



Truthful “Full Disclosure” for a Multi-level Marketing Company

(with explanatory notes)

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Consumers ask:

Even if multi-level marketing(MLM) companies are pseudo-businesses, pyramid schemes and financial traps, couldn't they run legally if they just disclosed how they are structured and operate, the actual financial loss rates, the quitting/turnover rates, the costs, the absence of retailing, the endless chain recruiting requirements and the risks in joining?

In other words, like the tobacco industry that sells a lethal and addictive product, couldn't MLMs, which promote an “endless chain” income plan that dooms nearly all to failure, operate lawfully if they just printed the whole truth on the package?

Answer:

The following proposal shows what an MLM would need to disclose in order to give a consumer true facts about its operations and consequences. If these full disclosures were made, MLMs would still cause the same harm but they would do this with less deception.

Explanatory notes are added in red to explain the significance or context of the proposed disclosures.

Note: This is an annotated proposal for consumers and regulators. No MLM comes close to making these disclosures at the present time.

Proposed Multi-level Marketing Disclosures (with explanatory notes)

All sales Representatives of this multi-level marketing company are authorized to offer and promote both a product and an income opportunity to other consumers.

The following disclosures are provided to all prospective Sales Representatives regarding the promotions of this company's *income opportunity*.

(Please note that there are other disclosures and requirements (not listed here) regarding promotions of this company's *products*.)

Loss Disclosures:

- As a new Representative, you are joining at the lowest or first level of a ___ level (# of levels) sales organization.

Note: All MLM sales organizations have multiple tiers. The only way to move up the tiers, where the high rewards are paid out, is to try to recruit more Representatives which must always increase and expand the sales organization

below. In this way, the MLM tiers, no matter how many are listed on an organization chart, are all “endless.” The last person in is always told he/she can continue to add more Representatives and that will push them up the chain.

In nearly all MLMs, at least 90% of all recruits never move above the bottom few levels, so true “odds” of success must be measured in these levels.

Each level expands geometrically (1, 3, 9, 27, 81, etc.) from the top. In an ever-expanding MLM structure, the vast majority of all Representatives must always be positioned at the bottom. (if the chain were 1,3,9, for example, there would be 13 people in all, with 9 (69%) at the bottom, If it continued three more tiers to 27, 81, 243, there would then six levels with 364 people in all. 243 (67%) are at the bottom level and 89% are in the bottom two levels, and 96% are in the bottom half of the six levels.

The proportion of those in bottom levels never changes significantly. Last ones in (the majority) must lose.

Some companies (falsely) claim to have an “infinite” number of levels, and claim (also falsely) that the income potential is “unlimited” implying that no one has to lose. *In fact, nearly all must and always do lose.*

- The *Median Average Income for those at the level you are joining* is _____. The *Median Average* means that half of all Representatives at this level earned more than this amount and half earned less.
Note: For nearly all MLM companies, the Median Income Average will be *Zero*, that is, more than half at the bottom level will earn nothing.
- The *Median Average Income level of all Representative in all levels* who were enrolled at any time during the previous 12 months is _____.
Note: For nearly all MLM companies, this Median Income Average will also be *Zero*, that is, more than half of all who ever join the company will earn nothing.
- The percentage of *all Representative in all levels* who were enrolled at any time during the previous 12 months that earned no income at all is _____.
Note: For many companies, this will be *more than 50%*, and for some as high as 80%.
- The *Mean Average Income* of all those at the level you are entering is _____, that is, the sum of all commissions paid to those in this level divided by the total number of all who were enrolled at this level at any time during the previous 12 months.
Note: For most companies, this figure will likely be only a few dollars a year. To misleadingly boost the average, many companies exclude all those who earn *Zero* or who quit the business from the calculation in order to boost the average.

Turn-over (churn/failure/quitting) Disclosures:

- Based on historical data, the percentage of all Representatives that enroll during a one-year time frame at the level you are now joining and elect not to renew their contracts, fail to meet minimum requirements to maintain their status, quit the business or are terminated by the company within their *first 12 months* is _____.
Note: For most MLM companies this figure will be higher than **50%**. Some are as high as 90%.

Since MLMs cannot expand forever, they must collapse. They do this by churning the bottom levels. Nearly all who join at the bottom, the last ones in, cannot possibly find enough new recruits and so they quit after losing money. They are then replaced by new hope-filled consumers, who do the same. This process can go on for decades. Eventually, the MLM must expand to wider geography to find enough new losers.

