

What Regulatory Changes are Affecting Network Marketing Companies?

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The MLM industry has, during the last 20 years, developed positive working relationships with regulatory agencies such as attorneys general and the FTC (Federal Trade Commission). There was a time, however, back in the 1970s, when the FTC challenged the legitimacy of the direct selling industry as being a pyramid scheme. They accused Amway of operating illegally and Amway prevailed in a very famous [1979 case](#) where it was held that the network marketing industry is a legitimate business model and the

business opportunity is not a pyramid scheme.

No legal ruling has been more impactful on the direct sales industry than the [Landmark Amway Case](#).

Afterwards, regulatory agencies and the industry went quiet until the 1990s. It was then questioned whether or not product-using consultants were a legitimate end-destination for products or whether consultants were simply retail customers. There has been an ongoing tug of war between the MLM industry and the FTC in terms of determining whether or not personal use should have an impact on a company's legitimate operations. The industry, with the cooperation of attorneys general in more than a dozen states, were able to amend legislation in those states to recognize that personal use of product by distributors is a legitimate end-destination, just as if it were a retail sale.

More recently, about four years ago, the FTC decided to update its [Business Opportunity Rule](#) (which is more oriented toward franchises or programs that require substantial investments). The proposed draft would have completely encompassed direct selling companies to the point that it would have been onerous to offer a MLM, network marketing, direct selling opportunity in the marketplace.

Read the article "[FTC Exempts MLM/Direct Selling from FTC Revised Proposed Business Opportunity Rule](#)"

For instance, one of the proposed rules would have stated that if you approached your neighbor about joining a network marketing company then you would have to wait a week before returning to follow up with them on their decision. This waiting period would not have been very conducive to offering a business opportunity, and therefore, not very practical for the network marketing industry. The industry responded to the proposed rule. Over 17,000 comments poured into the FTC from MLMLegal.com, the DSWA, the DSA, distributor associations, and direct selling companies indicating that they thought the rule was overreaching.

The net result gave rise to the FTC amending its proposed rule to carve out an exception for direct selling/MLM companies. Direct selling companies would not be included in the rule. This was a victory for the network marketing industry since it didn't want onerous rules inhibiting the more than 15-16 million people in the U.S. industry from operating a legitimate MLM business.

At this time, we are in a fairly good regulatory environment. Every direct selling company at any one time, however, is being sent questions of inquiry from regulatory agencies such as the Federal Trade Commission and attorneys general. This is simply part of doing business in this industry. So, when you see that a company has been sent inquiries or investigative demands from regulatory agencies, it's not always a good idea to jump to conclusions about the legitimacy of its operations. The regulatory agencies are just doing their job.

In the end there is always a balance of regulation that needs to be reached. Direct selling companies do it best when they take some initiative on their own to promote consumer protection by looking out for both their consumers and consultants. The reason the FTC ratcheted back on the business opportunity is because of the large influx of comments that flooded in from industry leaders, including MLMLegal.com and the DSWA. Industry-leading groups have been able to mobilize large groups of people who are passionate about the network marketing industry which helps our industry and serves a great purpose.

MLMLegal.com keeps you updated on changes being made in the direct sales regulatory environment. Visit our network marketing news pages or MLMLegal.com for the latest information on the network marketing industry.

These blog posts are paraphrased from the [DSWA interview with Nikki Keohohou](#). Visit our [website](#) to view the entire interview: [Executive Interview by the DSWA – “Legal Hotspots for Direct Selling Companies” with Jeff Babener](#).

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On Assignment

On any given day you can catch [Jeffrey Babener](#) lecturing on Network Marketing at the University of Texas or the University of Illinois, addressing thousands of distributors in Los Angeles, Bangkok, Tokyo and Russia, or writing a new book on Network Marketing, an article for Entrepreneur Magazine or a chapter for a University textbook. Over two decades he has served as marketing and legal advisor to some of the world's largest direct selling companies, the likes of Avon, Nikken, Melaleuca, Discovery Toys, NuSkin, and he has provided counsel to the most successful telecom network marketing companies...Excel, ACN, World Connect, ITI, AOL Select and Network 2000. An active spokesperson for the industry, he has assisted in new legislation and served on the Lawyer's Council, Government Relations Committee and

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