

**DEPARTMENT ADMINISTRATIVE ORDER NO. 21-09
Series of 2021**

**SUBJECT : GUIDELINES ON THE GRANT OF THE DTI SEAL OF
LEGITIMACY FOR LEGITIMATE DIRECT SELLING AND
MULTI-LEVEL MARKETING**

WHEREAS, Republic Act No. 7394 (RA 7394), otherwise known as the Consumer Act of the Philippines, states that it is the policy of the State to protect the interests of the consumer, promote his general welfare, and establish standards of conduct for business and industry;

WHEREAS, the prohibition against chain distribution plans or pyramid sales schemes is governed by Title III, Chapter I of RA 7394 on Deceptive, Unfair, and Unconscionable Sales Acts or Practices. More particularly, Article 53 thereof provides that chain distribution plans or pyramid sales schemes shall not be employed in the sale of consumer products;

WHEREAS, the Department of Trade and Industry (DTI) has been receiving queries and complaints alleging the sale of products using pyramid sales scheme/s in the guise of legitimate Direct Selling (DS) or Multi-Level Marketing (MLM), thus, depriving consumers of their savings and hard-earned money;

WHEREAS, the DTI aims to promote responsible business conduct and prevent the proliferation of chain distribution and pyramid sales schemes by giving due recognition to business enterprises that are engaged in legitimate DS and MLM;

WHEREAS, the DTI recognizes the expertise of the Direct Selling Association of the Philippines (DSAP) in understanding and differentiating legitimate DS and MLM companies from pyramiding scams;

WHEREAS, on 07 March 2018, a Memorandum of Understanding (MOU) was entered into by and between the DTI and the DSAP establishing their cooperation through programs such as preventing and/or addressing issues related to pyramiding schemes. Among the areas of collaboration is the creation of a list of companies with the DTI Seal of Legitimacy;

WHEREAS, the DTI Seal of Legitimacy shall serve as a mark that a company is a legitimate DS or MLM company which shall serve to differentiate them from those engaged in pyramiding schemes.

NOW, THEREFORE, by virtue of the powers vested in the undersigned, the following rules and regulations are hereby prescribed to encourage companies to conform with fair business practices and standards, and ensure the protection of consumers and the general public from pyramiding and chain distribution plans:

OFFICE OF THE SECRETARY

Section 1. Scope. This Order shall apply to any person, natural or juridical, engaged in legitimate DS or MLM that shall voluntarily apply for the DTI Seal of Legitimacy.

Section 2. Objective. This Order aims to:

- 2.1. Protect consumers against trade malpractices or incidents of fraud;
- 2.2. Instill quality consciousness among consumers and sellers;
- 2.3. Promote practice of fair and responsible business;
- 2.4. Uphold product and service excellence;
- 2.5. Promote compliance with fair trade and consumer protection laws;
- 2.6. Provide access to consumer redress; and
- 2.7. Ensure consumers get value for their money.

Section 3. Definition of Terms. For purposes of this Order, the following terms are defined:

- 3.1. **Chain Distribution Plans or Pyramid Sales Schemes** - refers to sales devices whereby a person, upon the condition that he/she makes an investment, is granted by the manufacturer or his/her representative a right to recruit for profit one or more additional persons who will also be granted such right to recruit upon the condition of making similar investments: *Provided*, That the profits of the person employing such a plan are derived primarily from the recruitment of other persons into the plan rather than from the sale of consumer products, services and credit: *Provided, further*, That the limitation on the number of participants does not change the nature of the plan.
- 3.2. **Direct Selling (DS) company** - refers to a company that distributes their products through independent salesperson who sells to consumers person-to-person on a commission basis, typically demonstrating the effectiveness of the products in the homes or places of business of the customers.
- 3.3. **DTI Seal of Legitimacy (Seal)** - Refers to the seal issued by the DTI to MLM and DS companies having passed the evaluation of the DTI Seal of Legitimacy Evaluation Committee. It serves as notice to the public that the company having the Seal is a legitimate MLM and DS company.
- 3.4. **Multi-Level Marketing (MLM)** – a sales device whereby any person, firm, corporation or other business entity which sells, distributes or supplies for a valuable consideration goods or services through independent agents, contractors, or distributors at different levels and wherein such participants may recruit other participants and wherein commissions, cross-commissions, bonuses, refunds, discounts, dividends, or other considerations in the program are or may be paid as a result of the sale of such goods or the recruitment, actions, or performances of additional participants.