- Based on historical data, the percentage of all Representatives that enroll in a one-year time frame at the level you are now joining and elect not to renew their contracts, fail to meet minimum requirements to maintain their status, quit the business or are terminated by the company within their *first 24 months* is _____.
Note: For most MLM companies this figure will be 75-90%.
Each year, the percentage of quitters increases until eventually nearly all have been replaced, after losing money. In general, those who stay in longer, lose more.
- Based on historical data, the percentage of all Representatives that enroll in a one-year time frame at the level you are now joining and elect not to renew their contracts, fail to meet minimum requirements to maintain their status, quit the business or are terminated by the company within their *first 36 months* is _____.
Note: For most MLM companies this figure may be well over **95%**.
Many consumers, move from MLM to MLM seeking a "good one." Without full disclosure, few people ever realize that nearly all MLMs produce the same loss rates.

Retail Sales Profit/Loss Disclosures:

Note: Though MLM companies call themselves "direct selling" businesses, few, if any, MLM Sales Representatives earn a sustainable income from selling MLM products directly to consumers on a retail basis. To cover-up the fact that MLMs are not direct selling businesses, nearly all MLM companies typically state that they do not monitor or disclose retail sales levels, average profits or average costs associated with retail selling.

- ____% of all Sales Representatives enrolled over 12 month period earned a net profit from retail sales during the year
- The Median Annual Average net profit of all Sales Representatives is _____

If the company has no proof of the percentage of Representatives earning a net profit from retailing or the average retail net profit, it would be required to state the following:

- The company has no records or data to show that Sales Representatives, on average, earn Retail profits.
- The company has no information and therefore does not disclose the Mean or Median Average net profit of all Representatives from retail sales.
- The company has no information and therefore does not disclose the average volume of retail sales per Representative at any level.
- The company has no information and therefore does not disclose the average gross profit (percentage of selling price above costs) of retail sales for all Representatives.

- The company has no information and therefore does not disclose the average number of retail customers per Representative.

Recruitment-based Commissions Disclosures:

Note: Most MLM companies state that they do not *require* recruiting, however, the pay plan incentives do require recruiting and the commission rates are based upon levels of recruiting.

As a new Representative, you can earn income from commissions gained from the total volume of personal purchases and personal sales of all other Representatives in your personal downline (those you recruit and those they in turn recruit in multiple levels).

- Income from this source *requires* that you recruit new Representatives.
- Failure to recruit more Sales Representatives will prevent you from participating in the primary income opportunity offered by the company.
- The more new Representative you recruit, the higher the volume of your base on which commissions are calculated and the higher rate of commission on the total volume and therefore the greater your rewards.
- The less recruiting you do, the lower volume and the lower the commission rate and the lesser your rewards.

Disclosures of Risk Factors in Pursuing Income from Recruitment-based Commissions

Note: MLM companies typically (and falsely) refer to the market potential as “unlimited” and blame (falsely) the 99% failure rates on lack of effort or lack of interest in earning income by the Representatives. The actual causes of failure are built into the pay plan, and in the realities of market saturation for Representatives. The “last ones in” *must* lose since the chain cannot continue to expand.

All Representatives are authorized to recruit new Representatives without any limitation on geography or total number in any area. Pursuing income from Recruitment-based Commissions carries the following risks and requirements that limit income potential:

Financial Risks:

- Recruitment-based commissions are restricted by the *finite, limited potential for expansion in any geographic area.*
 - Saturation of any given area for available customers and Representatives limits the opportunity for sales or recruitment.
 - The company provides no data to Representatives regarding verifiable market potential or past development of the market or the number of other Representatives currently operating in any geographic area.
 - Due to the finite limits of market growth and the presence of other competitors in all geographic areas, each new recruit added to an area correspondingly *reduces* the sales and recruitment potential for all other distributors.

- Recruitment-based commissions are also restricted *by the fixed ratio between the number of people being recruited to the bottom levels and those in the upper levels doing the recruiting.*
 - This ratio limits the total number of people who can ever hold upper level positions in the organization.
 - The ratio establishes a correspondingly much larger number of recruits required for the number of upper level Representatives to increase. There are market limits to how many people can be recruited.

Social Risks

Note: MLM companies universally urge recruits to primarily solicit investments and sales among their closest friends and family (the “warm list”), without disclosing the pressures, problems and hazards of commercializing these relationships. Consumers frequently later report that their greatest losses in MLM – even more than financial – were personal and social, i.e., destroyed friendships, divorces and alienated family. Using family and friendships for commercial purposes, they learn, can be viewed as a violation of trust.

