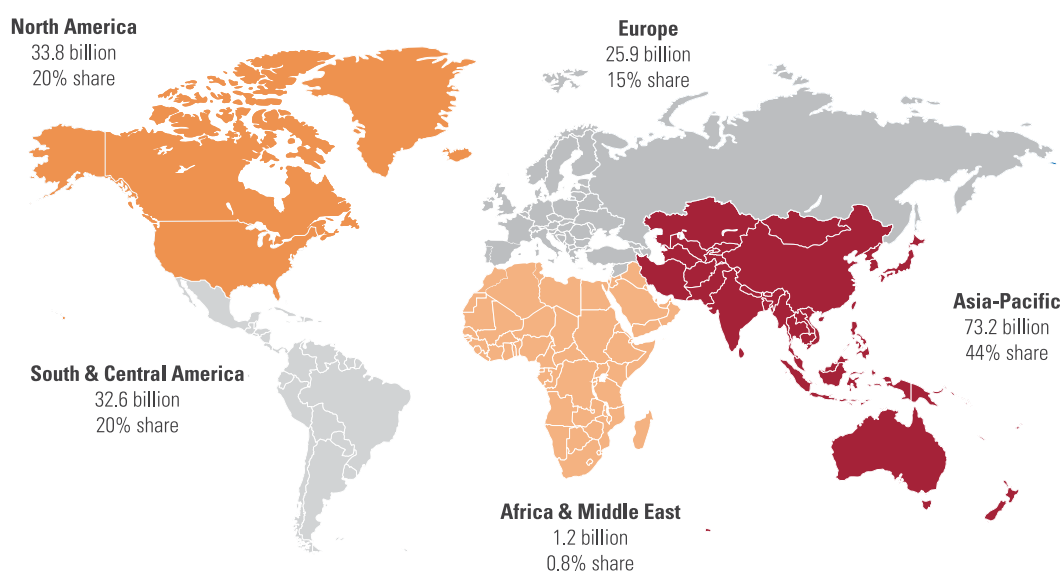
As of 2012, 75 per cent of females were part of the industry. Direct selling has given many women, who found it difficult to work away from home, an alternative earning opportunity in their homes. Thus, enabling them to maintain a work-life balance.



Source: WFSDA website, Date 14 July 2014

Asia Pacific is the largest direct selling region in the world, followed by North America and South & Central America.

Major regions, 2012



Asia Pacific

- Asia Pacific is the largest market for direct selling with a 44 per cent share in the global direct selling market, and has been growing at a CAGR of 11 per cent to reach USD73.2 billion in 2012 from USD59.7 billion in 2010
- The direct selling industry in the region engages ~46 million people as direct sellers
- Japan, China, Korea, Malaysia, Taiwan, Thailand, Australia, Philippines, Indonesia and India are billion dollar markets in the region.



Americas

- Americas account for 40 per cent of the global market and engages ~31 million people as direct sellers
- USA and Canada are billion dollar markets in North America engaging 16.6 million people as direct sellers
- South & Central America has been the fastest growing region in the world, growing at a CAGR of 14 per cent between 2010 and 2012. Brazil is the largest market in South & Central America capturing 45 per cent share followed by Mexico, Colombia, Venezuela, Argentina and Peru which are also billion dollar markets.

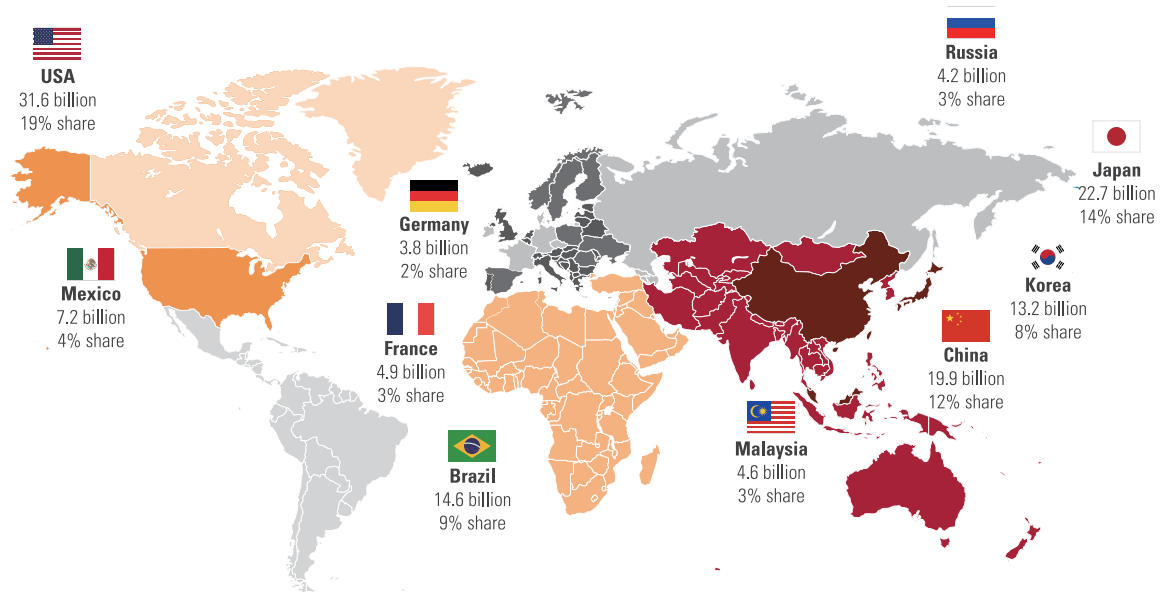


Europe, Middle East, Africa

- Europe accounts for 15 per cent of the global direct selling market, has grown at a CAGR of 4 per cent from 2010 to 2012 and engages ~11 million people as direct sellers
- Western Europe accounts for nearly 70 per cent of the total market in Europe. France, Germany, Italy, U.K. in Western Europe and Russia are billion dollar markets
- Middle East and Africa are small markets for direct selling, capturing less than 1 per cent market share.

USA is the largest direct selling market in the world, followed by Japan and China.

Major countries, 2012



USA



- USA is the largest direct selling market in the world and has grown at a CAGR of 5 per cent to reach USD31.6 billion in 2012 from USD28.6 billion in 2010
- The direct selling industry in the USA engages about 16 million people as direct sellers
- The industry comprises of almost 1500 companies including global leaders like Avon, Amway, Tupperware and Mary Kay, many of which are headquartered in U.S.

Japan



- Japan is the second largest direct selling market in the world
- Japan Consumers Cooperative Union is the largest player in the direct selling market followed by Amway Japan Ltd. and Miki Corp.
- Single level marketing is the most prevalent direct selling model in Japan; however, for consumer health care multi level marketing is most commonly used.

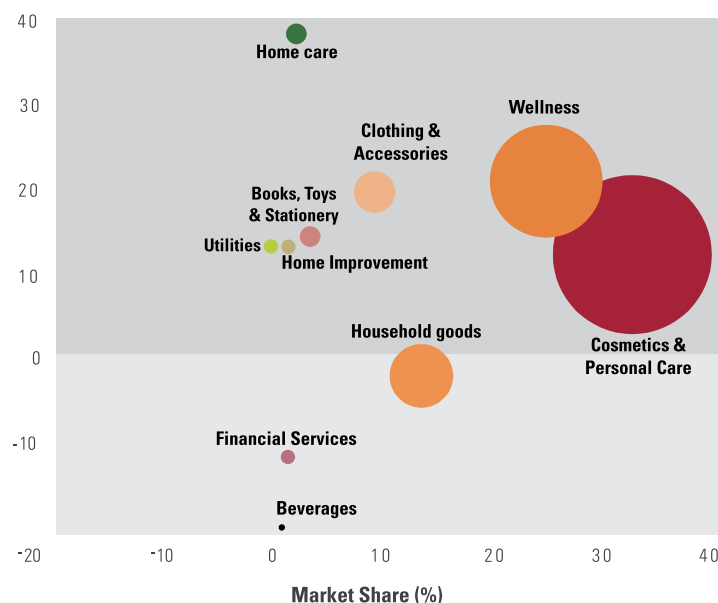
China



- China's direct selling market size is just behind Japan. It has grown at a CAGR of 22 per cent to reach USD19.9 billion in 2012 from USD13.35 billion in 2010
- Amway (China) Co. Ltd., Infitus (China) Co Ltd., and Mary Kay Cosmetics Co. are currently leading the direct selling market in China.

Cosmetics and personal care is the biggest category capturing 35 per cent share globally in the direct selling market, followed by wellness products and household goods.

Product Categories



Note: X axis - Market share for 2012; Y axis - Growth per cent over a three period from 2010 to 2012, Size of the bubble represents market size
Source: WFSDA, KPMG in India analysis

Companies around the world use the direct selling channel to promote, demonstrate and sell a wide range of products across various categories. There are more than 10 different categories of products sold by the global direct selling industry.

With time, there has been an evolution in the spending trends globally in favour of cosmetics & personal care products, and the industry has seen tremendous growth. This has also led to increase in sales through the

direct selling channel. Cosmetics & personal care is the largest direct selling segment capturing a market of USD 58 billion in 2012 and with a 35 per cent share of the industry revenue, followed by wellness products with a share of 25 per cent and a market size of USD 42 billion. These products benefit from the personal touch offered by direct sellers who are able to demonstrate and explain the benefits of these products.

Household goods & durables and clothing & accessories are also significantly large product categories generating revenues of approximately USD 23 billion and USD 15 billion from direct sales globally.

Home improvement, utilities, books & stationary are smaller segments, with each of them capturing a market of close to USD 3-5 billion. All these segments have witnessed double digit growth over the three years from 2010 to 2012.

Increasing disposable income and convenience offered by the direct selling model seems to have led to the growth of direct selling.

01

Increase in propensity to spend

- With education and employment levels increasing in many parts of the world, the number of independent earning individuals is increasing leading to increase in disposable income. This increase in the spending capacity tends to lead to buying of products which are more personalised in nature, aiding the growth of the direct selling industry

02

Increase in the reach of direct selling products

- The popularity of direct selling seems to have risen with more people recognising the potential of additional income from direct selling and becoming direct selling agents. This has helped in improving the reach of direct selling products

03

Expansion in emerging markets

- With direct selling companies expanding into emerging markets, the industry has globally witnessed a higher growth rate as these growing economies provide a significant opportunity potential

04

Convenience

- As a result of evolving lifestyles, people tend to spend less time in traditional shopping and there seems to be an increase in preference for convenience. Direct sellers going from door to door to sell products and services tend to make life easier and provide the convenience of buying goods and services at one's own doorstep
- Products sold through the direct selling model tend to benefit from the personal touch offered by the sales representatives who are able to demonstrate the potential benefits of the products

The direct selling market would likely continue to experience significant growth in the coming years, driven by preference for convenience and the increasing presence of direct selling companies. The industry is supported by direct selling associations around the world that have worked to create appropriate policies, put in place controls and ethical standards and foster governments' understanding of the industry

Single-level and multi-level marketing are prevalent models in the direct selling industry.

Operating Model

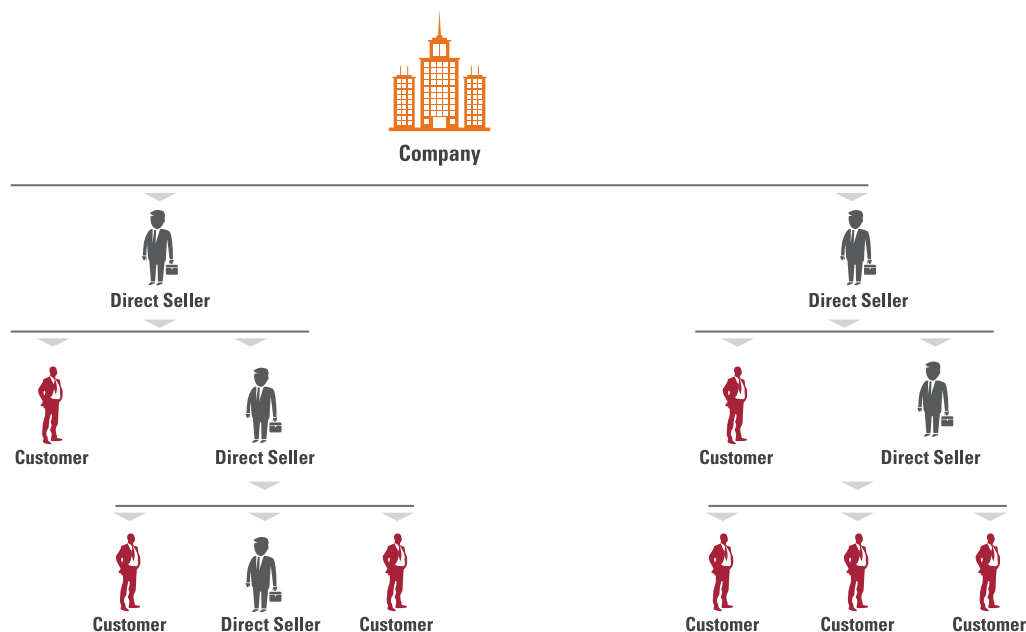
Single-level marketing (SLM)



Single-level marketing rewards the sellers for their personal sales activity. They cannot sponsor any other distributorship or sales personnel. Income comes only in the form of commission, or bonus, or retail markup, i.e., they receive payments through the sales they make .

A direct seller buys products from the parent company and sells them directly to his or her customers. Home-based business people have been pursuing single level marketing for years. Single-level marketing is suited for those sale people whose focus lie on the product and service.³

Multi-level marketing (MLM)



In the MLM compensation plan, each direct seller recruited can potentially recruit new distributors and create a down line of direct and indirect distributors/sellers. Distributors purchase products to sell to the

consumers. They receive commissions and bonuses on the sales made by them and the sales made by their downline direct sellers and retail markups.³

3. WFSDA, ICRIER, Direct Selling News, Industry Discussions

Person to Person Selling is the dominant form of selling witnessed in the direct selling market.

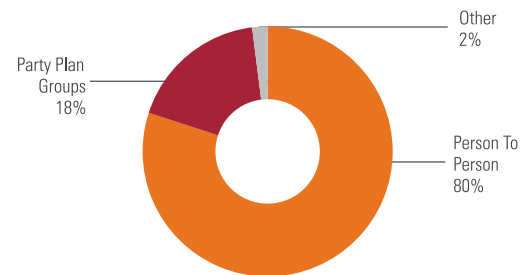
Methods used for selling

While some direct sellers maybe employees of a direct sales company, authorised to act for the company in business matters, most direct sellers are independent business operators or self-employed. They enjoy the advantage of deciding when and how much time will be devoted in selling the company's products.⁴

Traditional Direct selling methods include:

- Person To Person Marketing
- Party Plan Groups.

Person to Person is the most popular amongst direct selling companies followed by Party Plan Groups.



Source: WFSDA website, Date 14 July 2014

Person to Person (P2P)

Majority of the direct sales around the globe take place through person to person contact making. This method is most widely used by direct selling companies.

Person to Person direct selling can be defined as a one on one interaction between the salesperson and the customer in which a product is promoted for sale by the former to the latter. This method of direct selling can use both single-level and multi-level marketing.



Party Plan Groups

The party plan is a method of direct selling in which social events are organised where products and services are promoted and offered for sale.

Direct selling through party plan mostly uses multi-level marketing. Sales people approach other people to host events during which the products are demonstrated. In return the host is given a part of the revenue from the goods sold. The salesperson is paid a commission on the sales or on the sales made by the sales people recruited by him/her.



Source: WFSDA, ICRIER, Direct Selling News, Industry Discussions

4. WFSDA, ICRIER, Direct Selling News, Industry Discussions

Amway, Avon and Herbalife are the top three direct selling companies accounting for ~20 per cent of the global direct selling market.

Top 20 Direct Selling Players in the World

Rank	Company Name	Country	Year Founded	Revenue 2013 (USD Bn)	Markets	Distributors (Mn)	Employees ('000s)	Sales Method	Compensation Structure
1	Alticor (Amway)	USA	1959	11.8	100	3	21	P2P	MLM
2	Avon Products Inc.	USA	1886	9.95	100	6	36	P2P	MLM
3	Herbalife Ltd	USA	1980	4.8	91	3	7.5	P2P	MLM
4	Vorwerk & Co. KG	Germany	1883	3.7	76	0.6	12	P2P and Party Plan	MLM
5	Mary Kay Inc.	USA	1963	3.6	35	3	5	P2P and Party Plan	SLM
6	Natura Cosmetics SA	Brazil	1969	3.2	7	1.6	7	P2P	MLM
7	Nu Skin Enterprises Inc.	USA	1984	3.18	53	1.3	1.2	P2P	MLM
8	Tupperware Brands Corp	USA	1946	2.67	100	2.6	13.5	P2P and Party Plan	SLM and MLM
9	Belcorp Ltd.	Peru	1968	1.96	16	0.9	9	P2P and Party Plan	SLM and MLM
10	Oriflame Cosmetics SA	Luxembourg	1967	1.95	66	3.5	7	P2P	MLM
11	Primerica Inc.	USA	1977	1.27	2	0.1	2	P2P	MLM
12	Ambit Energy	USA	2006	1.2	1	0.25	0.6	P2P	MLM
13	Telcom Plus	United Kingdom	1996	1.1	1	0.05	0.7	P2P	MLM
14	Stream Energy (Ignite Inc.)	USA	2004	0.87	1	0.26	0.2	P2P	MLM
15	Yanbal International	Peru	1967	0.85	10	0.4	6	P2P	MLM
16	Miki Corp.	Japan	1966	0.78	3	NA	0.3	NA	NA
17	Thirty-One Gifts	USA	2003	0.76	2	0.12	1.7	Party Plan and Group Sales	MLM
18	Blyth Direct Sales Group	USA	1973	0.75	21	0.1	1.2	Party Plan and Group Sales	MLM
19	USANA Health Sciences	USA	1992	0.72	19	0.27	1.4	P2P	MLM
20	CAN Inc.	USA	1993	0.7	23	0.2	1.5	P2P	MLM

Source: Direct Selling news website, 17 July 2014

Direct selling is different from chit fund and ponzi schemes.

Various forms of Networking schemes

Globally, the direct selling industry has undergone substantial changes since the 1970's. Around that time, there was a proliferation of multiple new direct selling companies and one-to-one marketing became a common marketing technique. Unfortunately, the rise in legitimate MLM compensation plans was accompanied by a surge in pyramid schemes that played off the popularity of MLM plans or network sales, and paid more attention to recruiting than selling of the actual goods.⁵

What is striking about these schemes is that while they are very old forms of fraud, modern technology vastly multiplied their potential for harming citizens across the globe. The internet in particular offers pyramid builders a multi-lane highway to world-wide recruits in virtually no time. Further, globalisation coupled with newly emerging market economies provided a new outlet for pyramidising.

In this section, we have outlined the primary definitions of various forms of prevalent unfair trade practices and laid down certain parameters to distinguish between 'fly by night operators' and 'legitimate businesses'.⁵

Pyramid Selling, chit fund or Ponzi schemes

Pyramid Schemes

Pyramid schemes, prevalent in multiple forms, promise consumers/investors large profits based primarily on recruiting others to join their program, not based on profits from any real investment or real sale of goods. Three major signs that a product is being used to disguise pyramid schemes are:

- a. Large joining fee
- b. Compensation paid for recruiting without regard to end sales ('headhunting fee')
- c. No right of return, buy-back or cooling off period offered.

Chit Fund schemes

With no underlying product and based on more or less the same lines as a Ponzi scheme, a chit fund is a kind of savings scheme under which a person enters into an agreement with a specified group of persons that every one of them shall subscribe a certain sum of money by way of periodical instalments over a definite period, and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such a manner as may be specified in a chit agreement, be entitled to the prize amount.

Though often misused by promoters, chit fund schemes are not always fraudulent and may be conducted by organised financial institutions within the letter of law.

Ponzi schemes

Popularly known as 'Peter-to-Paul' schemes, a Ponzi scheme is centered around continuous recruiting and the promoter generally has no product to sell and pays no commission to investors who recruit new members. Instead, the promoter collects payments from a stream of people, promising all the same high rate of return on a short-term investment with no real investment opportunity.

Source: KPMG in India analysis

5. KPMG in India analysis

Direct Selling business

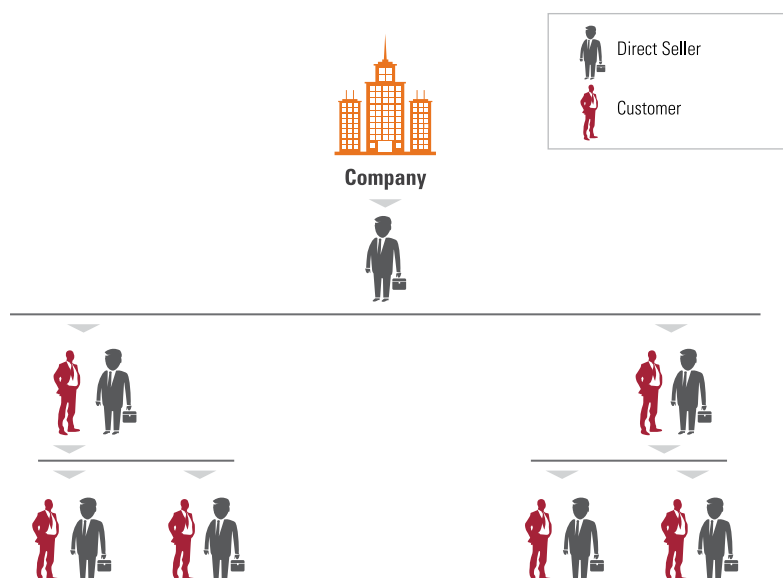


There is no universal definition of direct selling. Globally, countries, associations and individuals have defined this sector differently.