Section 4. The DTI Seal of Legitimacy.

- 4.1. The DTI Seal of Legitimacy is a seal granted to companies that passed the evaluation of the DTI Seal of Legitimacy Evaluation Committee. It serves as notice to the public that the company having the Seal is a legitimate MLM and DS company.

- 4.2. The Seal is non-transferrable and may not be used for any purpose other than as approved by the Evaluation Committee which is created under Section 7 of this Order.
- 4.3. The Seal shall be displayed in a conspicuous and visible place and/or in the company's landing page on its website, where applicable, easily noticeable by the public. It may also be placed in marketing and advertising materials of companies granted the Seal subject to the approval of the Evaluation Committee.
- 4.4. The Seal shall be valid until it is revoked or cancelled.
- 4.5. The DTI Consumer Policy and Advocacy Bureau (CPAB) shall be in charge of keeping and maintaining an updated record of all seals issued, cancelled, or revoked. The CPAB shall introduce security features on the Seal for purposes of verifying its authenticity.

Section 5. Documentary Requirements. Applicants for the grant of the Seal shall submit the following documentary requirements:

- 5.1. Completely filled-out application form signed by the company's President or its duly authorized officer;
- 5.2. Copy of the Certificate of Registration issued by the DTI/Securities and Exchange Commission (SEC)/Cooperative Development Authority (CDA);
- 5.3. Articles of Incorporation or Articles of Cooperation and By-Laws, if applicable;
- 5.4. General Information Sheet (GIS) or list of officers or members including their Tax Identification Number (TIN), complete addresses, and contact numbers for partnerships, corporations, and cooperatives;
- 5.5. Copy of the business permit/license to engage in the business as applied with the Local Government Unit (LGU);
- 5.6. Copy of Certificate of Bureau of Internal Revenue (BIR) Registration;
- 5.7. Copy of company's compensation plan and marketing plan;
- 5.8. Copy of audited financial statements stamped received by the SEC/CDA or the BIR for the last two (2) years;
- 5.9. Information on the total number of registered, active, and newly registered distributors for the last two (2) years.
- 5.10. Copy of promotion or advertising materials;
- 5.11. List of products/services;
- 5.12. Copy of Certificate of Product Registration from the Food and Drug Administration (FDA), if applicable;

Section 6. Evaluation of Application.

6.1. Process

- a. Submission of documentary requirements to the CPAB;
- b. Assessment and validation of the documents submitted by the applicant. Assistance of other agencies in validating the documents shall be enlisted if necessary;
- c. Assessment of the marketing and compensation plan of the applicant through a presentation before the Evaluation Committee and/or through participation by a member of the Secretariat in one of the

- marketing/sales presentations of the company for the purpose of validating the submitted compensation and marketing plan;
- d. Recommendation from the Evaluation Committee which shall decide, as far as practicable, on a consensus. In case no consensus is reached, the Chair shall call another meeting whereby all principal members of the Evaluation Committee shall participate. An application shall be recommended for approval should at least four (4) members of the Committee endorse such approval; and
 - e. Approval/Disapproval of the application by the Undersecretary for Consumer Protection Group (CPG).

6.2. Factors in Evaluating Compensation and Marketing Plan. In evaluating the business or marketing plan of the company, the Evaluation Committee shall consider whether or not any of the following are present:

- a. Profit/commission is conditioned on or derived from recruitment of participants in a scheme;
- b. That as a precondition for membership, the person invited to join the company is required to pay an unreasonable registration, entry, or similar fee, which may or may not be bundled with products;
- c. Selling of multiple heads, positions, accounts, business units, or any similar schemes akin thereto, to a prospective or existing distributor;
- d. Unusually high returns on investment in the form of profit/commission over a short period of time is promised;
- e. The consumer product, if any, is sold at a price considerably higher than its fair market value that a consumer would not normally purchase;
- f. That in case a binary scheme is employed, commission or compensation is earned by balancing the number of recruits;
- g. The company has no policy on return, refund, exchange, or warranty.

