



AMERICAN CHAMBER OF COMMERCE IN INDIA

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July 4th, 2017

Ms. Sangita Singh
Secretary Consumer Affairs
Government of Gujarat
Gandhinagar

Dear Madam,

American Companies like Amway, Avon, Herbalife and Tupperware are engaged in business of goods in virtually all States in India, including Gujarat. We understand that the 15-leading Companies, including the American ones, providing self-employment opportunity and empowering over 200,000 individuals mostly women in the state of Gujarat by engaging them Direct Selling business related to goods and services.

In September 2016, the Ministry of Consumer Affairs, Government of India, issued Guidelines for the Direct Selling industry (DS Guidelines) with clear focus to protect the interest of consumers and per procedure, all these companies have sent in relevant documentation and undertaking to the Ministry, that they are compliant with the DS Guidelines. **These are attached for your kind reference, and we request the Gujarat Government to notify these Guidelines at the earliest.** Amcham will be happy to coordinate discussions with the industry, should the need be felt.

We welcome the move of the Government of Gujarat to protect investors from fraudulent financial schemes, when it recently notified the Draft Model Rules (DMR) under the Prize Chits and Money Circulation Schemes (Banning) Act 1978, but need to point out that the said rules due to very broad language DMR may have direct implication on the legitimate Direct Selling business operations. It is important to mention here that the intent of the PCMCS(B)Act is mainly to curb the fraudulent financial companies and not the direct selling companies dealing in goods and services in compliance with the DS Guidelines. This has been separately taken up with the Department of Financial Services, Ministry of Finance, but till some clarifications or an addendum is released from their side, Direct Selling remains vulnerable under the present DMR.

Further, we bring to your notice the USTR's Foreign Trade Barrier Report 2017 which says Indian states have periodically challenged the activity of direct selling (i.e., the marketing and selling of products to consumers away from fixed locations) as violations of the Prize Chits and Money Circulation Schemes (Banning) Act of 1978 (Prize Chits Act), creating uncertainty for companies operating in this sector has these interesting paragraphs:

*Indian states have periodically challenged the activity of direct selling (i.e., the marketing and selling of Products to consumers away from fixed locations) as violations of the Prize Chits and Money Circulation Schemes (Banning) Act of 1978 (Prize Chits Act), creating uncertainty for companies operating in this sector. This central government legislation contains no clear distinction between fraudulent activities and legitimate direct-selling operations. Enforcement of the Prize Chits Act is reserved to the states, which have adopted varying implementation guidelines and taken unexpected enforcement actions on the basis of the ambiguous provisions of the Act, including the arrest of a chief operating officer of a direct selling company.

Stakeholders have asked DIPP to issue guidance establishing a definition of direct selling and clarifying Ambiguities, including uncertainty related to commissions earned in connection with the sale of products.

In 2012, the Ministry of Finance issued draft guidelines designed to guide the preparation of state measures implementing the Prize Chits Act. **Rather than clarifying the distinction between fraudulent schemes and legitimate business operations, however, the draft contained provisions making many standard direct selling activities, including activities that go to the core of the direct selling business model, inconsistent with the Prize Chits Act.** In 2016, after extensive advocacy by the U.S. Government, India approved new guidelines governing direct selling that established clear legal definitions of direct selling, but enforcement and application of the new guidelines will still be left to state authorities.*

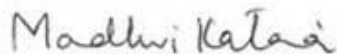
Do kindly refer to page 215 of the report.

<https://ustr.gov/sites/default/files/files/reports/2017/NTE/2017%20NTE.pdf>

May we once again request you to notify the attached DS Guidelines at the earliest? We will be pleased to provide all the assistance and collaborate with you in the process of notifying the DS Guidelines.

With kind regards,

Yours sincerely,



Madhvi Kataria
Deputy Director General
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