The World Federation of Direct Selling Associations ('WFDSA'), which is the global direct selling body that has the membership of 60 national associations and one regional federation, defines direct selling as "the marketing of products and services directly to consumers in a person-to-person manner, away from permanent retail locations".

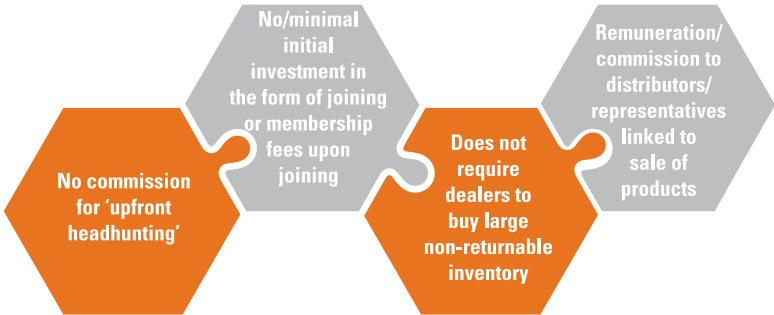
The Indian DSA defines direct selling as the "marketing of consumer goods and/ or services directly to customers, without involvement of conventional retail outlets, wherein sales happen face-to-face at home, workplace, parties or other group events, through explanation and demonstration".

Varying from jurisdiction to jurisdiction, sales people may be called as distributors, representatives, consultants, and so on. The diverse meanings assigned to the term "direct selling" in other countries have been discussed in the next section of the report.



An important objective in a MLM compensation plan is to generate sales by constant interaction with customers along with engagement of new down line distributors.

Key differentiators



Though definitions vary, there are certain commonalities across all of them such as:



Box 1.1: Definition of Direct Selling by Academicians and experts		
Academicians/ experts	Definition	Key characteristic
Baker (1984)	A form of selling without retail outlets, distributors, wholesalers or any type of middlemen	No permanent locations
Baron, et. al. (1991)	Establishment of immediate exchange relationship with a customer in which the usual intermediaries in the distribution chain are omitted	Immediate feedback with no intermediaries
Ostrow and Smith (1988)	Such activities as telephone sales, door-to-door selling, or in-home parties	Party plans
Peterson and Wotruba (1996)	Face-to-face selling away from a fixed retail location	Personal touch
Duffy (2005)	The process of selling a consumer product or service from one person to another, in an environment that is not a permanent retail location	Person-to-person interactions

Source: Socio-Economic Impact of Direct Selling - ICRIER

Key Differentiators – Direct Selling and Pyramid/Ponzi schemes

The different forms of Pyramid/Ponzi schemes emulate some structural and operational characteristics of Direct Selling MLM Plans, which creates confusion; even bona fide direct selling business plans are sometimes

mistakenly viewed as fraud and money laundering schemes.

In view of the above, we have tabulated certain 'red' flags which demarcates direct selling and pyramid/ponzi schemes.



Sr. No.	Parameter	Direct selling business	Pyramid/Ponzi schemes
Structural differences			
1	Basic definition	Marketing of the product/services to the consumers generally from home or workplace through explanation and demonstration by direct seller i.e. locations away from permanent retail locations. Can last indefinitely – as long as consumers continue to buy products	Compensation is based on recruiting new participants, not on selling products.
2	Driving objective	High sale of product	Emphasis is on rigorous enrollment of new subscribers/investors with an aim to collect easy money from new subscribers
3	Nature of business opportunities offered	Offers genuine business opportunities as they involve sustainable sales plan of goods	Offers no real business opportunities as these schemes generally do not involve products or involve products which are illusionary or have no established market value
4	Cost of entry	No or reasonable entry fee usually for valuable support and starter products	Comparatively high
5	Plan/Schemes	Plans are primarily based on the value of sale of products and recognition of services for the sales support provided by other distributors	Plans are primarily based on money paid by new recruits, and not on product sales
Functional differences			
6	Mandatory enrollment	Enrollment of recruits is not compulsory for doing business as primary objective is sale of products	Enrollment of recruits is compulsory for doing business as commission is based on fee from new recruits or solely from the act of recruitment of members
7	Underlying product	Involves marketing of products under established brand names	Either no products are involved, or else the products are a cover and are not really sold to consumers
8	Buy-back/guarantee of product(s)	Highly competitive buy back guarantee to help ensure protection of distributor and end consumer	Products usually do not have a buy back policy or it is not followed in practice
9	Inventory	Products are supplied to meet genuine demand and direct sellers are encouraged to hold minimal inventory and replenish as and when need arises. Further, modern logistics and fulfillment practices often permit 'just-in-time' delivery so that distributors do not usually need to keep an extensive inventory	In case products are involved, "Front loading" is encouraged. Therefore, products are thrust upon direct sellers, irrespective of their ability to sell the product and the actual market demand. Further, such products usually cannot be returned or resold to the seller. This is also known as inventory loading

Sr. No.	Parameter	Direct selling business	Pyramid/Ponzi schemes
Functional differences			
10	Sales training	Rigorous product and sales training is required	There is no emphasis on product or product sales training
11	Exit option	Direct sellers joining the business can exit the business by returning the unsold inventory to the direct selling company	Usually, no refund or exit policy exists
Returns and potential benefits			
12	Returns vis-à-vis associated risk	Returns are dependent on the time invested and motivation of the direct seller which are generated slowly and tend to go up and down over time depending on product sales. Thus, returns depend on the value of products sold, not the number of recruits	Returns are primarily consistent and are based on entry fee from new recruits wholly apart from any activity of the participants or product sales. Thus, returns are directly linked to the number of persons recruited to join the scheme. Early entrants make very large returns. Late entrants cannot make any return.
13	Sales incentives	Sales incentives are primarily derived from sale of goods and are paid directly by Direct selling companies through normal banking channels	Incentives are based on recruitment of people rather than on sales. Payments are often made through members, and negligible pay outs by promoters.
Legality of schemes			
14	Registration/Licenses	These businesses are registered with local regulatory bodies in the country of existence or obtain licenses under a prevalent law	These schemes are unregistered and not affiliated to any government body having power of legal enforcement
15	Adherence to code of ethics	Every salesperson has to abide by the Industry Model Code of Ethics e.g. direct selling associations, etc.	Generally, no code of ethics exist at all
17	Secretive and/or complex strategies	These businesses have written rules and regulations and give a clear disclosure of the entire marketing strategy right from enrollment to receipt of remuneration/ fees	These schemes usually do not have any written document imparting complete information and modalities of the scheme

In summary, the aforementioned differentiating factors clearly indicate that with a view to make quick money, the promoter of a Pyramid/ Ponzi scheme typically mandates participants to deposit significant money to join in the business opportunity, and financial rewards are highly dependent on further recruitment of members. Some Pyramid/Ponzi schemes may purport to sell products to camouflage the financial fraud but the products usually have little value and there is little or no selling.

On the other hand, genuine direct selling (including MLM compensation plans) involves marketing of quality products at a competitive price with associated product warranties and guarantees. Also, the exponential additions of distributors to the network is earned only by accomplishing actual sales on a consistent basis.

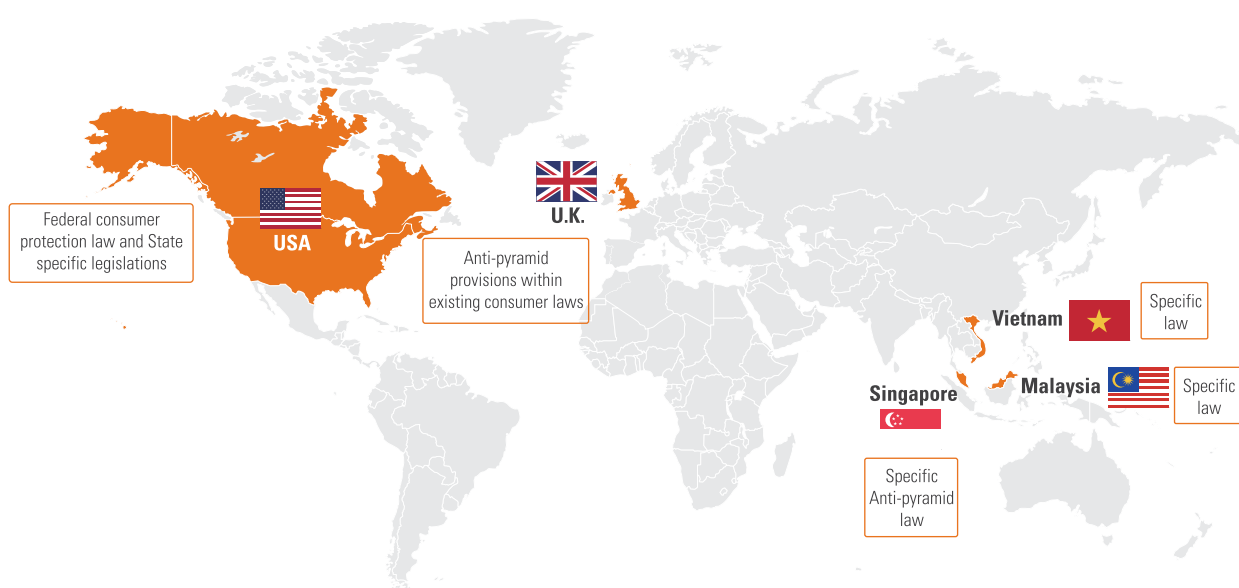
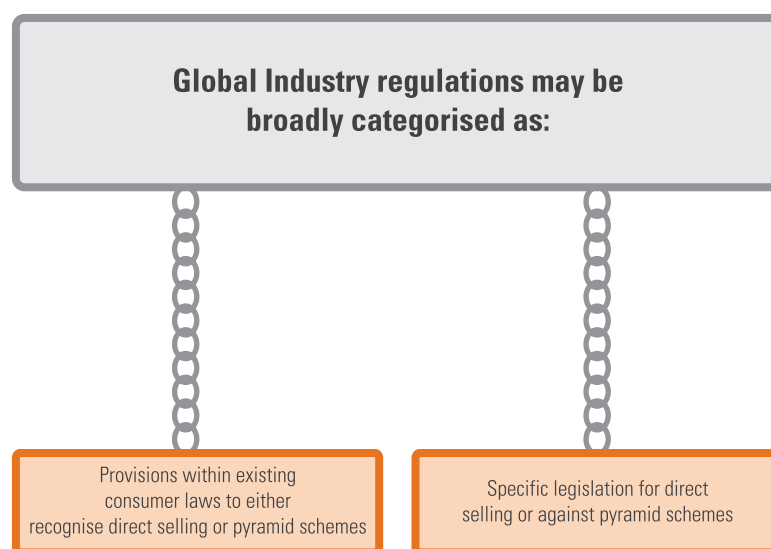
Direct Selling – Country Regulations and its self-regulation

In order to manage the menace of pyramiding, many countries across the world have either implemented new laws or made revisions to existing laws on direct selling in the last decade. In this section, we have summarised a brief overview of the direct selling laws and/or regulations prevalent in select countries across the globe viz. Malaysia, Vietnam, Singapore, United States of America and United Kingdom.

Both developed and developing economies have realised the potential of the direct selling industry in light of the positive socio-economic impact of this sector – both directly and indirectly. Many countries have given this sector an Industry Status.

Along with the primary objective of regulating various fraudulent schemes, these countries have also enacted specific legislations largely self-monitored by local associations. Globally, these regulations relating to direct selling industry vary from country to country. Certain countries have enacted specific anti-pyramid

laws to deal with frauds and abusive schemes, however, through specific regulations, they distinguish permissible MLM operations by direct selling companies. On the other hand, some countries primarily focus on consumer protection and strive to identify fraudulent schemes.



Industry Regulations

Fundamentally, these substantive provisions governing direct selling businesses in various countries are founded on similar principles such as drafting a precise definition of direct selling business, pre-licensing of direct selling company, registration of direct sellers, stipulations governing activities and rewards/bonuses received by direct sellers, ban on entry fee, extensive buy-back policies, etc.

Self-regulation by global direct selling industry

Before probing into the legal statutes of various countries, it is imperative to note that at the global level, direct selling industry self-regulates itself to maintain high levels of probity, integrity, corporate governance and consumer protection standards.

Multiple direct selling companies from across the world including India have also joined hands to form direct selling associations which promote ethical business practices and prescribe a detailed code of ethics for the members, its sales

representatives and customers. The code of conduct is a self-regulatory standard which regulates the varying interactions across the spectrum of direct sales that often exceeds local legal requirements.

Code of Ethics - World Federation of Direct Selling Associations

WFDSA is a non-governmental, voluntary organisation globally representing the direct selling industry as a Federation of 60 national DSA's and one regional DSA – Federation of European DSA (Seldia). The "World Selling Code of Conduct" ('the Code') was published by the WFDSA for National DSA members. This Code establishes a standard framework for interaction between Direct Selling member companies, their direct sellers and consumers.

The Code is a constantly evolving cornerstone of the direct selling industry's commitment to ethical business practices and customer service. It is a mechanism that helps ensures independent salespeople and customers are treated fairly and respectfully.

In order for a DSA to become a member of WFDSA, it must adopt the minimum standards set forth by the Code to the extent the requirements are consistent with the law in each particular country. Every DSA member company pledges to abide by the Code's standards and procedures as a condition of admission and continued membership in a DSA.

These Code of Ethics are enforced by an independent code

administrator who is not connected with any member company. The code administrator will do everything possible to ensure Code compliance and where complaints exist, has the power to decide on remedies. All member companies agree to honor the administrator's decisions.

Broadly, the Code seeks to capture various aspects of a direct selling business which need to be regulated including use of misleading testimonials, misrepresentation of actual or potential earning claims or use of any exploitative and deceptive recruitment practices.

The entire Code has been classified into three sections containing regulations in respect of:

- Conduct for the Protection of Consumers
- Conduct Between Companies and Direct Sellers
- Conduct Between Companies.

Further, to help ensure legal compliance, the Code provides that new memberships should not be subject to significant monetary commitment either by way of entrance fee, training fee, purchase of sales kits or inventory loading. The companies take responsibility for consumer protection through provision of accurate information,

product warranty and buyback offers. It ensures that member companies implement adequate mechanisms to address customer complaints with respect to their products and/or its sales representatives.

The Code is a self-regulation and not a law, therefore, does not restate all legal obligations. Compliance with local laws pertaining to Direct Selling by National DSA's is a condition of acceptance by or continuance of membership in DSA.

The Code also has a provision for an extra-territorial effect wherein every national DSA pledges that it will require each member 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.

India is also a member of the WFDSA and has drafted a standard code of ethics for companies engaged in direct selling activities. In the ensuing paragraphs, we have discussed in brief the self-regulatory authorities set-up to regulate the direct selling industry in India.

Indian Direct Selling Association

IDSA is an autonomous, self-regulatory body for the direct selling industry in India. The Association acts as an interface between the industry and policy-making bodies of the government facilitating the cause of direct selling industry in India. It strives to create and further an environment conducive to the growth of direct selling industry

in India, partnering industry and government alike through advisory and consultative activities.

IDSA catalyses change by working closely with the government on policy issues, enhancing efficiency and ushering in desired credibility, clarity and confidence in Direct Selling. The Association has laid

down certain features of a genuine direct selling company discussed in Box 1.2. Further, the IDSA has also set out a Code of Ethics which all IDSA members are required to follow, however, there is no formal law or guideline.

Source: www.idsa.co.in

Federation of Direct Selling Association

FDSA is formed with an aim to provide stability and organise the direct selling industry in India. The necessity for such an action was

felt as the ponzi schemes / money circulation schemes that were on the rise had started eroding the distinguishing line between direct

selling and money circulation schemes.

Source: www.fdsaindia.org

FDSA has been formed not only with an intention to bring about awareness on what direct selling is about but also to protect it from various quarters of the economy. The primary objective of FDSA is to work towards bringing direct selling into acceptance by the media, the authorities and as well as the general public.

This association has been vested with various powers involving:

- Coordinate with membership companies for business discipline, collecting data on monthly basis regarding the new products, distributors enrolled, turnover of sales and tax contribution to the Government to estimate the industry volume and potentiality;
- Act as a watch dog for all irregular business practices (non-members & membership companies of FDSA);
- Coordination with various government departments to seek privileges & preferences for industry growth, positive identity;
- Act as the Grievance Redressal Mechanism for the distributors / members of the FDSA membership companies;
- FDSA has regional representation bodies to lead and handle the companies in that particular jurisdiction.



Box 1.2: Guidelines for Direct Selling Companies by IDSA

1	Any direct selling member company should be a duly constituted, legal entity, authorised to conduct business in India.
2	All direct selling companies should provide their direct sellers with a written contract, clearly stating the business information, the recruitment guidelines, the termination clause, etc.
3	Direct sellers have the right to cancel their contract with the direct selling entity within 30 days from the date on which initial membership payment is made by the direct seller.
4	If requested, upon termination of a direct seller's relationship with a company, companies shall buy back any unsold, resalable product inventory, promotional material, sales aids and kits, purchased within the previous 12 months and refund the direct seller's original cost, less a handling charge to the direct seller of up to 10 per cent of the net purchase price. The company may also deduct the cost of any benefit received by the direct seller based on the original purchase of the returned goods.
5	Except for the initial membership fee, for which the direct selling company provides a starter kit containing sample products, literature and sales material, a direct seller is not required to purchase any product or service as a pre-condition for participation.
6	All provisions of the plan, including compensation structures, should be made available to the direct seller in a detailed document.
7	Compensation to direct sellers is based upon the sale of goods or services, (including any purchases made by the direct seller for personal or household consumption) and upon the sale of goods or services of their respective downline.
8	Direct sellers are not required to purchase goods or services in amounts that unreasonably exceed the quantity which can be expected to be resold or consumed within a reasonable time period.
9	The direct selling company should have a written refund policy providing that a consumer purchasing goods or services from a direct seller shall have at least seven days, from the date of placing an order for such goods or services, to cancel the order and receive a full refund of any sums paid on account of any goods or services bought, that are returned or made available for pick up by the consumer.

Global Direct Selling regulation

We have summarised below an overview of the direct selling laws and/ or regulations prevalent in the following countries across the globe and the ways on which introduction of these specific regulations boost the growth of this industry.

Leading international practices on important issues may be incorporated by India to draft a holistic regulatory policy framework to govern direct selling.

Regulations in United States of America/ Other key provisions/ regulations



The US is the oldest and the largest market for direct selling. The country does not have federal – level legislations specific to this sector and there are state level legislations and other laws, which may be applicable. For example, the states of Georgia, Louisiana, Maryland, Massachusetts, Wyoming and the Commonwealth of Puerto Rico regulate direct selling companies. Montana has a MLM filing requirement as part of its anti-pyramid statute. In these states, ‘multi-level distribution companies’ generally are defined as:

“companies which market products or services through independent agents or distributors at different levels and in which participants recruit or sponsor others and receive compensation based upon the recruit’s sale of products.”

Most states require that the company appoints an agent for the service of process and abide by certain

regulations relating to allowable income presentations, payment of compensation to participants and offer to repurchase unsold inventory.

All states in the US prohibits the promotion or operation of ‘pyramid schemes’ through various legislations/ statutes. Some of these statutes are drafted to combat pyramid schemes specifically; others use lottery laws and other statutes, which do not specifically mention pyramid schemes but which are used to combat these frauds. These statutes can be civil or criminal in nature.

Six states (Idaho, Louisiana, Montana, Oklahoma, South Dakota and Texas) have anti- pyramid statutes, which clearly define pyramid promotional scheme’ as:

“one that gives consideration for the opportunity to receive compensation which is derived primarily from a person’s introduction of other persons into

the plan rather than from the sale of goods or services”

Other key provisions/ regulations

The above mentioned statutes recognise that repurchase of inventory is consistent with the requirements of the US DSA’s Code of Ethics.

There is no prohibition on the sale of any consumer products by direct sellers in the US. Certain regulated industries (for example, wines and liquors, securities, insurance, etc.) have requirements that apply across the board to all sellers in those industries and the regulations do not discriminate against direct selling distribution methods. Some products lines (for example, dietary supplements, telephone cards, etc.) have to meet certain requirements at the federal and state levels and direct selling companies have to adhere to those requirements.

Direct Selling Association of United States



Direct Selling Association of United States of America (‘DSA’), is the national trade association of the leading firms that manufacture and distribute goods and services sold directly to the consumers.

The DSA was formed in Binghamton, New York in 1910 with 10 members. At its founding, the association was called the Agents Credit Association. This formation of this group marks the start of the modern-day direct selling era. After many re-organisations, the

name was finally changed to its current name, the Direct Selling Association, and the headquarters moved to Washington, D.C. in 1968.

The cornerstone of the Association’s commitment to ethical business practices and consumer service is its Code of Ethics which set forth the basic fair and ethical principles and practices to which member companies of the Association would need to adhere in the conduct of their business. Every member company pledges to

abide by the Code’s standards and procedures as a condition of admission and continuing membership in the Association.

DSA provides educational opportunities for direct selling professionals and works with Congress, numerous government agencies, consumer protection organisations and others on behalf of its member companies.

VISION – To protect, serve and promote the effectiveness of member companies and the independent business people they represent. To ensure that the marketing by member companies of products and/or the direct sales opportunity is conducted with the highest level of business ethics and service to consumers.

Regulations in the European Union



European Union ('EU') is an important market for direct selling companies. Trading Schemes (also described as direct selling schemes, network marketing, multi-level marketing and other names) are a legitimate form of business activity offering individuals the opportunity to earn money by selling the scheme's goods or services from home.

