

Details on Pyramid Schemes Globally

Introduction

Around the world, several governments have banned the practice of pyramid marketing, the legal language applied for it in various articles, acts, rules etc are different but all have the same contextual basis. A pyramid scheme is one in which a recruit pays an entry / joining fee for the chance to receive future benefits in the form of money or privileges that are primarily derived from the recruitment of new people into the scheme.

Federal Trade Commission FTC - USA: The most widely-cited description of an unlawful MLM structure appears in the FTC's *Koscot* decision, which observed that such enterprises are "characterized by the payment by participants of money to the company in return for which they receive (1) the right to sell a product and (2) the right to receive in return for recruiting other participants into the program rewards which are unrelated to the sale of the product to ultimate users."

Further in one of the speeches by, Debra A. Valentine, a former General Counsel at the U.S. Federal Trade Commission (FTC), said, "They (**pyramid schemes**) all share one overriding characteristic: They promise consumers or 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 to the public."

Reference Link: <https://www.ftc.gov/business-guidance/resources/business-guidance-concerning-multi-level-marketing>

Pyramid scheme completely are dependent on recruitment and people are required to buy / invest in inventory of so-called products that they may be unable to sell in the first place and if they want to consume like a time share, they never get the dates only to book.

Pyramid schemes are illegal all around the globe economies for discussion are placed below:

United States

Directive 2005/29, entitled 'Commercial Practices which are in all circumstances considered unfair' provides at point 14:

'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.'

In USA Pyramid schemes are illegal under state and Federal law. It is illegal because it encourages making money on recruiting new members and not on selling products. However, many schemes try to downplay their pyramid nature by referring themselves as "gifting circles" or "gifting tables" with money being "gifted."

It has also been alleged against the Pyramid Scheme that beyond causing financial losses, these schemes put every participant in the position of scamming the people they recruit, thus committing fraud themselves.

Singapore:

MLM activities in Singapore are governed by the Multi-level Marketing and Pyramid Selling (Prohibition) Act.

The Ministry of Trade and Industry administers the Act. The original Multi-Level Marketing and Pyramid Selling (Prohibition) Act was first passed in 1973.

In June 2000, Parliament approved an amendment to the Act to widen the definition of pyramid selling to catch all business schemes that were multi-level in nature. However, as not all multi-level marketing techniques are undesirable, the Government concurrently enacted the Multi-Level Marketing and Pyramid Selling (Excluded Schemes and Arrangements) Order (hereafter, referred to as the 'Exclusion Order') to exclude legitimate businesses from the Act, such as insurance companies, master franchises,

and direct selling companies which fulfill certain criteria. This Exclusion Order was implemented in June 2000.

Malaysia:

Pyramid selling is a fraud. It is a mechanism by which promoters of so-called “investment” or “trading” schemes enrich themselves in a geometric progression through the payments made by recruits to such schemes. Related deceitful schemes have been described in various international jurisdictions as “chain letters,” “snow balls,” “chain selling,” “money games,” “referral selling” and “investment lotteries”.

Reference Link <https://dsam.org.my/what-is-pyramid-selling/>

Japan: Governs Pyramid scheme under the law : “Act on Prevention of Pyramid Schemes”

Article 5A person who has created or operates a Pyramid Scheme is punished by imprisonment for not more than three years or a fine of not more than three million yen, or both.

Article 6A person who has solicited another to become a member of a Pyramid Scheme in the course of trade is punished by imprisonment for not more than one year or a fine of not more than 300,000 yen.

Article 7A person who has solicited another to become a member of a Pyramid Scheme is punished by a fine of not more than 200,000 yen.

Reference Link:

<https://www.japaneselawtranslation.go.jp/en/laws/view/2953/en#:~:text=Article%205A%20person%20who,three%20million%20yen%2C%20or%20both>

Some other important link:

<https://curia.europa.eu/juris/document/document.jsf?docid=150284&doclang=EN>

Understanding Pyramid Scheme in the Indian Context:

According to the Direct Selling Guidelines 2016 issued by the Ministry of consumer Affairs, Food & Public Distribution, Government of India

“Pyramid Scheme” means: A multi layered network of subscribers to a scheme formed by subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, as a result of enrolment, action or performance of additional subscribers to the scheme. The subscribers enrolling further subscriber(s) occupy higher position and the enrolled subscriber(s) lower position, thus, with successive enrolments, they form multi-layered network of subscribers.