The Committee may add other factors for consideration. These additional factors shall be promulgated through resolutions.

Section 7. Evaluation Committee.

7.1. An Evaluation Committee is hereby created composed of the following:

Chairperson: Director for CPAB

Members: A representative from the Fair Trade Enforcement Bureau (FTEB) with the rank of Division Chief

A representative from the Regional Operations Group (ROG), preferably a Chief of the Consumer Protection Division (CPD) from any of the regional offices

A representative from the DTI Legal Service (LS) with the rank of Division Chief

A private sector representative duly elected
or chosen by the direct selling associations

Secretariat: CPAB

7.2. The following are the functions, duties, and responsibilities of the Evaluation Committee:

- a. Review and assess applications for the Seal;
- b. Submit the result of its assessment to the Office of the Undersecretary for Consumer Protection Group (CPG) for approval or disapproval;
- c. Recommend the revocation or cancellation of a Seal in accordance with Section 9 of this Order;
- d. Order a random audit, *motu proprio* or upon a verified complaint, of a company granted the Seal;
- e. Recommend policies to further promote the objectives of this Order.

Section 8. Periodic and Random Audit. To ensure continued compliance by DS and MLM companies granted the Seal, a periodic and random audit may be ordered by the Evaluation Committee. The Secretariat shall, upon order of the Evaluation Committee, prepare an audit plan for approval by the Chairperson of the Evaluation Committee. After approval thereof, the Secretariat shall conduct the audit to validate continued compliance by the company with the requirements of this Order. Within seven (7) days from the conclusion of the audit, the Secretariat shall submit a report of their findings to the Evaluation Committee.

Section 9. Revocation/Cancellation of the DTI Seal of Legitimacy.

- 9.1. The Seal may be revoked on the basis of any of the following grounds:
 - a. Any breach of the oath of undertaking required under this Order;
 - b. Revocation of FDA license, if applicable;
 - c. Issuance of a Cease-and-Desist Order (CDO) by the DTI, SEC, CDA;
 - d. Final judgment against a company on a criminal complaint of Syndicated Estafa or Estafa under Act No. 3815, or the Revised Penal Code, Presidential Decree No. 1689, or such other applicable laws, rules or regulations which may now or hereafter be enacted or promulgated.
- 9.2. The Seal shall automatically be cancelled on the following grounds:
 - a. dissolution of the business, whether voluntary or involuntary;
 - b. cancellation or change in the registered name of the business; or
 - c. cancellation of the business registration or business permit.
- 9.3. A company, the Seal of which was cancelled, may reapply upon compliance with the requirements under Section 5 and Section 6 of this Order.
- 9.4. A company, the Seal of which was revoked, may reapply after one (1) year from the date of revocation and upon compliance with the requirements under Section 5 of this Order. A subsequent revocation of the Seal granted under this paragraph shall forever bar the company and its officers from


availing again of the Seal, though they may form a new entity, jointly or separately.

Section 10. Unauthorized Use of the DTI Seal of Legitimacy. The proprietor, officers of companies, and distributors found using the seal without authority or which shall continue to use the seal even after the same was cancelled or revoked shall be held criminally liable under the applicable provisions of the Revised Penal Code.

Section 11. Separability Clause. If for any reason, any part or provision of the Order is declared invalid or unconstitutional, any part or provision not affected thereby shall remain in full force and effect.

Section 12. Effectivity. This Order shall take effect upon publication and submission of a copy thereof to the Office of the National Administrative Register (ONAR) of the University of the Philippines.

Signed this 15 day of December 2021 in Makati City, Philippines.



RAMON M. LOPEZ
Secretary