Pyramid activity is regulated at the European Union ('EU') level by the Directive on Unfair Commercial Practices 2005/29/EC (UCP). "Pyramid promotional schemes" are considered to be unfair and are prohibited under Point 14 of Annex 1 of the UCP. Under Point 14, a Pyramid Promotional Scheme is defined as:

Establishing, operating or promoting a pyramid promotional scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products.

Direct selling is regulated in the European Union (EU) under various EU directives, which must be transposed into the national laws of the Member States. Until recently, direct selling activities were regulated primarily by two directives: Directive 85/577/EEC on Sales Away from Business Premises and Directive 97/7/EC on Distance Sales. The more recent Directive on Consumer Rights 2011/83/

EU ("CRD") replaces these two directives. All Member States were required to transpose the CRD into their national law by 13 December 2013 and to implement the new laws from 13 June 2014. The CRD and its predecessors primarily regulate the types of information that must be provided to consumers in connection with sales transactions, as well as rights of consumers to return products within a specified time period (14 days, with the start date depending on the type of transaction).

Seldia: The European Direct Selling Association



Seldia adopted a strict European Code of Conduct revised in 2011, which sets high standards of ethics for direct selling companies. Members of Seldia are obliged to adopt the standards of the European Code in their national codes and are bound to follow their rules.

Members of Seldia, represent directly and indirectly around 80 per cent of the EU Direct Selling market. Companies that are members of a Seldia member association, are bound by the European Code throughout Europe, independent of whether they are a member of a local DSA in other EU markets. The European Code has

also established a European Code Administrator.

The objective of the Association is to represent all forms of direct selling in Europe and to ensure that EU and national policy makers in Europe are aware of its benefits and advantages, as well as its contribution to national economies.

VISION – To promote direct selling as:

1. a dynamic and reliable channel of distribution aiming at the satisfaction of the consumers and direct sellers, in a trustworthy and secure environment for both parties;
2. an opportunity for people of all ages and all walks of life to develop an independent business of their own and achieve their goals as part of a sales force.

Source: Discussions with a direct selling company and www.seldia.eu/

Regulations in Malaysia



Since its introduction into Malaysia, direct selling has created a new spectrum of business opportunity for Malaysians from all walks of life. As the industry forged into new heights, in 1978, the direct selling association of Malaysia was founded to promote the direct selling industry on a national and international level, as well as act as the de facto voice of the industry. Malaysia's strong belief in business without borders and that direct selling is a source of empowerment of people across the globe, led to the enactment of an extensive legal regime governing business activities of direct selling companies in the form of Direct Sales Act, 1993 (Reprint 2002).

Over the years, the success of direct selling companies was unfortunately accompanied by the rise of fraudulent activities such as pyramid and Ponzi schemes who seek to couch themselves by offering an illusionary product at a very high price.

In 2011, Malaysia amended the existing statute to rename its as the 'Direct Sales and Anti-Pyramid Scheme Act, 1993' ('DS & APS Act').

The key objectives of amending the existing law were to incorporate inter-alia specific provisions governing sales achieved through electronic medium and regulations on legitimate multi-level marketing.

Further, the DS & APS Act intends to ensure:

- Licensing of direct sales activities for the protection of the consumer's rights and interest;
- Promotion and regulation of the growth and development of ethical direct sales activities;
- Prohibition of all activities involving pyramid schemes, chain distribution schemes or other similar schemes.

All door-to door sales and mail order selling (including selling by telephone) in Malaysia are subject to DS & APS Act read with The Direct Sales Regulations which provide for licensing of persons carrying on direct sales business. They lay down the conditions under which business may be conducted, define requirements of direct sales contracts, mention conditions under which licences may not be granted or revoked and the punishment for fraud. The DS & APS Act also provides for a cooling-off period of 10 days after the date of making a direct sales contract. The regulating authority is the ministry of Domestic Trade and Consumers Affairs.

DS & APS Act also stipulates that any person negotiating a door-to door sale will have to produce an identification card and authority card. This protects consumers from fraudulent schemes. In Malaysia, direct sellers are treated as independent contractors.

The following types of marketing plans are presently covered under the provisions of the Act (as defined therein):

- Door-to-door sale (Multilevel marketing plan/ Single marketing plan)
- Mail Order sale
- Sale through electronic transaction.

There is no prohibition on the sales of specific products. However, direct selling companies wanting to introduce new products must seek prior approval from the relevant authority before distributing the products. Also, all health products must be registered with the Drug Control Authority, Ministry of Health, before they can be sold through this mode.

Unlawful to promote or conduct pyramid scheme

The new Chapter – Prohibition of Pyramid Schemes read with Schedule – Features of Pyramid Scheme or Arrangement to the DS & APS Act has been introduced and specifically lays down features of a Pyramid scheme or arrangement such as no payment of bonus. Solely on new recruitments, mandatory written contracts, no entry fee, price of goods to be commensurate with quality of goods offered for sale, buy-back policy, etc.

Other statutes under Ministry of Domestic Trade, Cooperatives and Consumerism governing the Industry include – Competition Act, 2010, Personal Data Protection Act 2010, Price Control & Anti Profiteering Act, 2011 and Consumer Protection Act, 1999. Other allied laws in relation to health and taxes are also applicable to such companies.

Direct Selling Association of Malaysia



DSAM functions at the societal level to create and maintain an environment that is conducive to the growth and stability of the direct selling industry in Malaysia.

Established in 1978 as a national trade association, it is led by a President and Vice-President and 7 committee

members, all of whom are elected by member companies.

In addition to the cooperation extended by member companies, DSAM closely works with the Ministry of Domestic Trade, Co-operatives & Consumerism, Ministry of Finance, Ministry of Health, other government bodies and trade

associations to achieve common aspirations.

DSAM Code of Conduct is an example of self-regulation. It is a strict and effective code of conduct implemented worldwide, and endorsed by the Ministry of Domestic Trade, Co-operatives & Consumerism.

Regulations in Vietnam



Direct Selling in Vietnam is a relatively new business and until 2005, it lacked specific regulations to deter those using this marketing technique for scamming and manipulating consumers (Decree 110).

With a view to render more stringent regulations with stricter requirements and control applicable to multi-level marketing (or direct sale) activities in Vietnam, the government issued a new Decree No. 42/2014/ND-CP ('Decree 42') with effect from 1 July 2014.

Business licenses issued to direct selling companies under the Decree 110 would continue to be valid for a period not more than 6 months until such companies are granted with new business licenses under the provisions of Decree 42.

The key provisions of Decree 42 have been summarised below:

- **License and registration:** Direct selling activities must be registered in accordance with the laws and regulations of Vietnam, direct selling businesses must be the duly established companies in Vietnam, with retail business activities registered for direct selling with legal capital of VND 10 billion and the compulsory deposit of 5 per cent of the charter capital, but not less than VND 05 billion, at the commercial banks operating in Vietnam where the companies' head offices located. The Ministry of Industry and Trade ('MOIT') will take responsibility of granting the business licenses for direct selling companies, instead of municipal and provincial Departments of Industry and Trade ('DOIT');
- **Duration of business licenses:** For direct selling companies, this shall be 5 years and may be extended, but each time it shall not exceed 5 years. Business licenses issued to direct selling companies under the provisions of Decree 110 are valid with no more than 6 months until such direct selling companies

are granted with the new business licenses under the provisions of Decree 42;

- **Standard contract of participation:** Decree 42 has prescribed certain mandatory information that a standard contract between a direct selling enterprise and its participants must have in order to protect the legitimate rights and interests of the customers and prevent evasion of liabilities by direct selling enterprises;
- **Submission of periodic reports:** Direct selling enterprises will have to submit periodic reports on their operation to the MOIT and/or the relevant DOIT(s) under the old Decree 110;
- **Revocation of license:** In order to tighten the legal framework and to eliminate incapable market players in the direct selling business, Decree 42 further regulates that a licensed direct selling enterprise failing to do business for 12 consecutive months from the issuing date of the Certificate will be forced to terminate and its Certificate will be revoked. Within 3 years as from the revoke, the said direct selling enterprise may not be re-granted the Certificate;
- **Stringent buy-back code:** Under the old Decree 110, participants only have the right to request direct selling enterprises to buy-back the goods in case of termination of direct selling contracts between them and such direct selling enterprises. However, to better protect participants' rights and benefits, Decree 42 requires direct selling enterprises to repurchase the goods, which have been already sold to a participant, at any time as requested by the participant;
- **Prohibition on Pyramid schemes:** Decree 42 prohibits business

activities in which income of participants primarily derives from:

- the recruitment of new participants;
- the extension of contracts of participants;
- the amount of charge, deposit, or investment fund of participants in the network.

Moreover, to be in alignment with the aforesaid prohibition, Decree 42 also supplements provisions forbidding direct selling enterprises from:

- Requiring participants:**
 - to pay any amount of money in any way whatsoever in order to have the right to maintain, develop or expand their networks.
 - to recruit or extend the contracts for participation in direct selling business with a certain number of participants to have the right to receive commissions, bonuses and other economic benefits.
- Maintaining more than one position in direct selling business,** contract for participation in direct selling business, direct selling code or other equivalent forms for one participant;
- Selling and purchasing or transferring the network of participants to other enterprises,** except for merger and acquisition; and
- Collecting charges for issuance or re-issuance of membership cards,** etc.

The above mentioned new regulations are aimed to tighten the legal frameworks for direct selling business and to ensure that direct selling enterprises remain focussed on the sale of goods to actual customers rather than on multiple layers of recruitment of new participants.

Direct Selling Association of Vietnam

”

The AmCham Direct Selling Committee (ADVSC), established in 2008, was set-up in Vietnam to protect, serve and promote the effectiveness of direct selling companies i.e. member companies. Twelve direct selling companies comprising of about 90 per cent of the direct sales industry are members of the ADVSC.

The Direct Selling Committee (‘DSC’), under the umbrella of ADVSC, has established a standard Code of Ethical Conduct for direct sellers and direct selling companies to (1) promote best business practices, (2) demonstrate an unwavering commitment to consumer protection, and (3) promote industry self-regulation. Further, ADVSC adapts to the amendments made in the WFDSA guidelines on an on-going basis.

It is imperative to note that the code of conduct defines the term “product” as tangible and intangible consumer goods and services. However, under decree 110/2005/ND-CP, services are not considered for direct selling.

VISION – ‘To protect, serve and promote the effectiveness of member companies and the independent business people they represent.’ To ensure that marketing by member companies of products and/or the direct sales opportunity is conducted with the highest level of business ethics and service to consumers.

Source: www.amchamvietnam.com and Media reports



Regulations in Singapore



In 1973, Singapore regulators enacted The Multi-level Marketing and Pyramid Selling (Prohibition) Act, 1973 (Revised Edition in 2000) declaring pyramid selling schemes and arrangements as illegal. However, there are exceptions to the Rule, embodied in the Multi-level Marketing and Pyramid Selling (Excluded Schemes and Arrangements) Order, 2000 ('Order').

This Order has been passed in exercise of powers conferred under the Multi-level Marketing and Pyramid Selling (Prohibition) Act, 1973 in order to lay down an enabling policy for direct sellers and exclude certain schemes and arrangements to be categorised as 'Pyramid schemes'.

The legality of the operation lies in how it is structured and the key question remains as to whether the participants profit from the sales of the people they recruit, or do they profit from the recruitment of the people. The aim of the Act is to prevent any unsustainable pyramid-selling.

The Order prescribes that if any scheme or arrangement, or any class of such schemes or arrangements satisfies the following terms and

conditions, then it would not be construed as an illegal scheme:

- i. No entry fee : No person should be required to provide any benefit/ acquire any commodity in order to participate in the scheme or arrangement, other than the purchase of sales demonstration equipment or materials at a price not exceeding their cost which are not for resale and for which no commission, bonus or any other advantage will be given to any person;
 - ii. No recruitment commission: No benefit to be received by any person (promoter, participant, etc.) as a result of the sale, lease, licence or other distribution of a commodity to any other person or as a result of the performance of one or more participants in relation to the sale, lease, licence or other distribution of a commodity to any other person;
 - iii. Maintenance and audit of records: A promoter of the scheme or arrangement to maintain fair and accurate records of the maximum, minimum, median, average and mode benefits that have accrued to the promoter and participants
- in the scheme or arrangement, duly audited by an auditor for each financial year;
- iv. No fraudulent activities or sales: A promoter of the scheme or arrangement should take reasonable steps to ensure that participants do not indulge in false or misleading representations or any other form of fraud, coercion, harassment, or unconscionable or unlawful means;
 - v. Refund/ buy-back guarantee: The commodity should be distributed with a full refund or buy-back guarantee that is exercisable by every participant in the scheme or arrangement on reasonable commercial terms and within a period of at least 60 days from the date of distribution of the commodity to the participant;
 - vi. Written confirmation of guarantee : Every participant in the scheme or arrangement should be informed in writing, at the time of the distribution of the commodity to the participant, of the existence of the guarantee and the manner in which it can be exercised.

Direct Selling Association of Singapore



Direct Selling Association of Singapore ('DSAS'), a trade association gazetted on 8th October 1976, was founded to specifically represent the interest of legitimate direct selling companies operating in Singapore. The Association serves as a platform for member companies to meet regularly and to discuss matters of mutual interest as well as to interact with other similar organisations in other countries.

DSAS is managed by an Executive Committee, which is elected by the general membership annually at an Annual General Meeting.

DSAS is an affiliate of the WFDSA and is also an Institutional Member of the Consumers Association of Singapore (CASE). DSAS interacts regularly with other DSA's, particularly those in the ASEAN and East Asia countries as well as with the US DSA.

They have an excellent working relationship with CASE based on mutual trust and respect built up over the years. We co-operate with CASE in helping to resolve consumer complaints not only with regard to DSAS members but also non-members.

Singapore has adopted the World Direct Selling Code of Conduct for its National DSA members which concerns the relations between direct selling companies and direct sellers on one hand and consumers on the other.

VISION – An ethical marketplace for the direct selling industry in Singapore.

Source: www.mti.gov.sg; www.dsa.org.sg/ and Media reports

Regulations in China



China liberalised foreign investment in wholesale and retail distribution away from a fixed location with the promulgation of the Regulations for the Administration of Direct Selling by the State Council and effective from December 1, 2005 ('the Direct Sales regulations'). Following the promulgation of Direct Sales Regulations, China issued implementing regulations to supplement various aspects of the Direct Sales Regulations.

China also issued the Regulations on Prohibition of Chuan Xiao ('pass-along sales'), promulgated by the State Council and effective from November 1, 2005 ('the Pyramid Marketing Prohibition Regulations'). The stated aims of the Pyramid Marketing Prohibition Regulations are to ban certain activities which are considered to be harmful to the society and business environment.

"Direct Sales" is broadly defined as "a sales method whereby a direct selling enterprise recruits direct sellers, who market products directly to the ultimate consumers other than through a fixed place of business". According

to the Regulation on Direct Sales, a company must obtain an approval from the government before it is allowed to engage in any direct selling or even establish a local company that intends to engage in such activities. Further, the Direct Sales Regulations restrict the products (5 product categories) that can be sold using direct sales methods in two different ways. A direct sales enterprise may only sell products that were produced by itself or by its parent or holding company. Additionally, China has limited the overall scope of products that can be sold through direct sales. Moreover, the remuneration must be based on personal product sales rather than on upline-downline relationship and cannot exceed 30 per cent of revenues.

Multi-level marketing, this form of Direct Sales, is considered as an illegal activity when:

- there is entry fees and disguised entry fees (mandatory product purchases) to join;
- payments are calculated primarily on the number of recruits (rather than the sale of products);

- payments are based on formation of an upline-downline relationship between distributors where an upline payment is based on downline sales performance. Another key regulatory feature requires all direct selling companies to provide training on fundamental topics such as distributor contractual and legal obligations to all sales representatives.

Ministry of Commerce People's Republic of China ('MOFCOM') is the issuing authority of the Direct Selling Permits. In order to apply for a Direct Sales Permit from MOFCOM, an applicant would have to submit a set of application documents. The application for the Direct Selling Permit must be submitted to MOFCOM through their provincial level counterpart where the applicant enterprise is registered. During the application process, MOFCOM will solicit the opinion of SAIC regarding the application before it decides whether to grant its approval.

Source: www.melaleuca.com; www.khdsa.org.hk/ and Media reports





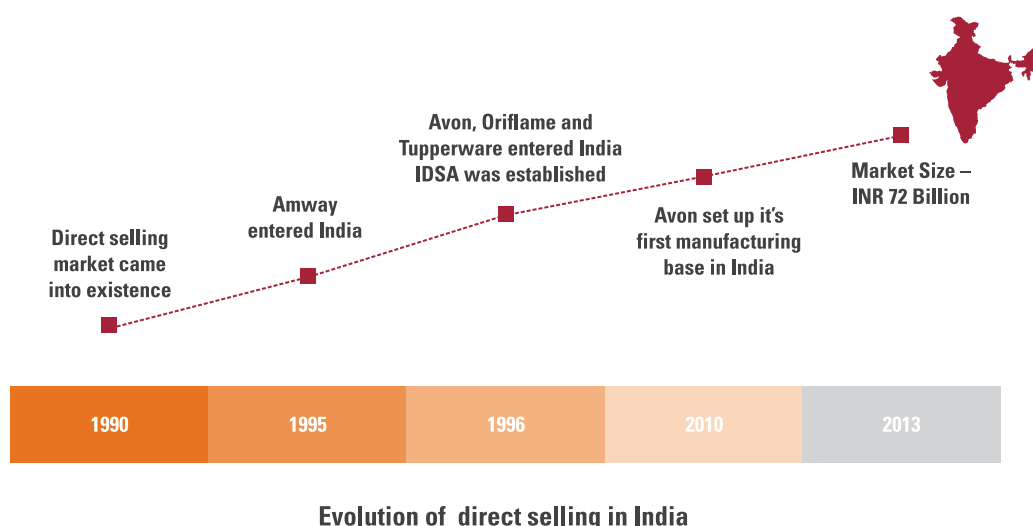
Direct selling market in India

Direct selling market in India took off in 1990's with the influx of the large global direct selling companies looking to tap the India opportunity.

In India, the industry came into existence in early 1980s, However, it really took off in early 1990s soon after the country opened up to the global market.

The industry witnessed major growth post liberalisation with many global players entering the Indian market. Amway was one of the first major global direct selling companies to enter India in the year 1995. Which

was followed by companies like Avon, Oriflame and Tupperware in 1996. Around the same time Modicare was one the first few Indian companies to adopt this channel of distribution.



Source: IDSA, PHD Chamber, ICREAR, Direct Selling News, Industry Discussions

Even though many of the Indian direct selling companies initially started in the southern part of India, today several of them have pan India operations. In terms of revenue generated Maharashtra, Tamil Nadu, Kerala and Andhra Pradesh have the highest shares. Recently, the industry has witnessed greater growth in the eastern part of the country and in many Tier 2 and Tier 3 cities with direct selling companies trying to reach out to customers in markets which have remain untapped thus far.

The direct selling market in India is a INR 72 billion market today and is dominated by the organised players

contributing ~95 per cent to the market. The market has grown to become a key channel for distribution of goods and services in the country, specially for health and wellness products, cosmetics, consumer durables, water purifiers and vacuum cleaners. However, it is still undeveloped as compared to global peers and the variety of brands and products available in the country are lower than those in other economies.

Going forward, the growth of the industry is expected to be majorly driven by expanding markets and a strong consumer base increasingly

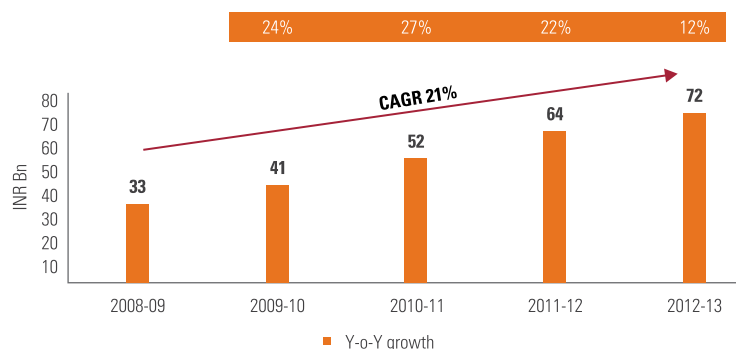
looking for quality products that add value, and are willing to pay a premium.

However, currently the industry is facing many challenges in India. India lacks a systematic policy that clearly defines the regulatory framework of the industry. There is no clear definition for legitimate Direct Selling to differentiate it from Ponzi/ Pyramid Schemes attempting to disguise themselves as Direct Selling structures. As a result of lack of clarity, fraudulent activities in the industry have increased and legitimate Direct Selling is being confused with Ponzi/ Pyramid Schemes.

The direct selling market in India has grown at a CAGR of 21 per cent over the last 5 years from INR33 billion in 2008-09 to INR 72 Bn in 2012-13.

Direct Selling Market Size in India

The market in India is led by international companies including Amway, Avon and Herbalife.⁶ The direct selling market in India has grown at a CAGR of 21 per cent over the past five years to reach INR72 billion today. The market grew at a lower rate in 2012-13, but that was possibly due to a relatively shorter phase of global slowdown. Going forward, the industry is expected to witness robust growth with increasing product demand and penetration of direct selling.