Provided that the above definition of a “Pyramid Scheme” shall not apply to a multi layered network of subscribers to a scheme formed by a Direct Selling Entity, which consists of subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, where the benefit is as a result of sale of goods or services by subscribers and the scheme/financial arrangement complies with all of the following:

- a) It has no provision that a Direct Seller will receive remuneration or incentives for the recruitment / enrolment of new participants.
- b) It does not require a participant to purchase goods or services: i. for an amount that exceeds an amount for which such goods or services can be expected to be sold or resold to consumers; ii. for a quantity of goods or services that exceeds an amount that can be expected to be consumed by, or sold or resold to consumers;
- c) It does not require a participant to pay any entry/registration fee, cost of sales demonstration equipment and materials or other fees relating to participation;
- d) It provides a participant with a written contract describing the “material terms” of participation;
- e) It allows or provides for a participant a reasonable cooling-off period to participate or cancel participation in the scheme and receive a refund of any consideration given to participate in the operations;

f) It allows or provides for a buy-back or repurchase policy for “currently marketable” goods or services sold to the participant at the request of the participant at reasonable terms; g) It establishes a grievance redressal mechanism for consumers, more particularly described in Clause 7 herein.

Hence differentiation of Legitimate Direct Selling Company from a pyramid scheme is essential and is also placed below for deeper understanding of the Direct Selling Business Model.

Direct Selling/MLM Business	Fraudulent Financial Pyramid Schemes
Business Opportunity	
They offer business opportunities based on sales and marketing of products/ services and development of sales organization (field force) under them wherein following of DSE code of ethics is a must for direct sellers while promoting and selling the product.	Pyramid schemes are investment sham that involve products which are cheap to produce and not genuine products. There exists no such code of ethics.
The business opportunity and the income earned by the direct sellers are based on product sales and linked to sales performance.	The investment opportunity and the income earned by the participants are based on enrolment of new members into the scheme.
Product Sale	
Products are supplied to meet genuine demand and direct sellers are encouraged to hold minimal inventory and replenish as and when need arises.	“Front loading” is encouraged, wherein products are thrust upon.
Products offered are usually consumer products of reasonable value and are purchased repeatedly as per individual demand.	Products are usually sham, of no utility / benefit.
Product Sale	
No misleading or deceptive claims / advertisements on products are made.	Misleading and deceptive claims on product quality and utility are made to misguide consumers.

<p>Rigorous Product & Product Sales Training is provided towards the skill development for direct sellers in communication and product benefits.</p>	<p>There is no emphasis on product or product sales training but merely lies on collection of subscription from new recruits.</p>
<p>Product features, benefits and price are well documented in every product promotion literature, brochure or pamphlets which are even accessible through the company's website.</p>	<p>Products don't have utility/ below standard and accordingly no such document / disclosure exists.</p>
<p>Proper record of sales transactions are kept by the direct selling entity</p>	<p>Records of transactions are hardly maintained. Transparency is lacking. However even fraudulent companies show their Company Registration on website showcasing that if you have opened a company as per laws you are genuine which is far from truth.</p>
<p>The price of the products are based on the basis of any of the following:</p> <ul style="list-style-type: none"> - Value, Utility - Quality, added benefit - Customer service - product guarantees and/or warranties - exclusive brand name, goodwill, patent, trade-mark, trade name, service mark, - R&D costs or any other costs actually incurred. 	<p>The price of the product / service as offered are a cover up to the investment that promises quick money.</p>
<p>Consumer grievance redressal mechanism exists and is present on company website.</p>	<p>Consumer grievance redressal mechanism is non-existent for most companies: However now a many unethical companies do have a dedicated email id for complaints as per the new rules of direct selling</p>
<p>Entry Cost, Marketing Plans, Returns, Remuneration</p>	

Earnings are entirely performance based.	Earnings on the basis of recruitment only.
Returns are dependent on regular efforts and time.	Returns are easy and quick initially till the pyramid plan collapses.
Remuneration is based on sale of goods/services.	Remuneration is based on recruitment rather than on sales.
Recruitment & Remuneration	
Recruitment is not compulsory for continuing the business.	Recruitment is compulsory for continuing the business.
Business is by sale of products. Recruitment is optional.	Commission based on recruitments.
Cooling off & Buy Back Policy	
Direct Seller joining the business can exit the business any time. Exit policy in place for termination of contract.	No refund or exit policy exists.
Products have 100% buy-back guarantees to ensure protection of end-consumer as per company policy.	Products usually do not have complete buy-back policy.