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महत्वपूर्ण सरकारी आज्ञायें।

INDUSTRIES (Gr.I) DEPARTMENT

NOTIFICATION

Jaipur, October 5, 2012

No. F5(2)Ind/1/2012:- To regulate the sale of goods and services outside of retail establishments otherwise known as "Direct Selling (Multi Level Marketing)" and to provide for protection of consumers who purchase goods and services from direct sellers, following guidelines are issued with the approval of the Competent Authority. These guidelines will come into force from the date of publication in official Gazette and will remain in force till an appropriate legislation is enacted for the said purpose:-

1. Definitions

(i) Direct Selling

Means marketing or sales of goods directly to the end user consumer using word of mouth publicity, display and/or demonstrations of the goods/products, and/or distribution of pamphlets. Explanation: Companies can open pick up points and delivery points for maintaining effective delivery system.

(ii) Direct Selling Entity

Means a business entity as recognized by law for the time being in force including but not limited to a Company duly incorporated under the Indian Companies Act, a registered Partnership Firm constituted under the Indian Partnership Act.

(iii) Direct Seller

Means a person who is authorized by the Direct Selling Entity to engage into the business of Direct Selling.

(iv) Consumer

An individual who buys goods or services for personal use and not for manufacture or resale and shall have the same meaning as provided under the Consumer Protection Act, 1986.

(v) Goods/products

Goods/Products shall have the same meaning as defined in the Sale of Goods Act and section 3(26) of the General Clauses Act, 1897, that is, it shall include every kind of movable property other than actionable claims and money.

(vi) Sales Incentive

Sale incentive means share of profit payable to the Direct Seller for effecting sale of goods/products as stipulated in the contract between the Direct Seller and the Direct Selling Entity.

2. Conditions for Permissible Direct Selling

- I. Should be a Direct Selling Entity, having sales tax/Vat, Income Tax, TDS and other license as may be required as per the law/regulations of its principle place of business.
- II. Should have bank account with at least one nationalised bank.
- III. Partnership Deed or Memorandum of Association should clearly state their nature of business. (Those who do not have such specific clauses should get their memorandum of Association or Partnership Deed, as the case may be, amended within 2 months from the date of publication of these Guidelines).
- IV. Pay sales incentive at the agreed rate within the agreed period.
- V. Shall display names and Identification numbers of their authorized Direct Sellers in the official websites.
- VI. Should have a consumer grievance cell that should ensure redressal of consumer grievances within 7 days from the date of making such complaints.
- VII. Website should provide space for registering consumer complaints hassle free.

3. Appointments/Authorisations

- I. Direct Selling Entity shall appoint/authorise Direct Sellers upon receipt and scrutiny of application in a prescribed format.
- II. An agreement recording terms of such appointment should be executed between the Direct Selling Entity and Direct Seller.
- III. No application should be considered unless such applicant is eligible to enter into a contract under the Indian Contract Act.
- IV. Each Direct Seller shall be allotted Unique Identification Numbers before granting license/permission to start Direct selling.

- V. Direct Selling Entity should not give incentive to any persons for joining of Direct Sellers.

4. **Prohibition**

- I. Payment of incentive by whatever name it is called unrelated to their respective sales volume.
- II. Supply/Distribution of goods with the knowledge that such goods/products are inferior or exceeded its validity period as per the manufacturer.
- III. Direct Selling Entity/Direct Seller will not indulge in money circulation scheme or any act barred by the Prize Chits and Money Circulation Scheme (Banning) Act, 1978.

5. **General Conditions**

- I. MRP of the goods should be visibly displayed on the package.
- II. Accounts of individual Direct Sellers shall be maintained properly and should be made available through World Wide Web.
- III. Sales incentive should be distributed to the respective Seller on or before the agreed due dates.
- IV. Goods sold by the Direct Selling entity should carry guarantee/warranty of the manufacturer. However consumer should be given opportunity to exchange/return the goods if he finds any manufacturing defect or the product purchased is not useful for the purpose it was meant, within 30 days from the date of purchase, provided any seal/protection on the product is kept unbroken.

6. **Information Readiness (Ready information file)**

- I. Every Direct Selling Company should maintain a file with all relevant documents that include:
- II. Certificate issued by Registrar of Companies, MOA and MOM.
- III. Xerox copies of TIN, DIN of Directors, TAN, PAN.
- IV. Certificate of Sales Tax, Service Tax, CST Registrations.
- V. Copies of all Sales Tax Returns filed with the authorities.
- VI. Copies of Service Tax Returns filed with the authorities.
- VII. Copies of IT Returns of company filed with the authorities.
- VIII. TDS Statements of Distributors and respective challans paid.
- IX. Every Direct Selling Company should maintain KYC/KYDS (Know Your Customer/Know Your Direct Sellers) as a mandatory process. Specific formats are to be provided on their websites to be available for all at any time.

7. **Grievance Redressal Mechanism**

Every Direct Selling Company must have a complaint redressal mechanism to address any problem of their customers/Direct Sellers.

8. **Breach of Guidelines**

The sale activities not following the above guidelines shall not be considered as Direct Selling and would be dealt appropriately under relevant provisions of existing laws.

By order
Purushottam Biyani,
Deputy Secretary to the Government.

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