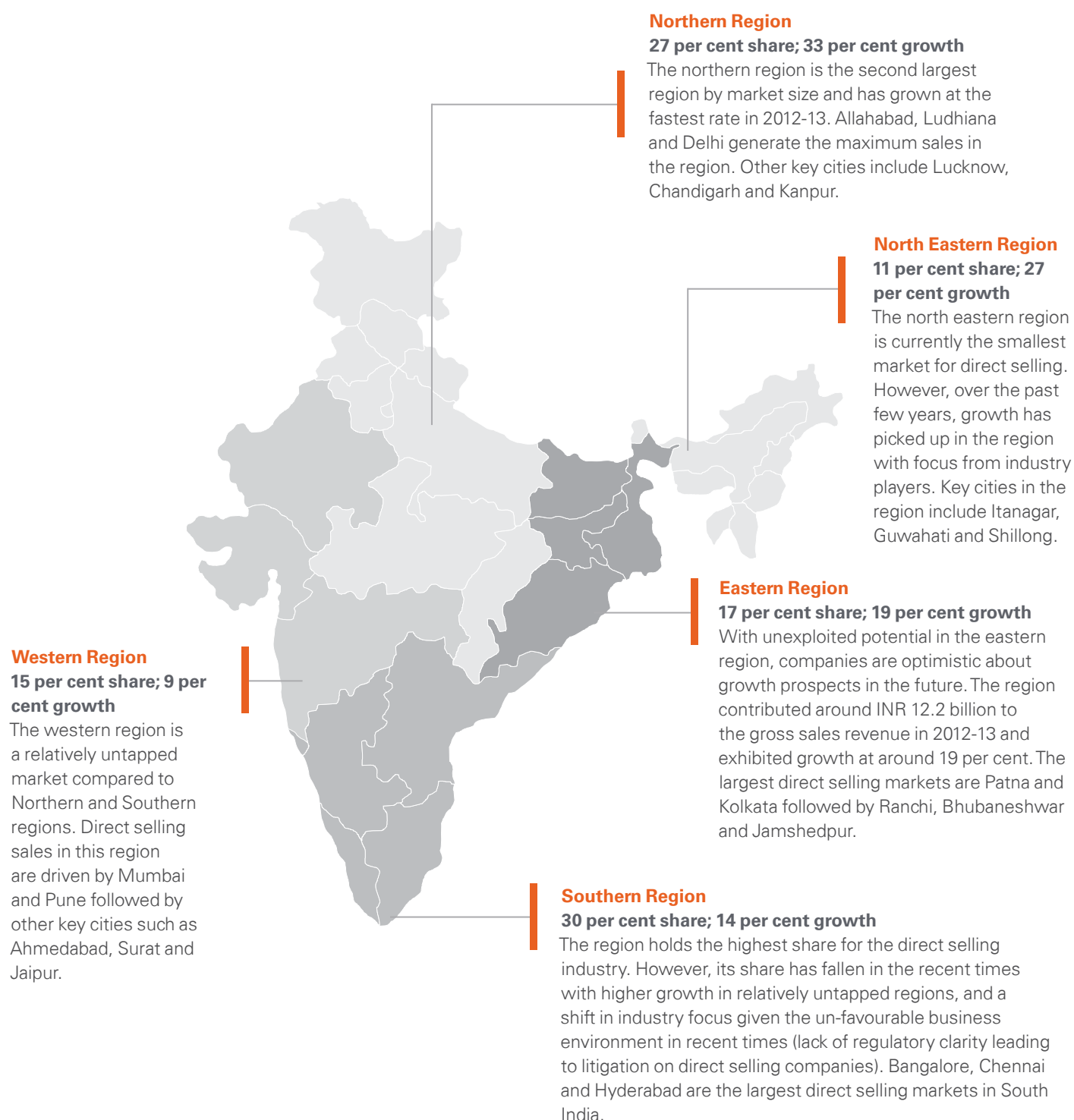
Source: WFSDA website, Date 14 July 2014



6. Industry discussions

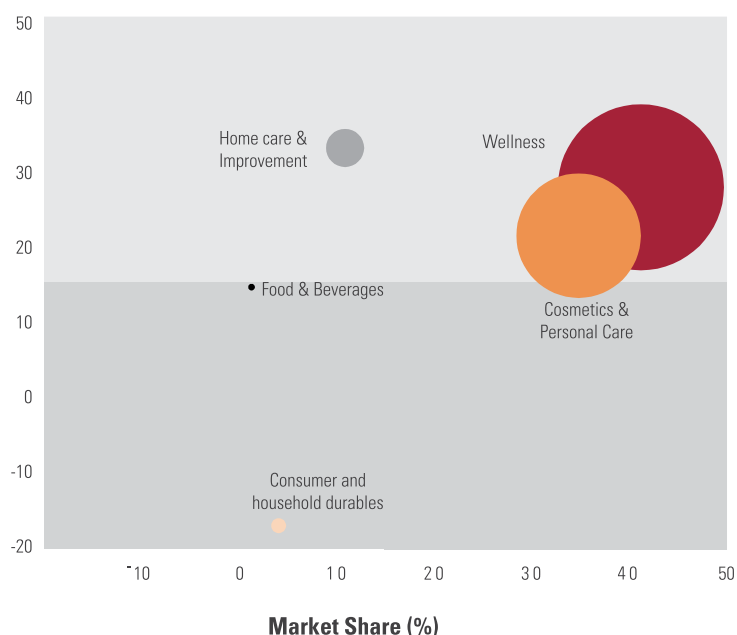
South India is the largest market for direct selling followed by the northern region which has witnessed a high y-o-y growth rate of 33 per cent.

State wise direct selling market



Health and Wellness is the biggest category capturing 47 per cent share in the direct selling market followed by wellness products and household goods.

Product Categories



Note: X axis - Market share for 2012-13; Y axis - Growth per cent over a 3 period from 2010-11 to 2012-13, Size of the bubble represents market size
Source: WFSDA website, Date 14 July 2014, KPMG in India analysis

The direct selling industry spans across a diverse range of products. However, specialised products requiring one to one interaction and demonstration with the customers such as health & wellness products, cosmetics and personal care products dominate the direct selling market.

Increasing awareness about the need for a healthy lifestyle seems to have increased the demand for health products like weight loss and dietary

supplements. As a result, Health and Wellness is the largest direct selling segment capturing a market of INR31.5 billion in 2012-13.

Cosmetics & personal care generated a revenue of INR 23.5 billion capturing a 35 per cent share in the market. With consumers' growing interest in self grooming, beauty and personal care companies in India have introduced a vast variety of products for both women and men that can enhance

their appearance. Demonstration through direct selling makes it easier for customers to choose such products.

Marketing strategies have increased consumer awareness about hygiene and cleanliness in urban and rural areas which has led to increase in demand for Homecare and Home improvement products. With a market size of INR7.4 billion, this category had an 11 per cent share in the total direct selling revenue in 2012-13.



Benefits - Socio economic impact of the industry

Socio Economic Benefits of Direct Selling

1

Self-employment opportunities and women empowerment

The size of the Indian direct selling community has more than doubled between 2009-10 and 2012-13. The industry has seen an increase of almost 2.6 million distributors from about 3.2 million in 2009-10 to 5.8 in 2012-13.

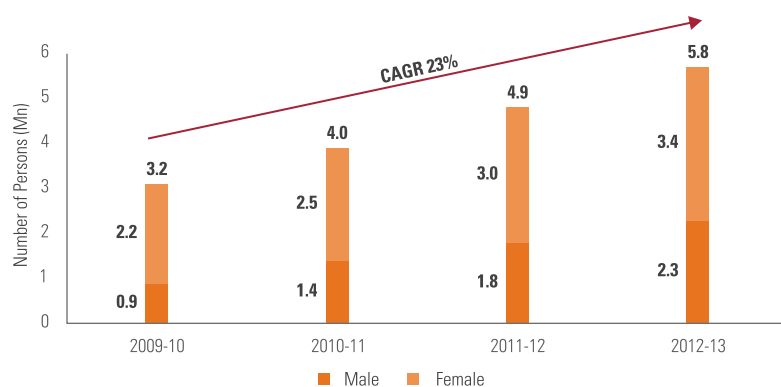
The industry offers self-employment opportunities to a large number of

people, specially women. Direct selling gives women the flexibility to manage their time and balance their work and personal lives. The industry also offers women financial independence and the improved ability to take care of their families. The industry in FY13 provided self-employment to nearly 60 per cent

(3.4 million) female distributors which increased 1.5 times from 2.2 million in FY10.⁷

Also many companies work towards the empowerment of women. In 2008 Avon India in association with Avon foundation started the Breast Cancer Crusade to increase awareness of the disease in the country.⁷

Self-Employment Opportunities



Source: IDSA



7. IDSA, Socio-Economic Impact of Direct Selling - ICRIER Report, Industry Discussions

2

Increase in product reach to Tier II, III & rural areas

With about 70 per cent of India's population in rural areas, the Indian rural FMCG market is still relatively untapped (with only 34 per cent FMCG sales)

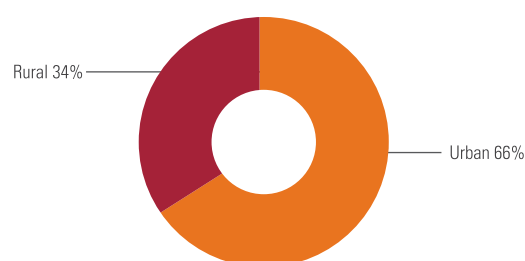
Many direct selling companies are now expanding their reach and

are trying to enter Tier 2 and Tier 3 cities and rural areas, providing the consumers with knowledge about different products and services. Maintaining good quality at affordable prices seems to have led to an increased demand for these products and an increase in the number of

products sold through the direct selling channel.

Increased focus on the agricultural sector would likely boost rural incomes, and could provide better growth prospects for direct selling companies going forward.

FMCG Consumption 2012-13



Source: IDSA



Geographical expansion to reach Tier II, III & rural areas

Many companies including Modicare and Amway are expanding into tier II, tier III and rural areas. The strategy adopted by the direct selling market in India to increase rural focus often involves the direct selling companies to forgo their premium tags and target mass segments by producing products sachets. This marketing method has effectively enabled companies to build trust in smaller towns and villages.

Modicare

Modicare doubled its salesforce to 2.5 lakh direct sellers in 2011 and invested Rs. 50 crore to develop products and open more centers across the country, for penetrating the tier II, III and rural market.

It launched a new range of products under the brand names 'Smooth' and 'Velocity'. These products like shaving lotion, after shave, body spray among others were offered by the company at a lower price range compared to similar products sold by other companies.

Amway

To offer more convenient prices to its customers, Amway has launched 4-ml sachets of Satinique dandruff control shampoos and conditioners, amongst others, under its personal care category. Pricing the product at Rs. 5, the company is trying to providing its clientele products in a lower price bracket. Along with sachets, the company is coming out with 2-in-1 products, such as combined shampoo and conditioner samples to promote its products.

Source: IDSA, Socio-Economic Impact of Direct Selling - ICRIER Report, Industry Discussions

3

Sourcing from SMEs leading to growth and technology percolation

Many direct selling companies in India outsource their manufacturing process to contract manufacturers which are generally Micro, Small and Medium Enterprises (MSME) to produce products domestically.

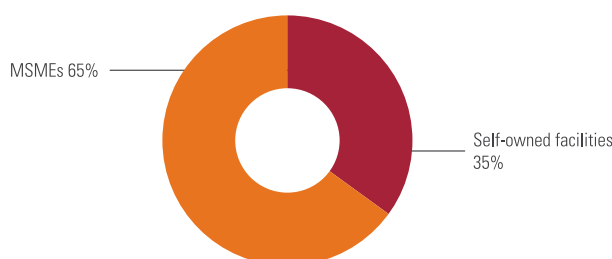
As of 2011, nearly two-third of the products sold by direct selling

companies were sourced through MSMEs.

In a lot of cases, the direct selling companies impart the manufacturing know-how, technology and processes to enable the SMEs to produce leading products. Several direct selling companies also invest in

providing the right equipment and machines to the SMEs for production. Driven by these initiatives, many SMEs have now developed capabilities to cater to the needs of other MNCs and have commenced supplies to them, promoting India as a manufacturing destination.

Split of Manufacturing



Source: IDSA



Case Study: Sarvotham Care

Sarvotham Care, a small scale enterprise started its operations in 1996 in Hyderabad, wherein they were involved in pharmaceutical formulations.

After Amway got approval from India's Foreign Investment Promotion Board in 1996 to invest in Indian operations, Sarvotham Care got in touch with Amway in 1997 for manufacturing Amway's home care range. Amway helped Sarvotham Care in bringing its production facilities and skills to international standards through the transfer of manufacturing

know-how and processes for the indigenous production of Amway's product range. Soon, Sarvotham Care expanded into personal care products as well.

In 2005, Sarvotham Care invested INR 15 crore to set-up its manufacturing facility in Baddi, which was further expanded with a total investment of INR 100 crore.

Today, Sarvotham Care produces 85 per cent of Amway's product for the domestic market. The company has also grown multi-fold from a revenue of 15 crore and 20-25 employees in 1997 to a revenue

of over INR 350 crore employing 500-600 people today. In addition, the company has also grown to become a supplier for other major companies including GSK, Gillette and P&G.

Just like Amway, many other direct selling companies have helped in steering the progress of the small and medium-scale enterprises in India. Along with transfer of international standard technology, SMEs were benefitted by expert guidance.

Source: Industry Discussions



4

Contributions to social causes

The direct selling industry has made notable contribution to social causes. In 2012-13, approximately 81 per cent of the direct selling companies in the organised sector were involved in CSR activities.

Companies typically contribute upto 1 per cent of their revenue to social change. Contributions from

direct selling companies in India are focussed to social areas like health and human services, environmental protection, women empowerment and children protection and education rights.

Avon set-up the Breast Cancer Crusade to raise awareness about the disease in India. The Amway

Opportunity foundation currently has two projects – National Project for the Blind and Project Sunrise providing education opportunities to the underprivileged. The Herbalife Family Foundation aims at providing good nutrition to children in the country.



Women Empowerment through CSR, Oriflame

Oriflame India has contributed towards women empowerment through its CSR activities by leading girls towards the path of education and helping them in bringing out their latent talents as well as by the self-employment opportunities it presents to all female employees.

Oriflame Girl Child



'Oriflame Girl Child' project is an endeavor to spread the message that a community's development is incomplete without the education of girls. Under this project, Oriflame has sponsored education of 1,000 girls from Deepalaya, a Delhi based

NGO. A grant of approximate INR 4 crores was given to Deepalaya for the 'Oriflame Girl Child' project. The contribution has facilitated education of selected girls in the age bracket of 4 to 17 years.

Power of Kiss



This campaign is an endeavor to contribute to the overall development and welfare of the girl child in India. In alliance with Deepalaya, Oriflame has promised to contribute contributed INR 2 from the sale of each lipstick, which will be doubled by a charity concern formed by Oriflame founder.

Hand in Hand



Oriflame has invested INR 30 crores in a Tamil Nadu based NGO, Hand in Hand. The NGO uses this grant to support Self Help Groups and microfinance projects for training of SHG members and women's literacy programmes.

This project focusses on alleviating rural poverty by empowering women to become entrepreneurs and set-up enterprises in order to bring in more income to the families.



Child care through CSR, Amway

Amway Opportunity Foundation executes Amway's vision of enabling the less privileged children to lead a better life by many projects such as the National Project for visually impaired.

India has approximately 2 million blind school-age children. Under this project, Amway ensured access of 85,000 blind school children to Braille textbooks, donated audio textbooks to Bangalore university and set up 15 fully functional computer centers which cater to 3000 students per year.

With the high cost of Braille textbooks, Amway's contribution has given these children a chance of a better future.

"Recorded books are not enough, especially for children. When you just listen, you don't acquire the fundamentals of language, such as spelling and phonetics. Braille offers distinctive advantages for children .. It opens the imagination in the same way the printed page does for sighted children."



The life of Siddhi Desai, a first ranking student, substantiates the impact of this. The cost free Braille provided by Amway helped the 13 year old visually impaired student from Bombay reach her full potential and has done so for many more.

"This program provides exactly the kind of encouragement these children need to graduate, on time, and to get ready for the next stage of their lives"

- Mrs. Desai (Mother)



Education and Health care for less privileged, Herbalife

Herbalife Family Foundation (HFF)

Created in 1994 by Herbalife Founder Mark Hughes (1956-2000), the Herbalife Family Foundation (HFF) is a non-profit corporation dedicated to improving the lives of children by helping charitable organizations provide healthy nutrition to children in need. In 2005, HFF introduced the Casa Herbalife Program to help provide healthy and nutritious meals by partnering with existing charities serving children. Today, HFF supports over 100 Casa Herbalife programs in more than 50 countries and serves over 120,000 children daily.

Herbalife India has supported and donated to various non-profit organizations in projects that are related to nutritional wellbeing of children as well as

the Mission Education projects. It is also working with Charities Aid Foundation India on nutrition related projects.

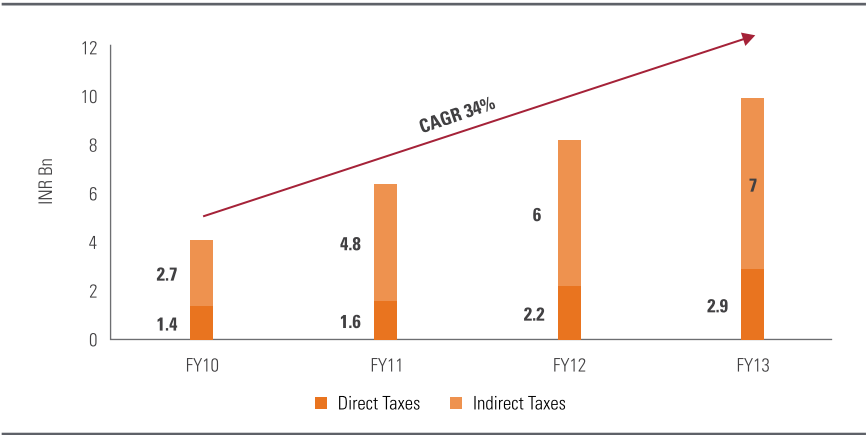
Launch of Casa Herbalife in – Mumbai, Maharashtra

- Herbalife in association with Smile Foundation launched Casa Herbalife Center in Mumbai
- Through this association Herbalife will provide a grant to the Smile Foundation, a national development organization that works towards the education and healthcare of less privileged children and youth. The grant will provide nutritional food to 3000 children across India as part of Smile Foundation's 'Mission Education' program across India, first phase of which was launched in Mumbai
- The Mission Education program of Smile Foundation is designed to empower children from the underprivileged communities. The first phase of the program will benefit children, in the vicinity of Malvani in Mumbai, within the age group of 5 to 14 years. The other beneficiary group will be boys and girls at Khapri, in Thane district of Maharashtra, in the age group of 3 to 18 years.

5

Contribution to exchequer

The operating model for direct selling generates tax contributions to the government across its value chain. Total tax contribution by the direct selling industry to the government in FY13 alone is estimated at INR10 billion. This includes direct and indirect tax contributions through corporate income taxes, import duties and VAT



Source: IDSA



Direct selling companies have also contributed towards economic development by investing in manufacturing and R&D.⁸

Investment in manufacturing and R&D made by the industry: Select examples

Amway

Amway has invested over INR 1500 million in India. Of this, approximately INR 220 million has been in the form of foreign direct investment. It has invested INR 200 million in the transfer of technology to the contract manufacturers. Amway's first LEED-certified greenfield manufacturing facility is expected to be open in early 2015, at an investment of INR 5500 million in Tamil Nadu, and plans to manufacture Nutrition and Beauty products predominantly.

With an initial investment of at least INR 500 million, Amway India Enterprises has set-up a dedicated R&D centre in India, which will be its third R&D centre globally. Apart from complementing its Shanghai and US centres on the global products, it is expected to focus on developing

innovative products specifically for the Indian market, which eventually might be sold globally.

Herbalife

Herbalife International India Private Limited (Herbalife) is in the business of trading and marketing of Nutritional food products, energy drink mix and personal care products. Started in 1999, today Herbalife is one of the largest direct selling companies in India. Herbalife manufactures its products through third party manufacturers at Baddi and Paonta Sahib in Himachal Pradesh. Its personal care products are currently being imported. The company pursues its global mission of 'Changing People's lives' through 'direct selling' channel of sales & distribution by Independent Associates in India."

Vestige

Vestige, which started in 2004, is a direct selling player in health and personal care products. The company is constantly expanding its product range with a target to introduce 15 new products every year. The company has invested INR 200 million in manufacturing facility in Baddi in Himachal Pradesh; further, by 2015 they plan to invest INR 10 million in its own R&D facility, which is expected to focus on Ayurvedic products.

Oriflame

Oriflame India, is fully owned subsidiary of Swedish direct selling company Oriflame, and has its manufacturing facilities in Noida. The manufacturing facility caters to both the domestic and export market.

8. Industry Discussions



Direct selling companies have contributed in improving quality of life in multiple ways. Amway is one of the largest such contributors.⁹



Company Profile – Amway India

Amway, short for American Way, is one of the world's largest direct selling companies. Founded in 1959 by, Amway operates in more than 80 countries and territories on six continents. Amway India was established in 1995 and commenced its commercial operations in the country by 1998.

Amway India is India's largest direct selling company that manufactures and sells world class FMCG products. Amway India offers over 140 products in five categories - Personal care category, Home Care category, Nutrition & Wellness category, Cosmetics and Great Value Products.

Investment in manufacturing / Contract manufacturing

With the exception of cosmetics products and some products in Nutrition and Wellness category, almost all Amway India products and bottles are manufactured in India. In India, Amway outsources manufacturing to small contract manufacturers. To achieve international standards, Amway has invested about INR 200 Million to provide contract manufacturers with the newest technology. Outsourcing has generated employment for over 2,000 persons at all the contract manufacturer locations. Amway has also invested INR 5.8 Billion to build its first manufacturing facility India in Tamil Nadu which is expected to go live by 2015 and manufacture beauty and nutrition products.