- Soliciting friends and family into a recruitment-based income opportunity carries special risks and responsibilities greater than in other, less personal forms of sales and marketing. Financial success or losses from recruitment activity, and other commercial factors may affect personal and family relationships.

Business Costs Disclosures

Note: Typically, MLM companies do not disclose or even acknowledge business costs. They only report “income,” which some consumers erroneously believe means “profit.” Further, most MLMs require a minimum volume of purchases or sales in order to maintain active status or an achievement level on the sales chain. These volume requirements are costs of doing business. In addition to undisclosed business costs, most MLMs charge sales tax on all purchases made by Representatives, calculated at *full retail price*, even when they are purchased at a wholesale price. This additional tax is charged on the presumption that *all* the products will be resold *at full retail price*. In fact, *most of the goods are never resold at all, much less at full retail price*. The additional tax is an added business cost.

Pursuit of retail profit income or recruitment-based commission income requires financial expenditures.

- Maintaining active status as a Representative qualified to receive commissions may require a specified level of purchases or sales. Failure to meet these purchase/sales levels may result in loss of commissions or termination.
- The company does not disclose the average costs per Representatives per retail sale
- The company does not disclose the average cost per Representative to enroll a new Representative.
- Sales taxes based on published *retail* pricing levels must be paid on all purchases made by Representatives unless the Representative obtains a state license to collect and pay sales tax. If subsequent sales of the purchased goods are not made by the

Representative or if the products are eventually sold at a reduced price, the difference in calculated sales tax is borne by the sales Representative.

- All other business costs are borne directly the sales Representative. These may include:
 - marketing materials
 - auto-ship inventory purchases to maintain minimum volume requirements
 - product samples and giveaway items
 - shipping
 - web-based access to company information
 - training programs
 - motivation events and materials
 - attendance at any meetings, conferences or conventions
 - business licenses
 - accounting fees
 - personal computers
 - stationery and business cards
 - contract forms
 - access to high speed internet connections
 - purchases of leads of potential customers or recruits offered by the company or third parties
 - mailing materials and postage
 - advertising
 - printing
 - telephone
 - travel, meals in restaurants and auto costs

Time/Effort Disclosures

Note: Many multi-level marketing companies offer unfounded and false estimates of time required to gain certain levels of income, e.g. 4 hours a week. Full and truthful disclosure would end this misleading claim and state truthfully the reality that the work frequently involves extraordinary time requirements.

- Pursuit of the company’s income plan requires time and effort. The company cannot estimate the actual time it may require you to pursue the goals you set in income for yourself. Time requirements may be substantial, even greater than conventional employment. Since all other consumers are potential prospects and all social events are potential prospecting opportunities, pursuit of the income opportunity may also include time and activities previously viewed as non-work related.

Disclosure of Requirements Associated with Marketing the Income Opportunity

Note: MLM promoters often advise Representatives to mislead their prospects with false claims of income, success and satisfaction. This is called “fake it till you make it.” When false claims or statements made by Representatives are exposed, the MLM companies often deny any responsibility for the deception, noting that the Representatives are “independent contractors” and they may refer to “rogue” Representatives, Truthful, full



disclosure would include strict requirements on all Representatives to make full disclosure in all their solicitations.

In recruiting other new Representatives to pursue the company’s income opportunity, all Representatives must disclose to their prospects:

- Income averages of all Representatives and those at the first levels. Income disclosure includes actual personal income if referenced by the Representative as part of the solicitation (You cannot falsify or exaggerate your own income and success level.)
- Failure/success rates
- Turnover/quitting rates
- Risk factors including inevitable or already existing saturation, increasing competition from other new Representatives including those recruited by the Representatives themselves, ratio limits between upline and downline
- Social and personal risks associated with recruitment and sales among friends and family members.
- The lack of historical information offered about retail sales levels and costs.
- Potential personal and business costs and risks associated with pursuit of profit from retail sales or recruitment-based commissions
- Any legal responsibilities, restrictions and liabilities associated with signing the “independent contractor” contract.

Note: Most MLM “contractor” contracts require the Representative to give up rights of a normal consumer. Many prevent working with other MLMs, even those selling completely different products. In most cases, the MLM company retains the right to terminate the Representative for many reasons, which results in a total loss to the Representative of all past investments. Even downline lists are taken away as “proprietary secrets” of the company. Most MLMs require that all disputes are resolved in Binding Arbitration, not in court, and the Arbitration can be very costly to the Representative. Making false or misleading statements about the product or the income opportunity can carry legal liabilities to the individual Representative while the company is “held harmless.”