Corporate Social Responsibility

Amway India's CSR initiatives kicked off in 2001 with the registration of the Amway Opportunity Foundation (AOF) which works towards uplifting underprivileged children. The initiative gained focus in 2003 when the 'Amway One By One' campaign was launched across 80 Amway affiliated countries. Between 1995 and 2005, AOF's 'National Project for the Visually Challenged' provided 85000 school going children with Braille textbooks across 12 states in India. AOF also launched 'Project Sunrise' aimed at helping Indian orphanages and children's home provide children with clean drinking water, education and nutrition, improving their basic healthcare.

Key statistics

Turnover:

INR 22 Billion (2012-13)

No. of direct sellers: 1.4

Million Presence: 152 Offices

Delivery Network:

4000 Cities & Towns

Taxes Paid:

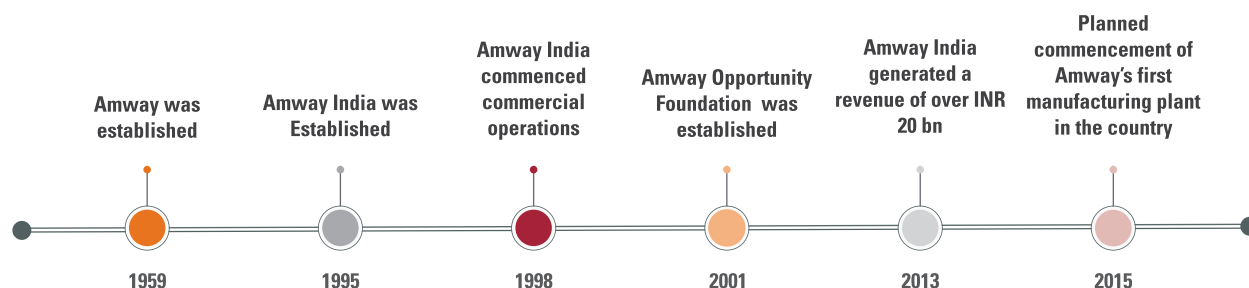
INR 4.8 Billion (2013-14)

CSR Spend:

INR13.8 Million (2012-13)

Key Brands: Nutrilite, Artistry, Attitude, Dynamite, Glister, Persona, Satinique

Company Evolution



9. Company website and discussions, Press search

Avon is another such contributor to the well-being of the society by empowering women, philanthropy and through sustainable operations.¹⁰



Company Profile – Avon India

Being one of the world's leading direct selling companies, Avon has focussed on women for its business, and is known for selling products to, for and through women. It promotes financial independence of women. The iconic 'Avon Lady' is the name given to its independent representatives.

Avon began operations in India in 1996. Its product line-up includes beauty and personal care, skin care, perfumes, home care, and nutritional products. Avon uses both company-owned manufacturing facilities and third-party manufacturers to produce its products around the world

Corporate Social Responsibility

Avon Breast Cancer Crusade: In 2008, Avon India launched the Avon Breast Cancer Crusade in association with Avon foundation followed by the "don't turn a blind eye to breast cancer" campaign in 2009. Through various mediums breast cancer awareness was disseminated to reach over 1 million women. Through the sale of pink ribbon products, Avon India raised more than \$80,000 from 2008 to 2010, and the funds have been donated to the Cancer Patients Aid Association.

Key statistics

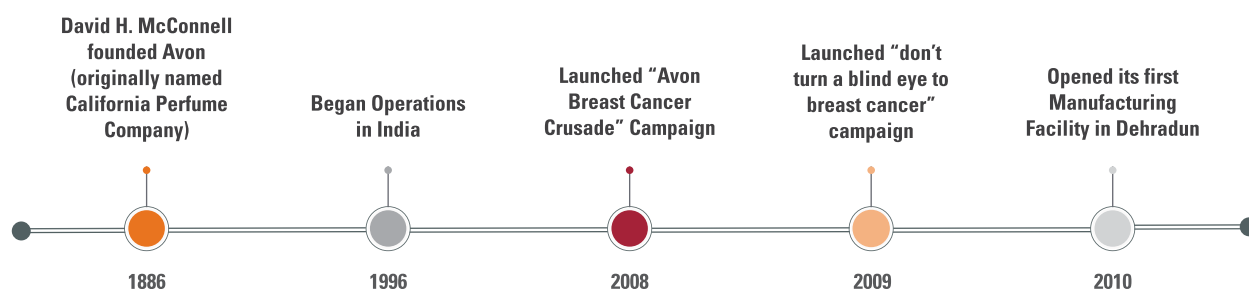
Global Turnover:
USD 10 Billion (2013)

No. of direct sellers:
70,000

Presence: 1000 towns and 500 cities across India

Key Brands: Anew, Avon Care, Clearskin, Naturals, Solutions, Senses

Company Evolution



10. Company website and discussions, Press search

Modicare, with a range of products in accordance with Indian tastes and preferences, is an active contributor dedicated towards HIV/AIDS prevention.¹¹



Company Profile – Modicare

Modicare, a subsidiary of the Modi group, was launched in 1996 with the aim of providing financial freedom to every individual. It is the first direct selling company of Indian origin.

Modicare offers more than 120 products across various categories including skin care, colour cosmetics, personal care, home care, laundry care, nutrition, health and wellness, food and beverages, agriculture, and auto care.

Key statistics

Turnover:
INR 1.5 Billion

No. of Distributors:
150,000

Presence: 50 centers
supplying products to 2700 cities

Key Brands: Well, Essensual, FOTE, Sofwash, Salon, Velocity, Washmate

Research & Development

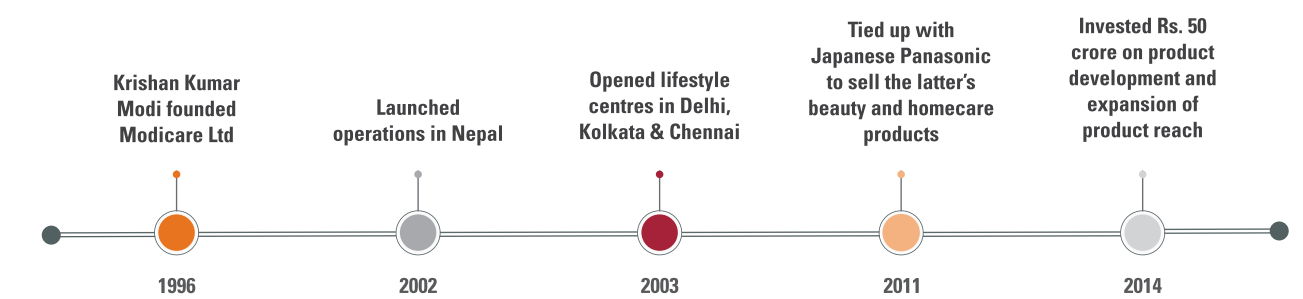
Modicare has an R&D centre in Mumbai, which consists of experienced scientists and technical staff who develop products centres in accordance with Indian tastes and preferences. The company has studied the markets of some SAARC countries to launch its products. It has expanded its product reach to Sri Lanka and Bangladesh.

Corporate Social Responsibility

Modicare Foundation: The Modicare Foundation was set-up in 1996 to prevent the spread of HIV/AIDS, enhance awareness and erase myths surrounding it. Some of the key achievements of the foundation include:

- Pre-test, post-test and follow up counselling services to over 11,000 clients
- Covered 25,000 single circular migrants annually to reduce vulnerability of AIDS among migrant population
- Generated awareness of HIV/AIDS and STIs to over 20,000 construction workers on the Gurgaon-Sohna road
- Trained 50,000 adolescents in making informed choices related to growing up and HIV/AIDS.

Company Evolution



¹¹. Company website and discussions, Press search

Vestige, an Indian direct selling company, believes in empowering its members with the opportunity to lead their lives on their own terms.¹²



Company Profile – Vestige Marketing Pvt. Ltd.

Vestige Marketing Pvt. Ltd., started operation in India in 2004 and is one of the leading direct selling companies in the country dealing in healthcare and personal care products.

Vestige is an ISO 9001-2008 certified company and strives to offer world class service levels to all its customers. The company has been able to accomplish a rewarding and sustainable system by providing quality products at attractive prices and has been growing constantly at ~100 per cent over the past few years.

Investment in manufacturing / Contract manufacturing

Avon Breast Cancer Crusade: In 2008, Avon India launched the Avon Breast Cancer Crusade in association with Avon foundation followed by the “don’t turn a blind eye to breast cancer” campaign in 2009. Through various mediums breast cancer awareness was disseminated to reach over 1 million women. Through the sale of pink ribbon products, Avon India raised more than \$80,000 from 2008 to 2010, and the funds have been donated to the Cancer Patients Aid Association.

Corporate Social Responsibility

Vestige HeartTo Heart – Vestige has taken over an orphanage outside Madurai under the “Vestige Heart to Heart” foundation. Vestige supports 165 children and pays for their education, health and support. In 2013 Vestige spent more than INR 50 Lakhs on its CSR activities.

Key statistics

No. of direct sellers:
100,000

Delivery Network:
2800 Service Centres

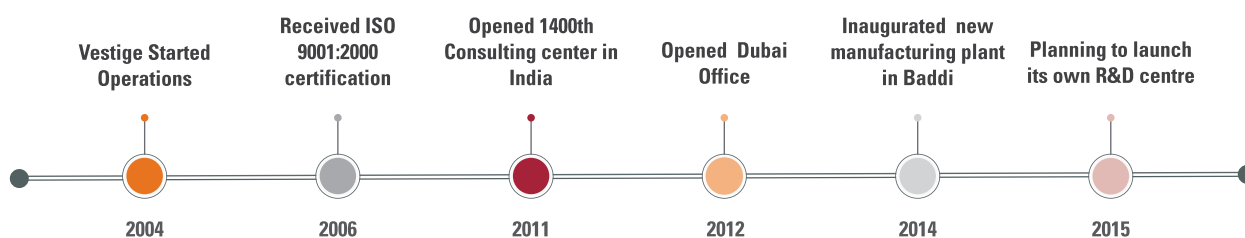
CSR Spend:
INR 5 Million + (2013)

Presence: 92 Offices in India and 2 International offices

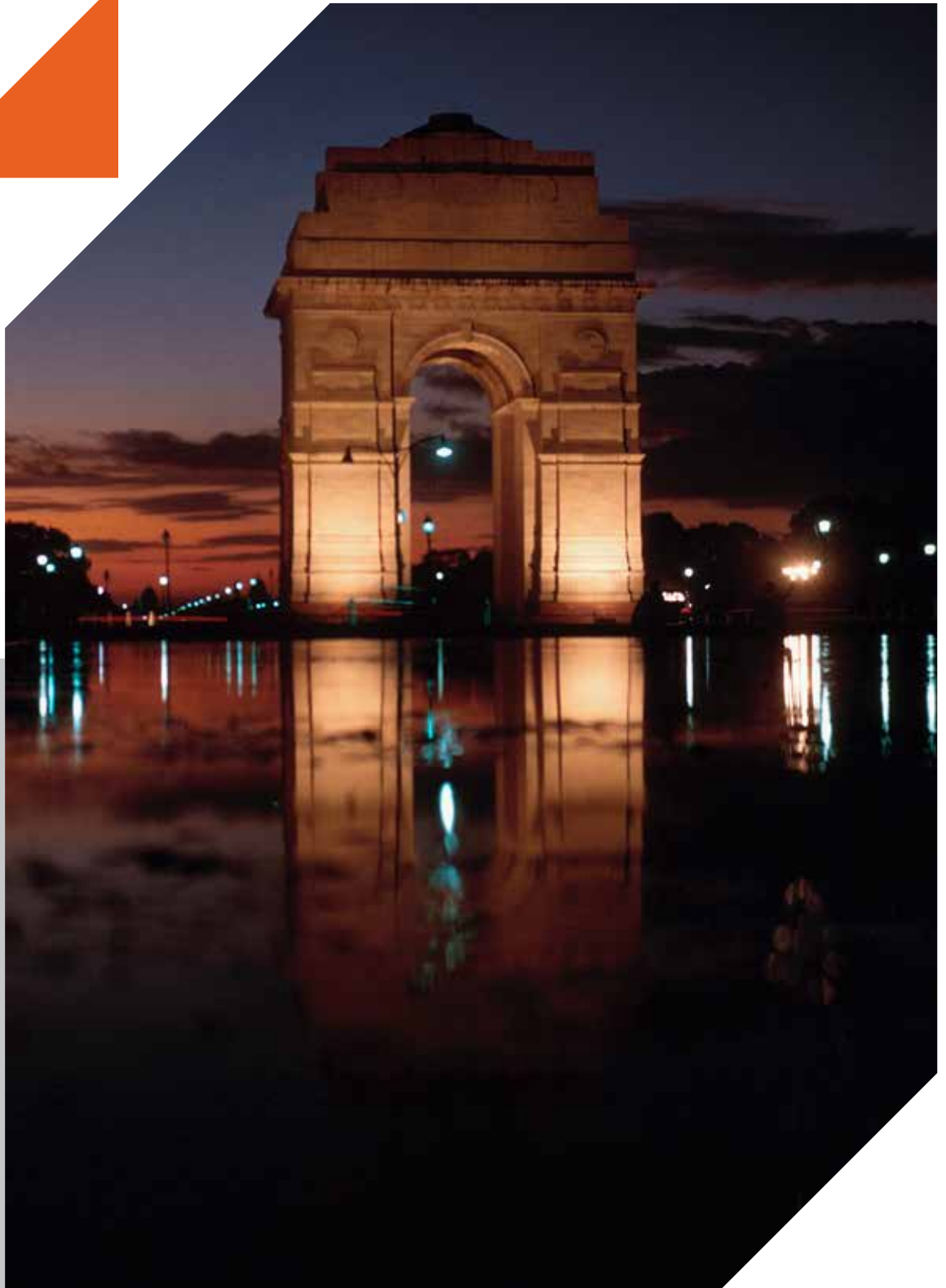
Taxes Paid:
INR 600 Million (2013)

Key Brands: Assure, Enerva, Invigo, Zeta, DentaAssure, Agri-82

Company Evolution



12. Company website and discussions, Press search



The Indian direct selling opportunity: 2025

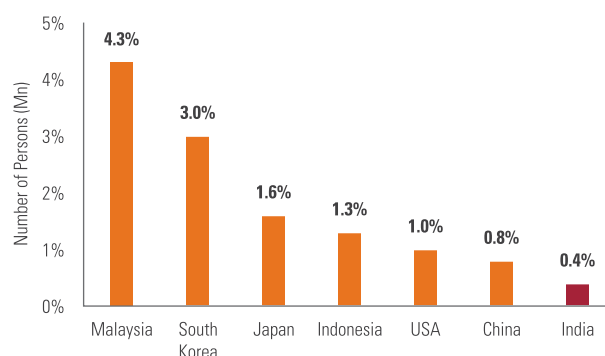
Driven by increasing share of middle income households and potential of increasing penetration, the direct selling market in India has the potential to reach INR 645 billion by 2025.

Direct Selling Penetration - Global comparison

In China, the direct selling industry has flourished 2006 onwards and has grown significantly over the past years.¹³ Currently, China's industry penetration stands at twice that of India at 0.8 per cent.

Other Asian markets like Indonesia, Japan and South Korea have much higher direct selling penetration levels. Malaysia has the maximum direct selling penetration in Asia with 4.3 per cent.

India's direct selling penetration is the lowest among comparable economies at ~0.4 per cent of the retail sales. Given its under-penetration in global comparison, it has a significant potential to growth going forward.

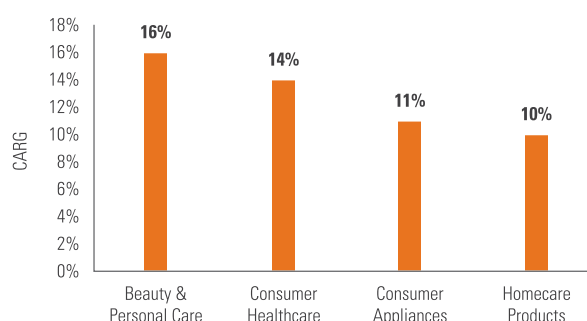


Source : Euromonitor

Growth in Consumer Markets

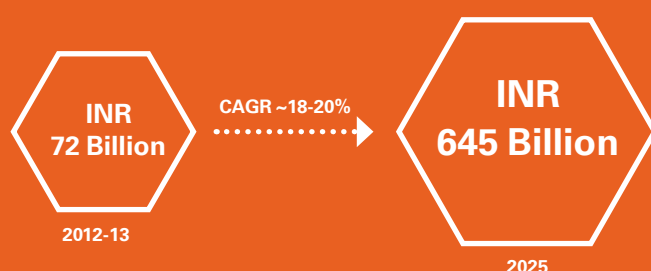
The overall industry growth in the key categories of direct selling such as health and wellness, cosmetics & personal care, household goods, and others can fuel direct selling growth.

Most of these categories, which are key contributors to the direct selling industry are projected to grow at 10-15 per cent.¹³



Source: Euromonitor, BCG Report 'The Tiger Roars, Capturing India's Explosive Growth in Consumer Spending', 2012, KPMG in India analysis

Direct selling market potential (INR Bn)



With an expected growth in the consumer markets, and increased penetration of direct selling channel, the direct selling has the potential to reach a INR645 billion market size by 2025

Source: Euromonitor, BCG Report 'The Tiger Roars, Capturing India's Explosive Growth in Consumer Spending', 2012, KPMG analysis

13. KPMG in India analysis

Growth Drivers / Key Trends

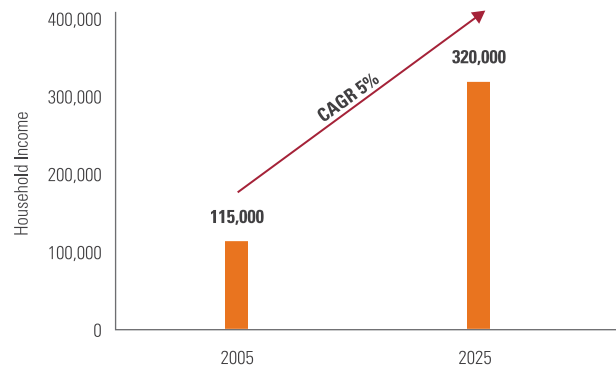
1

Increasing Personal Disposable Income

Driven by robust GDP growth, the Indian household income is likely to triple by 2025, from INR 115,000 currently to INR 320,000 (approx.)

Due to rise in employment rate, disposable incomes has also increased resulting in improving the sales of the goods and services across the direct selling industry.

Household Income

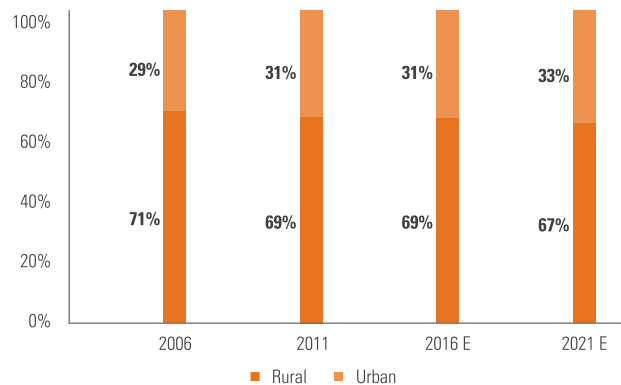


Source : EIU

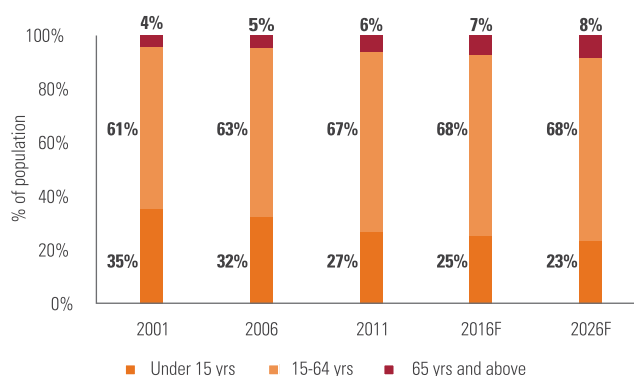
2

Urbanisation and Lifestyle Changes

- In 2011, about 28 per cent of India's population resided in urban areas which is expected to see an increase and reach to 33 per cent in 2021 (1.5 times the growth of overall population).
- Urbanisation is expected to have a positive impact on the lifestyles of people as they will likely have more exposure to better quality products and services.
- Also along with rapid urbanisation, by 2021 a higher share of the population is expected to shift towards the workable age group. Convenience and improvement of lifestyle should trigger a demand for direct selling products specially packaged food, cosmetics and household appliances.



Source : KPMG in India analysis

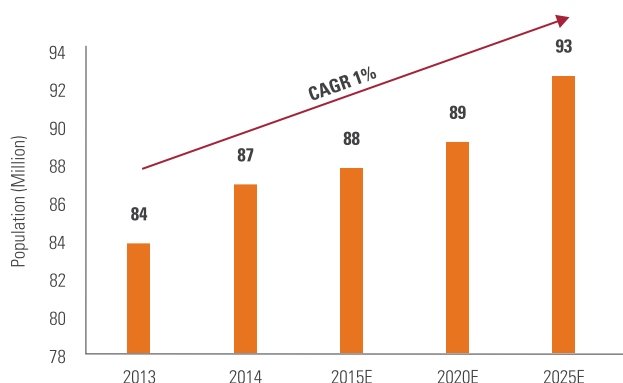


Source : KPMG in India analysis

3

Significant rise of women in urban work force

- According to India's National Sample Survey, the proportion of working women in urban areas increased from 11.9 per cent in 2001 to 15.4 per cent in 2011.
- As a result of more women being employed, there has been an increase in the disposable income leading to increased capacity to spend. This will help further aid the growth of the industry.

Employed Female Population

Source : India Stats

4

Increasing reach of the direct selling industry¹⁴

- Direct Selling companies are now expanding their reach and are trying to enter Tier 2 and Tier 3 cities and rural areas, providing the consumers with knowledge about different products and services
- Maintaining good quality at affordable prices; demand for these products has increased and has resulted in increase in the number of products sold through the direct selling channel.
- Increased focus on the agricultural sector could boost rural incomes, and could provide better growth prospects for direct selling companies going forward.



14. Industry discussions

Opportunity to be created by Direct Selling companies along with Socio economic impact of the industry by 2025.

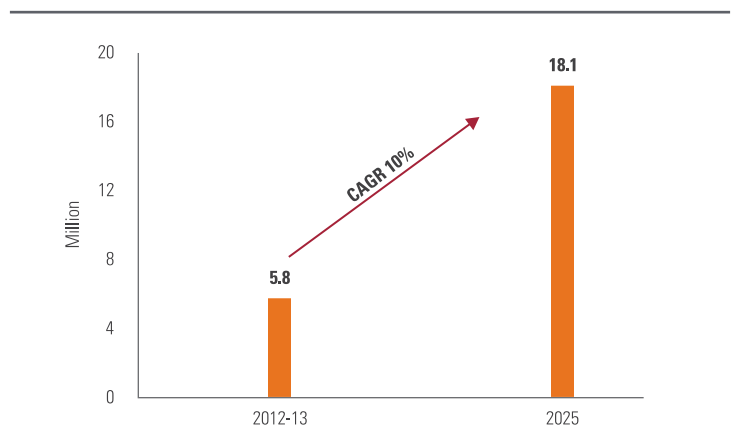
Opportunity in 2025

The growth in the direct selling industry is expected to have cascading effect on the following factors:

1

Self-employment opportunities

The growth of the direct selling industry will likely be driven by on-ground direct sellers. Considering global benchmarks for the industry, the industry can potentially engage ~18million direct sellers by 2025.

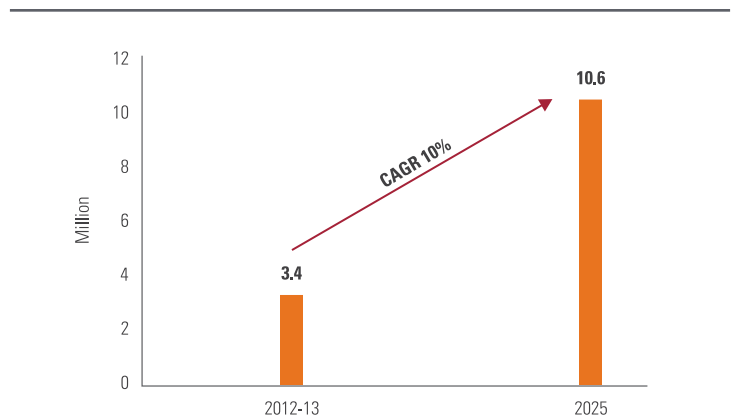


Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

2

Increase in self-employment opportunities for the female population

The direct selling industry has traditionally had a higher participation from women. Considering prevailing trends, by 2025, the industry can potentially engage over 10 million women as direct sellers providing additional income opportunities to the households.



Source: IDSA, PHD Chamber of commerce and industry, KPMG in India analysis

3

Employment generation

With an average of over 0.4 workers per INR 0.1 million of output generated, the industry is expected to provide direct employment to 2.5 million people by 2025 through its manufacturing operations.¹⁵

15. IBEF report on Role of manufacturing in employment generation in India, KPMG in India analysis

4 Industry contribution towards Social responsibility

In August 2013, the Indian parliament passed the Indian Companies Act, 2013 (the “New Act”), which replaced the Companies Act of 1956. The New Act has imposed compulsory corporate social responsibility obligations (CSR) upon Indian companies and foreign companies operating in India. Companies with a turnover of INR 1,000 crore or net profit of INR 5 crore or more have to spend 2 per cent of their net profit for the preceding three years on CSR. With the New Act in place the direct selling industry’s contribution towards CSR is expected to magnify significantly. The industry is expected to contribute over INR 300 million towards CSR activities by 2025 annually (considering that 50 per cent revenues will be generated by companies falling under the requirements of the Act).¹⁶ Besides the mandatory requirement, many other direct selling companies contribute significantly towards CSR.

5 Contribution to government Revenue

Considering Market Potential and future growth of the industry to USD 645 Billion in 2025, the contribution to the government revenue is also expected to increase 9 folds to ~INR 90 Billion by 2025.



Source: Industry discussions, KPMG in India analysis, 2014



16. KPMG in India analysis

Current regulatory environment in India

Regulatory Structure – Trading in India

The direct selling sector in India has a quasi- federal governance structure. The Constitution of India has demarcated the areas of jurisdiction for the Central Government (Union List), State Governments (State List) and joint administration for the central government (concurrent list).

According to Indian constitution, wholesale and retail trade fall under

the purview of state governments. Since direct selling, as defined in NIC 2008 classification, is a part of non-store retail format, it falls under state legislation. However, this sector is also closely monitored by different ministries/ departments of the central government. This Section outlines various regulations/ statutes applicable to direct selling businesses.



Laws governing Consumer protection

Ministry of Consumer Affairs, Food and Public Distribution

The Ministry of Consumer Affairs, Food and Public Distribution has two Departments, namely the Department of Food and Public Distribution and the Department of Consumer Affairs, responsible for consumer welfare and regulation of internal trade.

The main functions of Department of Consumer Affairs ('DCA') is to protect and promote welfare of consumers through The Consumer Protection Act, 1986, formulate standards for quality control of goods and services and monitor prices of essential commodities. In carrying out its various functions, DCA is assisted by the Indian Institute of Legal Metrology.

Another major thrust of DCA is to regulate internal trade within the country and it has undertaken many initiatives to ensure development of organised retail, single market for agricultural commodities, regulate retail infrastructure by way of allied laws, unified regime of consumption taxes, etc.

In light of the above, it is imperative to note that the activities of a direct selling business, predominantly a consumer-oriented business model driven by continual consumer interactions, are being closely monitored by the DCA. The direct selling business houses need to be conscious of various laws and specific guidelines laid down by DCA or its

nodal departments, either at the Central or State level, and are required to adhere to the same in conduct of their business.

The Consumer Protection Act

From the perspective of ensuring protection of consumers buying products sold through the direct selling route, one of the most important legislation is the Consumer Protection Act, 1986 and the Consumer Protection Act (Amendment) Act, 2002 (effective from March 2003). This Act protects consumers of both goods and services from unfair or restrictive trade practices of traders and service providers. It deals with consumer grievances and redresses them on the basis of complaints by consumers through consumer forums at three different levels - the district level, the state level and the central level.

Direct selling business houses in India sell quality products, in line with the applicable quality standards prescribed by the Consumer Protection Act, and usually have robust systems in place to ensure protection of consumer rights.

The Legal Metrology Act ('LMA')

The Legal Metrology Act, 2009 (Act 1 of 2010) was enacted by the Central government which repealed and replaced the Standard of Weights and Measures Act, 1976 and the Standards of weights and Measures

(Enforcement) Act, 1985. The State government can enforce the provisions of the Act and Rules made thereunder after framing its own Legal Metrology (Enforcement) Rules for the state and on notification of the date from which it will come into force.

Under the provisions of the LMA read with relevant Rules, every packaged commodity/ product should disclose inter-alia the retail sales price and net packaged quantity as per established standards of weights and measures on the packing of the commodity/ product.

Almost every registered corporate, employing direct selling mode for sale of their products, makes necessary disclosures in terms of maximum retail price, net weight of the packaged product, key ingredients, appropriate directions for use/ consumption, usage warnings, etc. in discernible and legible terms on the surface of the product being sold. These disclosures itself, in accordance with LMA, serve as a marketing tool for making demonstrations before the end consumers. The above measures help ensure that products/ commodities distributed by direct selling route are not sold at inflated prices.

Food Safety and Standards Act, 2006 ('FSSA')

Under the FSSA Act regime, prior approvals are required for every category of food (as defined under the FSSA Act) or related products by a company before undertaking manufacturing and/ or sales in any form.

In an industry like direct selling, the major challenge under this statute is pre-registration of each and every distributor in the down line proposed to be engaged in selling of food products.

The Competition Law

The Competition Act, 2002, and its amendments regulate anti-competitive practices and are applicable to direct selling companies. The Competition Commission of India regulates practices having adverse effect on competition and prohibit any anti-competitive agreements, abuse of dominant positions, cartelisation, etc. to ensure sustainable competitive markets throughout the country. Any activity hampering competition in the economy or sale of products at predatory price would result into significant ramifications from the competition regulator of India. The

products manufactured/ sold by prominent direct selling companies are of high standards, usually developed after years of research and development, and are sold at competitive prices to the Indian consumers.

In addition to the above, certain other specific guidelines and/ or laws administered by the Ministry of Food Processing Industries and the Ministry of Health and Family Welfare may also be applicable to certain direct selling businesses.

Foreign Direct Investment in trade

In India, retail is one of the most regulated sectors from a foreign investment perspective. The Department of Industrial Policy and Promotion (DIPP) under the Ministry of Commerce and Industry is responsible for formulation of industrial and foreign investment policy facilitating flow of FDI in India. Proposals for FDI in India are reviewed and approved by the Foreign Investment Promotion Board under the MoF.

Though 100 percent foreign investment under automatic route (subject to prescribed conditions) has been permitted in wholesale cash and carry trading i.e. B2B trading for long in India over the years this limited window of undertaking B2B trading in India, has restricted the entry of global retailers and created operational

uncertainties for existing companies. Considering the same, radical changes in the FDI policy have been introduced since November 2011:

- 100 per cent FDI is permitted in Single Brand Retail Trading (up to 49 per cent under automatic route and thereafter up to 100 per cent under approval route);
- 51 per cent FDI under government approval route is permitted in multi brand retail trade subject to conditions.

It is pertinent to note that the above calibrated liberalisations are with stringent riders and subject to prior government approval. Currently, there is no enabling policy to recognise and support the growth of genuine direct selling companies in India. In the absence of a clear definition, specific

entry routes and conditionalities in the FDI Policy on direct selling business, it is generally viewed as an activity permitted under the automatic route. However, absence of complete clarity on the same poses a great challenge to direct selling businesses from a regulatory perspective in India.

The historic mandate given to the new NDA government and Narendra Modi's "Make in India" initiative is likely to improve the foreign investor confidence. At this moment when the Indian economy is witnessing a significant rebound in business sentiment, lending clarity to the direct selling businesses would help achieve the dream of transforming India into a manufacturing hub, create jobs and develop the country's infrastructure.

Administrative laws

Ministry of Corporate Affairs ('MCA')

MCA regulates corporate affairs in India through The Companies Act, 2013 (and The Companies Act, 1956) read with other allied Acts, Bills and Rules framed hereunder. The primary objective of MCA is to regulate corporate structure in India and ensure protection of investors and other business stakeholders. Any company in contravention with the provisions of company law have stringent penal and prosecution consequences in India.

Every direct selling business organised as Company in India adheres to the provisions prescribed

under the corporate law statutes essentially governing share capital of a company, functioning of the board of directors, furnishing of annual reports, necessary public disclosures, etc.

The Contract Law

The direct selling business is full of agreements between businesses and direct sellers. The roles and responsibilities of direct sellers are usually documented in a legally enforceable contract in accordance with the Indian Contracts Act, 1852.

The Shops and Establishment Act

Every State has a specific Shops and Commercial Establishments Act which provides for the regulation of conditions of work and employment in shops and commercial establishments.

In addition to above, at the State Level, local and municipal bodies also have regulatory powers. The multiplicity of regulatory bodies at the center, state and local level has resulted in multiplicity of laws and regulations. The number of regulations and the extent of variations varies from state to state and their impact depends on the type of commodities traded.



Taxation laws

Ministry of Finance ('MoF')

The MoF regulates taxation (both corporate & consumption taxes) and custom duties on import/ export in India. The taxable income of direct selling businesses is being regularly audited and scrutinised by the Indian revenue authorities. Moreover, direct sellers associated with these direct selling businesses are also contributing to the exchequer by depositing income tax.

Indirect tax levies

The consumption taxes at the State level such as Value Added Tax ('VAT') (on sales of goods) and Central Sales tax (on inter-state movement of goods) are also levied at each stage of sale of the product/ goods.

Industry specific laws/ guidelines

Misapplication of The Prize, Chits and Money Circulation Schemes (Banning Act), 1978 ('PCMCS')

The Act was legislated in 1978 to regulate and ban fraudulent pyramid and Ponzi schemes prevailing in the country. Such predatory schemes manifest in various sectors including real estate, agriculture, on the internet and e-mail, and spread rapidly at times causing significant financial loss to the public at large. Although, nothing in this Act refers explicitly to direct selling businesses, still in certain States such activities have been alleged to be akin to money circulation schemes and thus, covered under the PCMCS Act. In this regard, it is relevant to note that PCMCS is an archaic legislation and was enacted around 40 years ago when Indian markets had not experienced any

penetration by bona fide direct selling companies.

Guidelines at State Level

There are no specific regulations or guidelines governing Direct Selling activities in the Indian States except in Rajasthan and Kerala.

The Nodal Industry Department of Rajasthan was set-up in 2012, with a view to regulate the sale of goods and services outside of retail establishments by way of direct selling and ensure protection of consumers, issued certain guidelines. These guidelines broadly define the contours of permissible activities which can be undertaken in the State. Further, it has been referred that any breach of these guidelines would be appropriately dealt with under relevant provisions of existing laws.

In the absence of a sector specific legislation in majority of the Indian States, direct selling companies have been allegedly tagged along with fraudulent schemes under the PCMCS Act by the regulatory authorities of certain states. The State judiciary and regulators have alleged that some of the companies engaged in direct selling conduct 'money laundering activities' by promoting or conducting a scheme for making of quick and easy money. This regulatory challenge has lead to business uncertainty in India, with an added risk of harassment and business disruption.





Challenges faced by the Industry

REGULATION AUTHENTICATION

BANNED LACK OF CLARITY PONZI SCHEMES
IMPORT DUTY LAWS CLARITY LEGISLATION NEGATIVE LAWS CHIT FUND UNCERTAINTY
PERCEPTION SCHEMES AMBIGUITY TRUST ACTS
GREY MARKET MONEY CIRCULATION FLY BY NIGHT

The direct selling industry, similar to the larger consumer industries faces issues of counterfeits and general difficulty in doing business in India. However, our interaction with the industry participants suggests that the biggest challenge that the industry faces today is that of regulatory uncertainty and lack of legislative support in recognition of the rightful industry.

Specific Industry Challenges

- **Regulatory Uncertainty** - The industry is adversely affected by lack of a proper legal framework which is compromising the growth of the direct selling industry. There is no systematic and standard policy on direct selling that is based on the constitutional structure. As a result many authorities have booked direct selling companies for unlawful activities as under the Prize, Chits and Money Circulation Schemes Act. The act, which was enacted much before the advent of direct selling in India has an archaic understanding of issues, and is unable to distinguish rightful direct selling businesses from malicious money circulation schemes. Under the PCMCS Act customer complaints are acted upon as criminal offense and gives investigating officers the power to arrest and seize company assets along with arrest of many key individuals. This creates negative image of the industry in the mind of participants and potential participants, who as a result do not realise the benefits of the direct selling business.

Apart from the ambiguity in the PCMCS Act, there are many other regulatory issues including a lack of definition and separate provisions for the industry, which affect the industry adversely.

The regulatory challenge for the industry along with a potential solution roadmap has been discussed in detail in the next section.

'The police forces and the bureaucracies don't understand the direct selling industry. They remain suspicious because they believe people cannot make money without any investment. They label it as money circulation schemes even though there is no money circulation involved.'

- Promoter, Leading Indian Direct Selling Company

'If the government sees the direct selling industry as its partner, the industry has massive potential to grow and benefit millions in the country.'

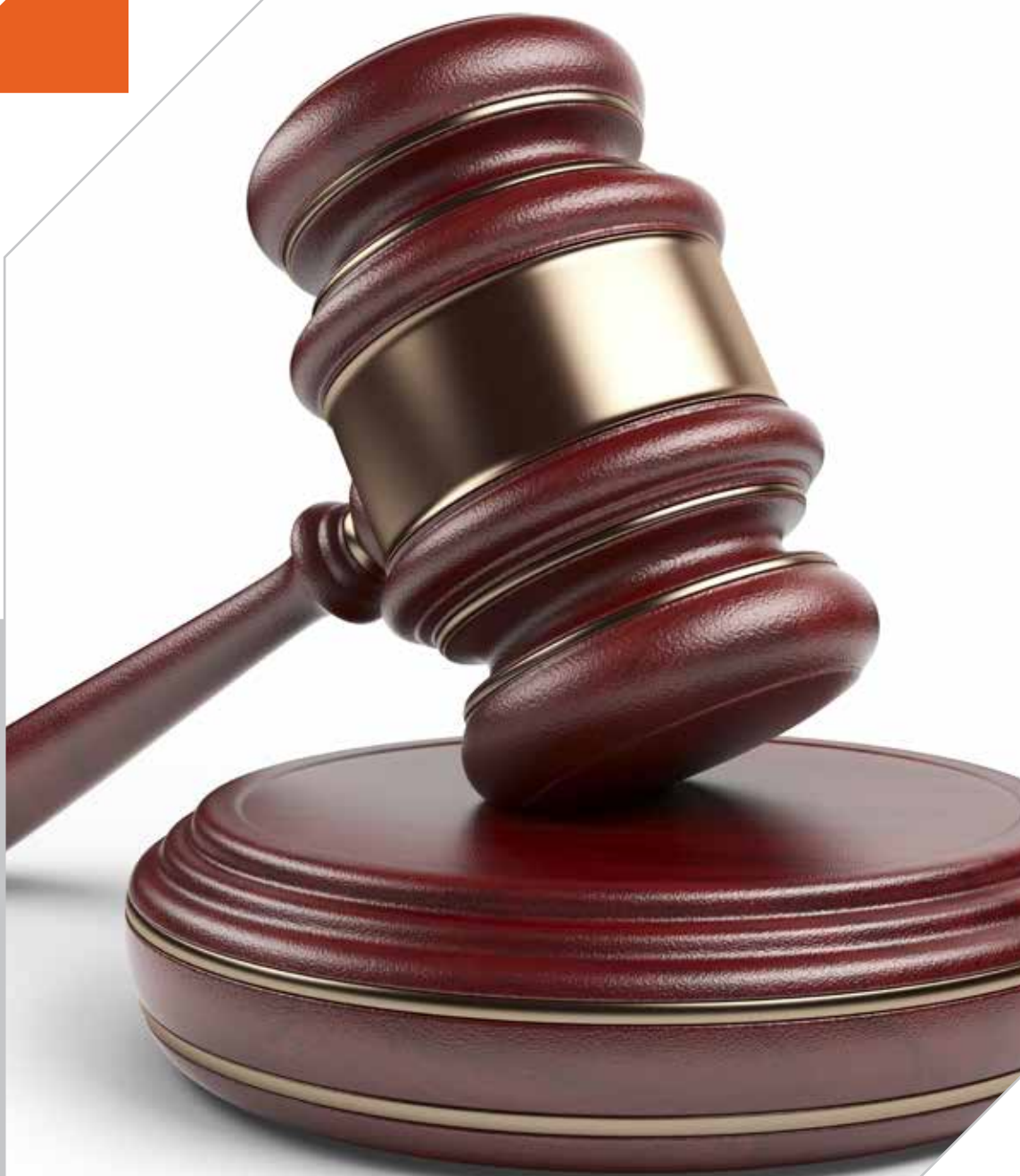
- MD, Leading Indian Direct Selling Company

'There has to be a separate legislation or guidelines governing the industry.'

- Country Head, Leading Global Direct Selling Company

Other Industry Challenges

- **Counterfeit Products** - Direct selling products should not be sold through retail stores. However, it has been seen that, many retailers become direct sellers and start off loading the products to the customers through retail outlets. This leakage of products through traditional retail channels is contradictory to the very nature of direct selling and needs to be adequately addressed. This channel also encourages the sale of counterfeit products which affect the brand.
- **Difficulty to set-up manufacturing facilities** - Many large direct selling companies in India are renowned MNCs. However, due to rigid labour laws and poor infrastructure, many of these have found it difficult to set-up their own manufacturing facilities in India. All states have different regulations and there is no centralised federal system, making the process of getting clearances costly and time consuming.
- **High Import Duties** - Many ingredients for the industry products are imported. Higher import duties add to the price of the product and as a result make them more expensive for the final consumer adversely affecting the demand for such products as they are available at lower prices in international markets.



**Recommendation and
way forward**

Challenges due to current regulations

The current regulatory environment in India for direct selling companies is fraught with multiple challenges. Most of these challenges are common across direct selling companies, irrespective of product categories they deal in. A big challenge is that the concept of direct selling and regulations relating to industry are not clear and operations of direct selling companies are often mistaken for fraudulent pyramid and Ponzi schemes.

Regulatory uncertainty is impeding the growth of direct selling companies and that has created formidable hardship for genuine players in this arena. This is despite the fact that, in many cases, direct selling companies have won legal cases filed against them. In the absence of clear regulatory framework, different states in India have taken sporadic actions and there has been instances of top managerial personnel of a direct selling company (in spite of appropriate approvals from regulatory authorities in India to set-up business operations) being remanded to custody. Local authorities have stalled the operations of these direct selling companies and caused irreparable damage to their brand reputations.

The Prize and Chits Money Circulation (Banning) Act, 1978

The Act was legislated in 1978 to regulate and ban fraudulent pyramid and Ponzi schemes prevailing in the country. However, during last the few years, some Indian government authorities have, on a mistaken understanding of the direct selling model, have taken the view that direct selling companies are akin to pyramid based financial and money circulation schemes banned under the PCMCS Act, 1978 (Detailed analysis of the real legislative intent of the PCMCS Act, 1978 is enclosed as Annexure 1).

The PCMCS Act, 1978, in its current form, is unable to distinguish direct selling companies from pyramid or Ponzi schemes. Differences in interpretation regarding the applicability of the PCMCS Act leads to business uncertainty in India, with an added risk of harassment and business disruption.

Direct Selling companies have been facing problems in certain states like Andhra Pradesh, Kerala, etc. In these states, the direct selling companies have been charged with violating PCMCS provisions. Legal authorities of these states have incorrectly claimed that these companies are making money by recruiting people, and distributors are rewarded just for adding more people to the chain, with no genuine economic activity is being undertaken.¹⁷

It is in this backdrop that the need to confer regulatory clarity and certainty to direct selling companies with legitimate businesses, arises.

Definitional Issues

The lack of definitional clarity is another major issue impacting the growth of the direct selling industry.

Contending that the absence of a universal definition of direct selling is a primary reason for confusion, it has been argued that a better understanding of the industry would require one to view it from three perspectives i.e. (1) Statistical; (2) Operational; and (3) Legislative.

A detailed analysis of various definitions of 'Direct Selling' is enclosed as Annexure 2.

Central vs. State debate

No specific legislation for direct selling exists in India due to the Seventh Schedule of the Indian constitution. Entry 33 in the Concurrent List talks about trade and commerce and specifically mentions "the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products." However, subject to this, trade and commerce within the State is in the State list. This has led to artificial compartments between FDI in wholesale and FDI in retail and FDI in multi-brand and FDI in single-brand. Such compartmentalisation is likely impossible to enforce and is almost certain to be violated, deliberately, or inadvertently.

17. Industry Discussions, KPMG in India analysis

Governments response - Actions taken so far

Over the years, many steps were undertaken by various State governments as well as at the Central level to set-up an enabling policy for Direct Selling companies in India. These have been highlighted below.

1 Setting-up of Inter-ministerial committee

comprising of the RBI, SEBI and ministries of consumer affairs, corporate affairs, finance and law under the aegis of Ministry of Consumer Affairs to bring uniformity in rules across all States and to deal with the diverse objectives and priorities.

2 Formulation of Draft Rules

To bring uniformity in Rules across all States, an Inter-ministerial Group in the Department of Financial services (Ministry of Finance) formulated the draft model Money Circulation Scheme (Banning) Rules, 2012 ('Draft Rules'). The Draft Rules sought to enlarge the definition of money circulation scheme to include schemes disguised as a scheme for a sale of product or providing a service and reiterated the ban on formation and conduct of pyramid schemes. These Draft Rules are still under review based on inputs from industry associations and various government bodies.

3 Draft guidelines by some States

Kerala and Rajasthan have drafted legislative direct selling guidelines to specifically permit conduct of direct selling operations provided conditions stipulated contained therein are complied with. The States aligned partly to the MLM structure by permitting sales incentive based on profits on sales of products and not related to joining of members.

4 Guidelines issued by Reserve Bank of India

In order to monitor the fraudulent mobilisation of funds by MLM companies in their bank accounts, certain Circulars were issued by the RBI in 2009 and 2012. The apex bank instructed the authorised dealer banks to closely monitor all transactions for any unusual activity and strictly adhere to KYC/Anti Money Laundering guidelines while opening and conduct of the bank accounts of MLM firms.

5 Budget 2014 – Policy initiative

Recently, the Finance Minister as a part of its bold policy announcements - Budget 2014 proposed to bridge the regulatory gap under the PCMCS Act. This long awaited legislative reform could foster a conducive business environment and provide the much needed certainty in the regulatory framework for direct selling industry in India. Further, it is expected to facilitate an effective regulation of companies and entities which have duped a large number of poor and vulnerable people in this country.

However, despite these initiatives, marginal progress has been made in understanding the direct selling industry, and the regulatory issues faced by the industry still remain a present challenge.

Possible solutions - renewed sense of optimism abounds

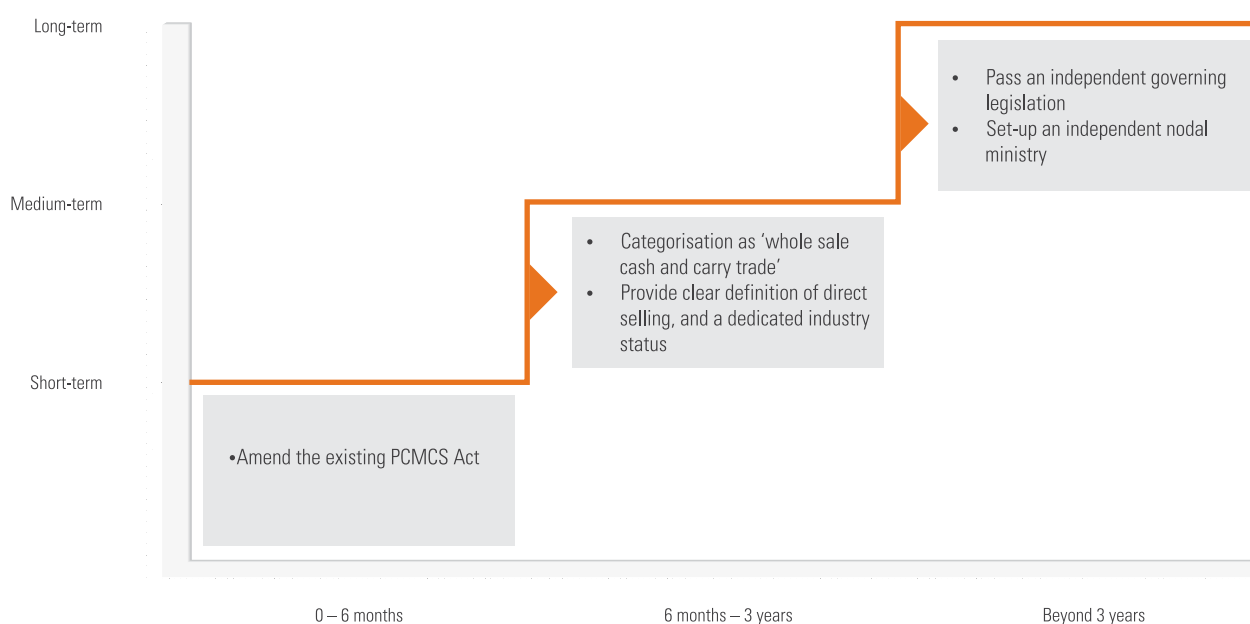
To provide a conducive and sustainable operating environment in India for the companies operating in Direct Selling industry, a series of reforms are required ranging from immediate short-term reforms in the nature of certain amendments in the existing Acts/policies to long-term measures

of enacting a specific governing legislation for the sector.

A separate policy framework for the direct selling industry can clear the blurred lines between ethical industry players and impersonators and go a long way in regaining consumer confidence. This change is imperative,

especially, when the industry is in double jeopardy at the moment – an erosion of faith and an identity crisis.

We have highlighted below some of the possible solutions that can be considered by the Government/regulators in the coming future to benefit this industry.



Source: KPMG in India analysis

Amendment of the PCMCS Act

Necessary amendments in the PCMCS Act is needed to make the distinction clear between direct selling and fraudulent pyramid money circulation schemes. The said amendment may be introduced based on the following principles:

- **Activities for identification of fraudulent schemes**
 - Payment for recruitment: Where the scheme generates income based on recruiting alone, it is a pyramid scheme and thus, should be considered as prohibited activity.
 - Redistribution of joining or periodic renewal fees: Where there are entry or renewal fees that are redistributed to other participants in the scheme, it is a pyramid scheme and thus, should be considered as prohibited activity.
- **Products are pushed on participants:** Where

participants, as a condition for joining or remaining in the scheme, are required to purchase a specified inventory of products which cannot, under normal circumstances, be resold or returned for a refund, a pyramid scheme may be presumed. Such a practice is often called “inventory loading” and may also be used as a proxy for a joining or renewal fee that gets redistributed to other participants. Thus, such practice should be considered as prohibited activity.

- **Products are not refundable and returnable:** Where customers and distributors are not offered a commercially reasonable opportunity in compliance with the mandatory provisions of the local legislation to return product with which they are not satisfied, or which they are not able to sell, as the case maybe, a pyramid scheme is presumed.

- **Restriction on the commission paid to the Distributor:** The proportion of commissions on the sale of product that may be shared with distributors should be restricted to a reasonable percentage of the total revenue from sales to distributors.
- **State government to have approval authority:** It can be provided that only the schemes approved by respective state government would be considered as permissible activity.
- **Mandatory to set-** up 24x7 call center and pick center to address customer complaints.
- **Compulsory accreditation of products** from government approved quality institutes (such as foods products or related products require accreditation under FSSA Act) or adherence to certain pre-determined quality standards in India.

Need to streamline Foreign Direct Investment ('FDI') Policy

- Till now Retail and direct selling companies have entered the Indian market through routes such as test marketing, sourcing from SMEs, franchising, wholesale cash and carry, 51 per cent FDI in single-brand retail and setting up of manufacturing facilities.
- As long as retail is treated as a sensitive sector, irrespective of the products sold, and there are multiple entry and operation routes, the sector may suffer from operational uncertainties.
- It is relevant to note that the operating structure of direct selling companies has close proximity to a wholesale cash

and carry trade. Products are being sold by direct selling companies to distributors entailing sale to end customers. This distinct distribution model (offering opportunities to entrepreneurs to flourish) is substantially similar to a wholesale cash and carry trade.

- Under the extant FDI Policy, 100 per cent FDI is permitted in wholesale cash and carry under automatic route, subject to certain prescribed conditions. Therefore, in order to end uncertainty, the Indian regulators should classify ‘direct selling’ as a ‘whole sale cash and carry trade’ with 100 per cent foreign investment under the automatic

route. In addition to the same, they may formulate additional stipulations governing direct selling players with well- defined KYC norms.

- The FDI policy should be clear and transparent and should help ensure a stable operating environment. Otherwise, India may not be able to attract the desired FDI and foreign companies in India will likely continue to face operational uncertainties. Some foreign companies, who are willing to enter the Indian market and are at present in a ‘wait and watch’ mode, can also enter in case certain policy reforms are introduced in this regard.

Need for a clear definition of Direct Selling

- There is no clear and holistic definition of direct selling in India and as a result, the classification of direct selling is not clear.
- While the DIPP classifies direct selling under wholesale trade for the purpose of FDI inflows, NIC, 2008, classifies it under retail trade (non-store format retail). This has benefitted the sector partially because 100 per cent FDI is allowed in wholesale trade.
- There is need for a proper definition of 'direct selling model' under a specific legislation in India. Moreover, given the numerous social as well as economic benefits of this specialised channel of distribution, direct selling should be given a separate 'Industry Status'.

Need for independent Governing Legislation

- At present, direct selling falls under the purview of state legislation and is also governed by a large number of ministries/ departments at the centre, state and local levels. The multiplicity of regulatory bodies has resulted in multiple regulations and regulators governing this sector. These should be streamlined for the smooth performance and development of this promising sector and for setting up pan-India supply chain and manufacturing facilities.
- Considering the above, the government should formulate a specific legislation governing 'Direct Selling Industry' with a precise and clear definition of 'direct selling activities' including legitimate MLM companies.
- Further, policies regarding registration of companies with a central authority, based on a clearly specified procedure and nominal registration fees, would help to distinguish between direct selling companies and companies running fraudulent pyramid schemes.
- The Consumer Protection laws also need some modifications in order to protect the interest of the consumers for products sold through direct selling. For example, it does not clearly specify the cooling-off period for purchases through the direct selling mode. Apart from this, legal cases in India take time and there is need to speed up consumer court proceedings.
- In this context, the Indian Government can leverage from the regulatory experiences and practices of other countries, which have been discussed in detail in the preceding slides. The industry, government and consumers suffer because of the activities of some of the fraudulent players. Therefore, the Central government can collaborate with industry associations and independent legal experts to design an appropriate regulation.
- "Trade and commerce" being the State subject, from a consistency perspective, the power to define direct selling activities and demarcation of pyramid schemes from bonafide direct selling businesses may be provided at the Central Level. While the State government should be provided complete autonomy to implement the provisions of such Central legislation by way of formulation of inter-alia specific consumer protection Rules/ guidelines governing the activities of direct sellers in each State.

Need for a Nodal ministry

- There is no single nodal ministry at the centre at present and, hence, the grievances of this sector go unheard. Companies are not sure whether it is the DIPP or Ministry of Consumer Affairs, Food and Public Distribution that governs them.
- Therefore, a Nodal Ministry may be identified specifically for the direct selling industry, which may act as a single point of contact.
- Given that the sector is predominantly based on consumer interactions, the Ministry of Consumer Affairs may be appointed as the Nodal Ministry for the direct selling industry.

Conclusion

The direct selling industry's potential to reach a size of INR645 billion by 2025 driven by growth in consumer markets and increase in the penetration of direct selling to globally comparable levels may however be contingent on creating an enabling environment for the industry, and mitigation of some of the challenges it is facing today.

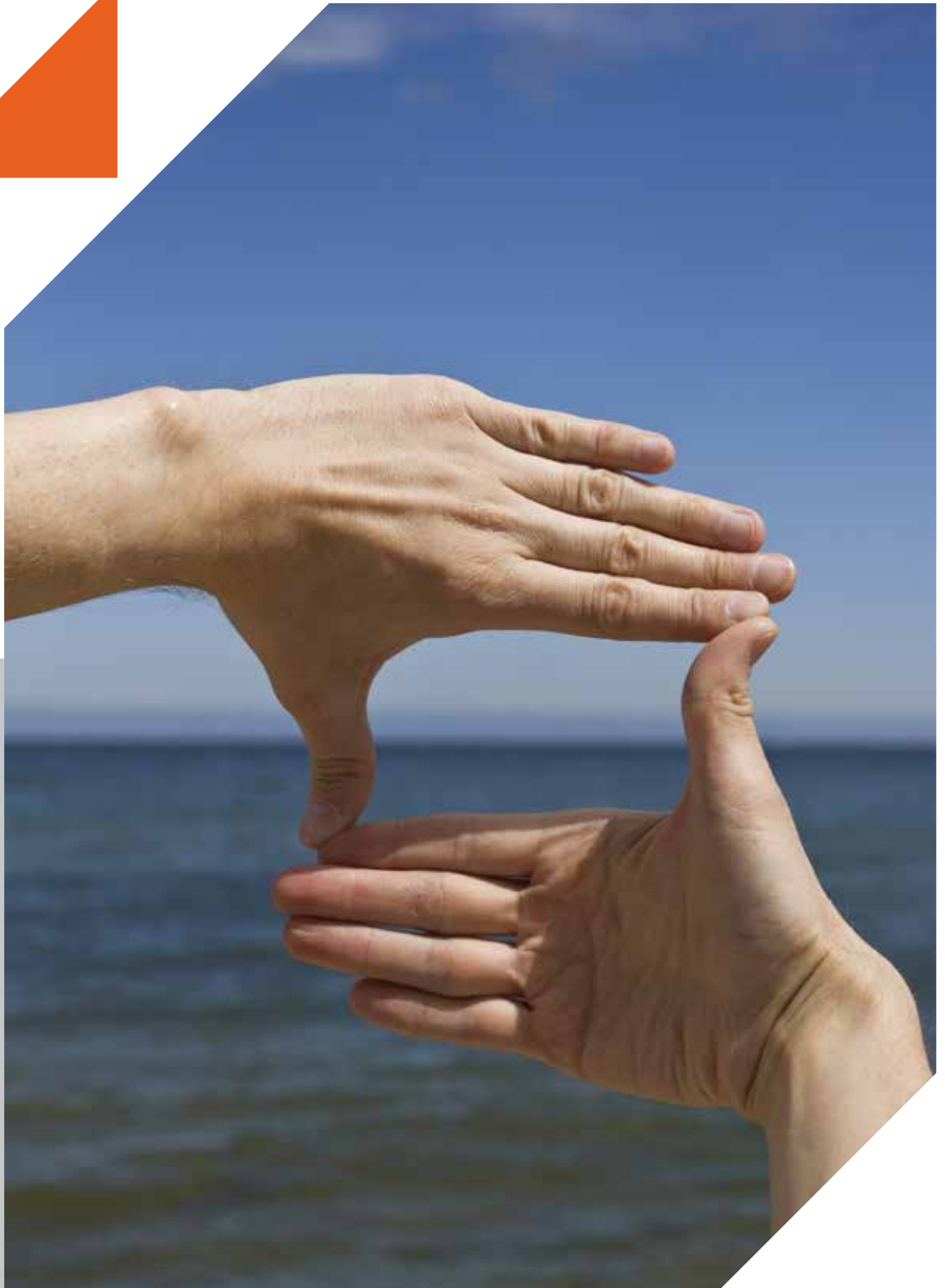
With the success of the industry, which relies on individuals to accomplish sales, a number of fraudulent businesses have also tried to emulate the form, but with malicious intentions and outcomes. This has impacted the industry, which recognises this as a significant challenge to its growth.

The industry has the potential to create a significant social and economic impact in India especially in the area of women's empowerment, skill development, technology percolation and growth of the SME sector, besides promoting self-employment and providing a viable means of alternative income.

There is a need to revisit existing laws and bring about regulatory clarity to build an environment of trust in order to reap the multiple benefits that the industry has to offer.







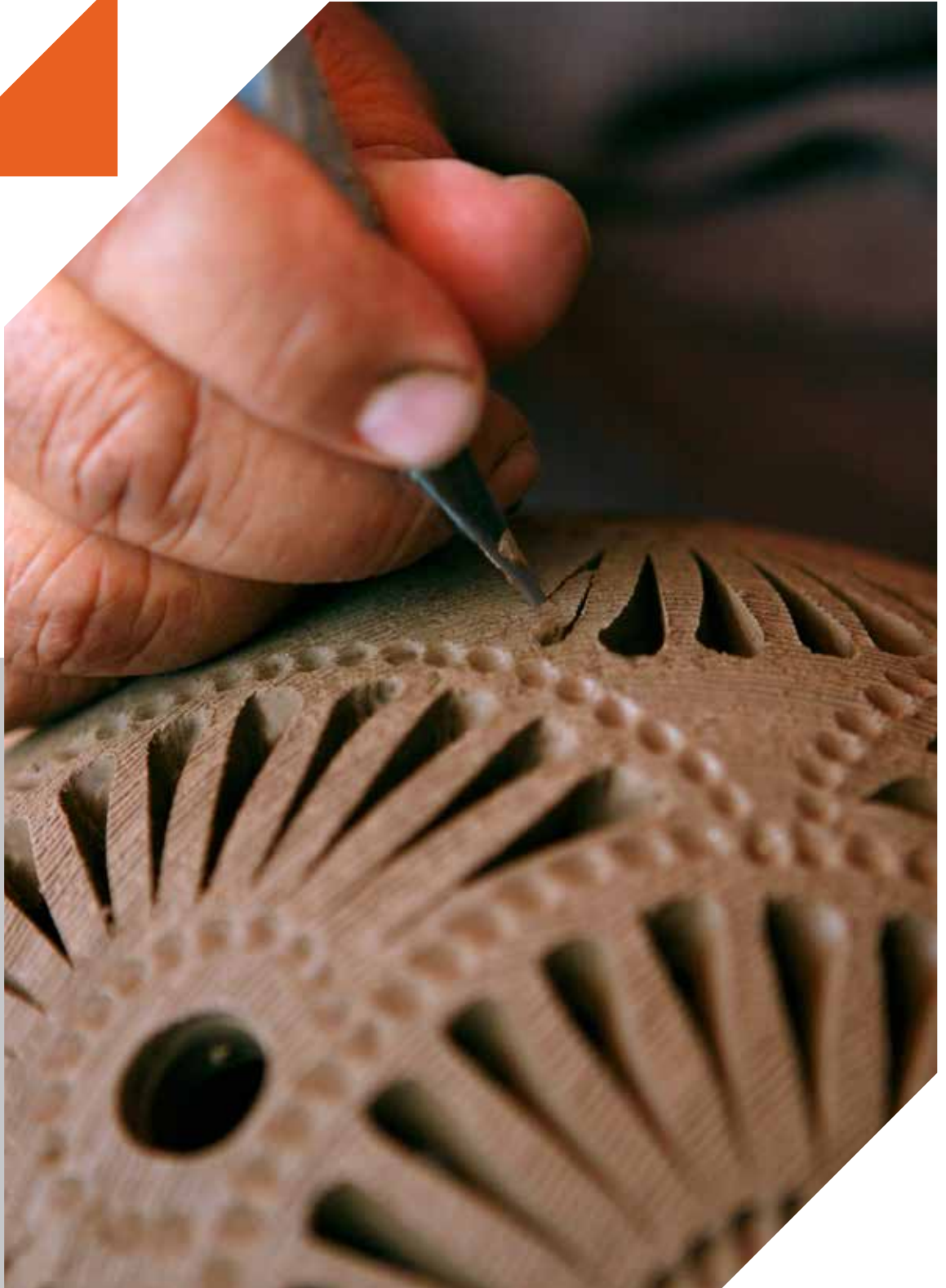
**Direct selling market
in select states**

Direct selling market in select states in India

Potential of Direct Selling in Select States

The trend of consumerism has seen growth in the recent years and demand for consumer products has grown rapidly. With plenty of opportunities for growth, Indian states provides abundant opportunity to the Direct Selling companies to prosper.

State	Capital	Key Cities	Population (million)	Direct Selling Market Potential in 2025	Self-Employment Generation Potential in 2025
Tamil Nadu	Chennai	Coimbatore, Madurai, Tirucirapalli, Salem	72	INR 75-80 billion	2.0 - 2.2 million
Uttar Pradesh	Lucknow	Agra, Allahabad, Kanpur, Varanasi, Meerut	200	INR 70-75 billion	1.9 – 2.0 million
Maharashtra	Mumbai	Pune, Nashik, Kolhapur, Nagpur, Thane	110	INR 65-70 billion	1.8 – 1.9 million
Gujarat	Gandhinagar	Ahmedabad, Vadodara, Jamnagar, Surat, Rajkot	60	INR 40-45 billion	1.2 – 1.3 million
Andhra Pradesh	Hyderabad	Tirupati, Vijayawada, Visakhapatnam, Nagarjuna Sagar	85	INR 45-50 billion	1.2 – 1.3 million
Rajasthan	Jaipur	Ajmer, Jaisalmer, Udaipur, Bikaner, Jodhpur	70	INR 45-50 billion	1.2 – 1.3 million
Madhya Pradesh	Bhopal	Indore, Jabalpur, Gwalior, Ujjain, Ratlam	70	INR 45-50 billion	1.2 – 1.3 million
Karnataka	Bangalore	Bangalore, Bellary, Mysore, Mangalore, Belgaum, Hubli	60	INR 35-40 billion	0.9 – 1.0 million
Assam	Dispur	Guwahati, Silchar, Dibrugarh, Digboi, Jorhat	30	INR 5-10 billion	0.10 – 0.15 million



Annexure

Annexure 1

The Prize and Chits Money Circulation (Banning) Act, 1978

A consequence of 'James Raj Committee'

The PCMCS Act is the direct outcome of the report of James S. Raj Committee constituted by the RBI in June 1974. In the opinion of the Study Group – activities viz. prize chit/ benefit/ savings scheme etc. benefit primarily promoters and do not serve any social purpose. They are prejudicial to the public interest and also adversely affects the efficacy of fiscal and monetary policy.

The central theme of the James Committee report was to safeguard the monetary and credit policies of the country and ensure a degree of protection to the interests of the depositors who place their saving with such companies. To achieve such a broader objective, the Committee suggested to ban money laundering activities i.e. prize chit/ benefit/ savings scheme.

The Legal Edifice

With the overarching objective of protection of public interest, the PCMCS Act prohibits promotion, conduct of or participation in any 'prize chit' or 'money circulation scheme'. A 'money circulation scheme' is widely defined under the Section 2(c) of the PCMCS Act as:

"any scheme for the making of quick or easy money or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions".

Section 3 of the PCMCS Act bans the above activities stating that:

"No person shall promote or conduct any prize chit or money circulation scheme or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme".

Any one related to such banned activities under the Act or attempting to promote such activities are also liable to penalty and prosecution subject to provisions of the PCMCS Act.

From the above discussion it is amply clear, that the application of PCMCS Act to the direct selling industry is rather accidental by enforcers unintended by legislators, provide the direct selling scheme is genuine.

Misapplication of PCMCS Act

There have been multiple instances where enforcement agencies have invoked the PCMCS Act to genuine direct selling companies. Undoubtedly, there are considerable number of fraud companies, who in the name of direct selling dupe innocent customers. In fact either without a product or without a token/ sham product they run money circulation schemes. Justifiably, PCMCS is to be applied so that innocent customers are protected.

However, as indicated above, genuine direct sellers are booked under PCMCS and victimised based on the act of distributor rewards which is another critical issue needing attention. A distributor with no personal active selling or personal nominal selling may earn enormous rewards (commission, reward, incentive, etc.) if he trains his recruitments to sell well.

These high incentivising opportunities are highlighted in IEC materials published by the direct selling companies. This creates a mistaken impression that direct selling activity enables earning of 'easy money' amongst some regulators. Therefore,

the genuine "marketing bonus" payments to distributors should not be misinterpreted as payments for recruiting new members, as they are 'based on the quantity of actual sales'.

Direct selling schemes charged under the PCMCS Act is likely a case of confusing identity

The PCMCS Act does not explicitly exclude or deal with businesses which involve genuine sale of products or services. Section 2(c) of the PCMCS Act is clear and emits the mandate of the PCMCS law, that prize chits, money circulation schemes, by whatever name they may be called, which do not bring public value; and where the chance of innocent investors being lured to loose their money – are to be banned.

Following extract of the report will bring out the exact intent of the Committee:

'.... There has also been a public clamor for banning of such schemes (prize chit/ benefit/ savings scheme); this stems largely from the malpractices indulged in by the promoters and also the possible exploitation of such schemes by unscrupulous elements to their own advantage. We are, therefore, of the view that the conduct of prize chits or benefit schemes by whatever name called should be totally banned in the larger interests of the public and that suitable legislative measures should be taken for the purpose if the provisions of the existing enactments are considered inadequate. Companies conducting prize chits, benefit schemes, etc., may be allowed a period of three years which may be extended by one more year to wind up their business in respect of such schemes and/or switch over to any other type of business permissible under the law'.

Despite the fact that direct selling companies have appropriate approvals from the regulatory authorities in India, the detractors have drowned the definition of direct selling in confusion. Such activities are deemed to be akin to money circulation schemes and a few companies have also been prosecuted by the Indian State authorities under the PCMCS Act.

In simple terms, direct selling is person-to-person sale of a consumer product or service. The second important distinguishing factor is the composition of sales force. The real confusion arises when one talks of direct selling companies that deploy multilevel marketing compensation plans. To be precise, this is merely a technique used by direct selling companies to systemise and compensate direct sales force or business owners. According to WFDSA, the correct way of representing MLM is to call it a direct selling compensation plan where sales people receive payment in variety of ways.

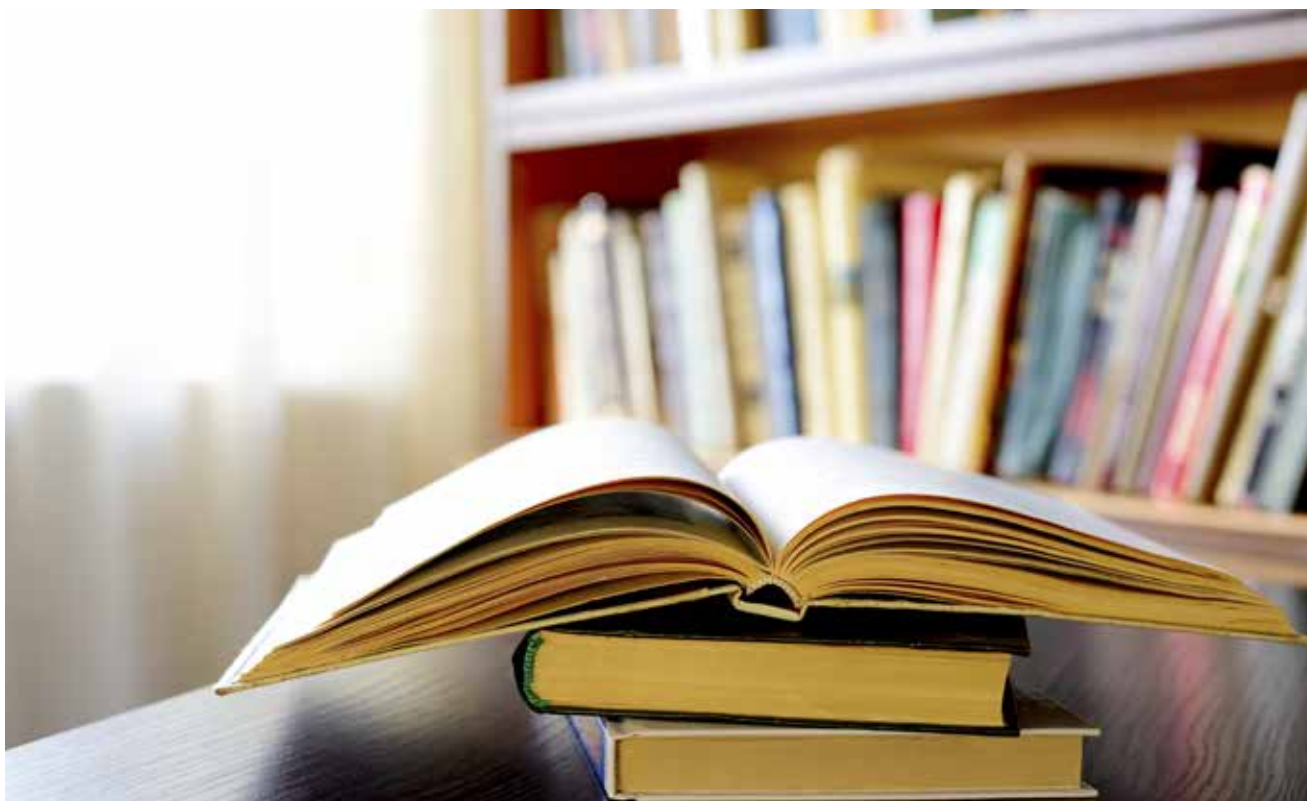
Primarily, direct selling companies are seller based – they have a human interface – the distributor- who can earn a reward for making sale at a retail point. Accordingly, this model offers two propositions – quality products for consumption and a business opportunity to sell those products and earn profit on them. The business owners have an opportunity to grow sustainable sales distribution networks.

At this juncture, it is imperative to note the Supreme Court judgment, in *State of West Bengal and Others v Swapan Kumar Guha & Others*, the Hon'ble SC got an opportunity to excavate the true meaning of Section 2(c) of the PCMCS Act. Although facts leading this case were not from the direct selling industry, the court encountered with the challenge of finding the real meaning behind of PCMCS Act and more particularly section 2(c).

The apex court felt that, it is far too vague and arbitrary to prescribe that 'whosoever makes quick or easy money' is to be penalised under the statute. After due deliberation the court laid down as follows:

'Two conditions must, therefore, be satisfied before a person can be held guilty of an offence under Sec. 4 read with Sections 3 and 2(c) of the Act. In the first place, it must be proved that he is promoting or conducting a scheme for the making of quick or easy money and secondly, the change or opportunity of making quick or easy money must be shown to depend upon an event or contingency relative or applicable to the enrolment of members into that scheme. The legislative draftsman could have thoughtfully foreseen and avoided all reasonable controversy over the meaning of the expression 'money circulation scheme' by shaping its definition in this form'.

After reading of the SC judgment and James Raj Committee report, a logical conclusion may be drawn that the PCMCS Act, in its true spirit, does not apply to rightful direct selling companies, who develop MLM plans. The sole motive of the recruitment is to develop a larger sales force to sell more products to prospective customers.



Annexure 2

Definitional Issues

Statistical definition

Among the statistical definitions, one may refer to the classification of products provided under the United Nations Central Product Classification ('UNPC') - and National Industrial Classification ('NIC').

In the current version 2 of UNPC, the two digit code:

- 62 - stands for 'Retail trade services'; and the further classifications:
 - 621 and 622 - stands for retail trade services through specialised and non-specialised stores.
 - 623, 624 and 625 - is a residual category and can be interpreted as direct selling.
 - 623 is explained as, "This group includes:- mail, catalogue or Internet sales services by stores that accept orders of new goods by mail, telephone, e-mail, etc., and ship or deliver products to the customer's door."
 - 624 is explained as, "This group includes:- retail trade sales through vending machines;- retail trade services of market stalls- retail trade services of door-to-door sales or direct sales, defined as a method of consumer product and services distribution via sales in a person-to-person manner/ way from a fixed retail location primarily through independent salespeople and distributors who are compensated for their sales and for their marketing and promotional services, based on the actual use or consumption of such products or services."
 - Finally, 625 is explained as, "This group includes:- retail services of commission agents who negotiate retail commercial transactions for a fee or a commission; - services of electronic retail auctions."

The Indian statistical counterpart is the 2008 version of the NIC. At the 2-digit level defines:

- Division 47 - covers retail trade, with the exception of motor vehicles and motor cycle:
 - 471 through 478 are sales through stores, stalls and marts.
 - 479 – Retail trade not in stores, stalls or marts."

One can sub-divide a bit further, but that is at best artificial.

- 4791 - Retail sale via mail order houses or via internet" and explained as, "in retail sale activities in this class, the buyer makes his choice on the basis of advertisements, catalogues, information provided on a website, models or any other means of advertising. The customer places his order by mail, phone or over the Internet (usually through special means provided by a website). The products purchased can be either directly downloaded from the Internet or physically delivered to the customer"
- 47911 - Retail sale via mail order houses
- 47912 – Retail sale via e-commerce
- 4799 - This leaves a residual category of other retail sales not through stores, stalls or marts.
- 4799 is interpreted as retail sale of any kind of product in any way that is not included in previous classes (by direct sales or door-to-door salespersons, through vending machines, etc.), direct selling of fuel (heating oil, fire wood, etc.), delivered directly to the customer's premises, activities of non-store auctions (retail) and retail sale by (non-store) commission agents. This class excludes delivery of products by stores.
- 47990 – Other retail sale not in stores, stalls or markets.

Operational Definition by various associations

The second category of definitions includes definitions provided by the associations such as IDSA, WFDSA etc. (already discussed above) are not sufficient to define the scope of direct selling industry in India. These definitions do not tantamount to law and policy.

Legislative Definition

No legislative definition exists in India.

Given that India is one of the few countries where there is an FDI restriction in retail but there are other entry routes, whether direct selling is classified under wholesale or retail trade is unclear. The confusion also rises because direct selling has both B2B and B2C components.

In addition, the direct selling industry is evolving with rapid technological development and many new non-store formats like e-tailing, catalogue selling, mail-order selling and telemarketing are developing. These are often linked to direct selling as it involves booking order through phone calls and demonstrations through catalogues. This has increased the complexity of arriving at a precise definition and classification.

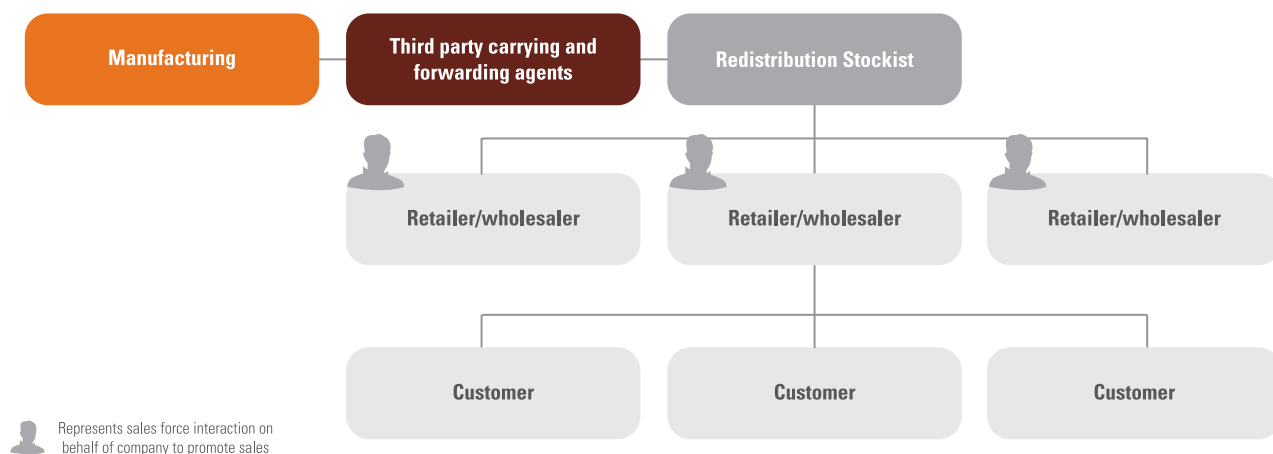
Annexure 3

There are a lot of similarities between traditional consumer goods retail and direct selling models:

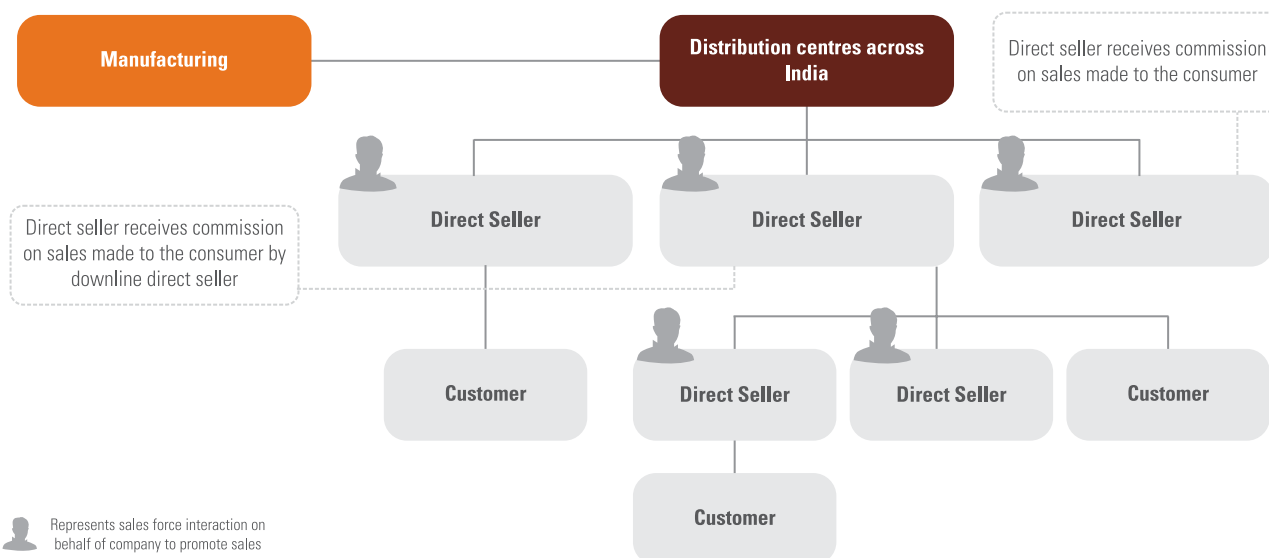
- For both formats, distributors / direct sellers earn a commission when product sales takes place
- Also, in both cases, earning of sales commission is based on sales volume of the individual (and the group).

For retail format, the CFA, re-distribution stockist, and retail seller earn sales margins. In case of direct selling under MLM plan, all different levels of direct sellers earn commissions on sale of products

Traditional consumer goods retail model



Direct Selling (multi-level marketing) model



Source: News articles, KPMG analysis

However, despite the similarities above, traditional consumer goods retail and direct selling models, are essentially different formats with different investment requirements and sales philosophy.

Annexure 4 - Forecast Methodology

Direct Selling Market Size Estimation

Methodology Adopted

Step 1 Identification of industries which had prominence in direct selling

Based on industries currently forming a major part in direct selling both in India and abroad. Example: beauty and personal care

Step 2 Determine the current market size of the identified industries and the penetration of direct selling in each of the identified industries

Based on secondary sources and KPMG analysis

Step 3 Project the market size of the identified industries in 2025

Based on secondary sources and KPMG analysis

Step 4 Project the penetration of direct selling in 2025 in each of the identified industries

Comparison with other economies which have exhibited a similar evolution cycle for direct selling industry

Step 5 Aggregate the industry wise numbers to arrive at the total project market size for direct selling in 2025

$$\begin{array}{ccccccc} \text{Market size of} & & \text{Direct Selling} & & & & \text{Market size of} & & \text{Direct Selling} & & & & \text{Market size of} \\ \text{the identified} & \times & \text{Penetration in} & + & \text{-----} & + & \text{the identified} & \times & \text{Penetration in} & = & \text{Direct Selling} \\ \text{Industry 1} & & \text{Industry 1} & & & & \text{Industry n} & & \text{Industry n} & & \text{Industry} \end{array}$$

Direct Selling Market Size Estimation for States

Methodology Adopted

Step 1 Projection of Indian middle-income households for 2025 using 2011 numbers

Step 2 Distribution of total Indian middle-income households by states based on estimated improvement in state welfare

Step 3 Distribution of estimated direct selling market in 2025 by states using proportion of middle income households as proxy for direct selling potential for that state

Direct Sellers Estimation

Methodology Adopted

Step 1

Identification of country A whose current industry size is comparable to India's 2025 estimated market



Step 2

Calculation of revenue per direct seller for the identified country A



Step 3

Calculation of Indian's 2025 estimated market revenue equivalent in PPP terms for comparable estimation



Step 4

Estimation of Indian's potential self-employment generation using country A's equivalent





Disclaimer

KPMG in India has, to the best of its ability, taken care to compile the information and material contained in this research work. The report contains certain case studies, company profiles and country regulations which have been collected through primary interactions, media reports and company websites. We have indicated within our report the sources of the information presented. We have not sought to establish the reliability of these sources by reference to independent evidence.

In addition, the report contains certain prospective market projections. Such projections are based on secondary research and our analysis based on certain underlying assumptions. We must emphasise that the realisation of the projections is dependent on the continuing validity of the assumptions on which it is based. The assumptions will need to be reviewed and revised to reflect any such changes in the business structure and direction as they emerge.

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