

Consideration of Legal Situation of Marketing Companies of Transnational Networks at International Law

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Abstract:

Marketing is a trade network that has been created by combining direct sale of goods and services to customers with privileges that is given to the person by this act. Marketing and its new method that is the subject of this thesis means transnational network marketing companies entered to the economy area by development of methods of trade. The point that how we can give the product directly to the consumer without dealers and therefore sell their product and services with cheaper price is the subject of this method. Prevalence of fraud by using the name of these activities forced legislators to write a legal article to prevent criminals for abusing. Criminal policy of Iran against pyramid and network activities advented by this article in which Iranian legislator declared all activities in which selling goods and services was through increasing members and the condition of giving reward to people was entering of new people to the collection on the one side the position that network marketing companies have at international area and international law and some countries depends on the rules of international law about private business companies that established delegacies in other countries and start their business activities and based on the domestic rules of country in which they have activity and by reciprocal or multidimensional agreement pay the tax and other requirements.

Key words: network marketing, direct sale, pyramid plan, trade

1-Considering European federation rules of direct selling association

In October 1982, direct selling association (DSAs) of 12 European countries approved 'behavioral principles of direct selling business in Europe'. By approving this principle, industry of direct pioneering selling industry followed its regulations in this field in which time was unknown. This invention make the way for more work and "European rules for direct selling" that was approved by (fedsa) in 1995 and was modified many times after that. European rules of direct selling behavior is going to sustain and satisfy consumers and direct sellers and also enhance fair competition in the framework of free entrepreneurship .They present a mechanism for solving complaint that are used with managerial independent rules and are determined by each national direct selling association. Each direct selling association should develop behavioral regulation with minimum standard of European behavioral code provisions. They may use rules separately and if necessary through different methods or combining two rules as an entity and distribute.(wwwfedsa.be). Article 1 this rule explains that << European direct sale rule is about relation between direct sellers and direct selling companies and their activates that has been distributed by federation of European direct

selling association(FEDSA) for members of direct selling association. This rule is for supporting direct sellers that its goal is enhancing fair competition in framework of free market and creating correct moral culture of direct sale industry and improving people face of direct selling industry that finally leads to the quality product selling at fair condition to consumers.>>

Any national direct selling association should make rules including articles of regulations of this law as ethical charter that this article is as a condition of accepting and continuing membership in European federation of DSA. Any direct selling company that is member of European federation should commit to act this rule. As one condition of accepting conditions and continuing membership in FEDSA any company that is member of DSA should promote this rule and its national rules while requiring. Direct sellers are required not by this rule but through their own company to commit these rule as the condition of membership in system of company's distribution. Direct sellers supposed that these legal requirements are observed so it is not needed to explain all these legal obligations. These rules includes standards of ethical behavior for direct selling companies, direct sellers and national direct selling associations that presented standards are as national rules and are used

as a document and industrial standards (asghari, Faghih, 2008, 225).

Companies should explain rules for all direct sellers and put requirements of their direct sellers to these rules as condition of membership at distribution system of their companies in order to act these rules that are criteria of direct sale industry. Companies and direct sellers should not apply mischeiving or misleading and unfair attractive methods. Since the beginning of relation with consumers, direct sellers should identify themselves and their company and explain the intention of their request. In group selling direct sellers should make their goal district and present to their hostess and participants.

Before conclusion of selling, direct sellers should provide explanations and or present a play of the product and also give information:

A- Identity of the company and its address :B-main characteristics of these products C-price of product including full tax D-cost of delivering if necessary F regarding payment, credit priorities, delivery or performance G- existence of right of terminate or exit H-regarding any guarantee J details and limitation of services after selling.

The information given to the consumer should be presented to the people under legal age by obvious and understanding methods regarding principle of good will in trade transactions and principles ruling support of those who are not able to consent by national rules. Type and condition of guarantee, details and limitations of services after sale, name and address of sponsor, duration of guarantee and service actions to buyer should be presented clearly in the form of order or other set of the products with clear literature. Companies and direct sellers don't have to force consumer for buying products based n delicacy so that a consumer can decrease or improve shopping price by sending other consumers for similar buying, while such decrease or recycling relies on some future unsecure happening and finally these rules should be published and as it is possible to make a copy of them and give a copy of them to people (www.fedsa.be)

2-considering international rules of chamber of commerce (ICC) about direct selling

In article 1 this rule mentioned this subject that all direct selling should be legal, fairly and reliably. Any direct selling activity should be done by skill and social responsibility. No direct selling should be done for removing reliability in direct selling. Total activity of direct selling should be coordinated with competitive principles that have been accepted in trade. Second rule is about administration toward customers.

Article 2-18 of this rule is in this case and points cases such as fairness, respect to privacy, accuracy and certainty in selling, warranty. Based on the principle of this law all direct selling activities should be done fairly with customers. Activities should be done based on preventing complaint and unfair selling shouldn't be done and pressure techniques in selling should be avoided (Katozian, 2008, 246).

Direct selling companies and direct sellers shouldn't abuse customers trustworthy and take benefit of age, disease, misunderstanding, or not knowing customers language. By contact should be done reasonably and in reasonable hours for preventing harassment. When a customer doesn't tend to receive direct selling this subject should be respected. Direct selling should right selling form as customer's request and any collecting or processing of data should be based on article 19 of chamber of commerce consolidation rule about relation of marketing and advertisement. At the beginning of direct selling direct customer should declared his identity to the customer without request of customer and explain his product and goal. Also promotional apprising subjects, advertisements or e-mails should be the same as name and address, phone number of direct selling company or direct seller. Duration of selling suggestion should be distinct so customers know that how is the nature of this suggestion in their order. Explaining suggested product should be complete and correct especially regarding price, credit condition, paying duration, return right, duration of guarantee, services after selling and transportation. Playing or presenting suggestion should not point Appreciating tablets, approval supporting documentation if it is approved or distinct. Appreciating tablets or approve documentations that have been expired should not be used. This rule in article 11 and 12 points guarantee and services after selling in which explains: duration of any guarantee such as name and address of sponsor should be easily available and limitations related to customers right should be distinct based on rule. When services after selling is presented, details of giving services should be mentioned in guarantee if a customer accept this suggestion necessary actions should be given to customer about the way of activating services and communication with service agent.

Order should be done during 30 days of ordering date that is signed by a customer otherwise order will be cancelled, direct selling companies an direct sellers aware customers about delay. In such cases any request based on cancelling order as accepted by customers. If at that time it is not done we should prevent transferring customer's load and cancelling and returning good is done conditionally. That is a

customer should refund the cost of direct selling at proper time. If a product gets out of sellers' or direct selling company for any reason, another good should be produced and customer should be informed that this product has been replaced and if replacing is done with better quality with similar materials it should be sold by similar or lower price. In such cases explaining replacement and the right of returning product should be given to the customer by the direct seller cost. Payment steps and collecting debt should be determined before signing contract and by this action the duration of payment and cost of delay becomes out of consumers control. Debtors shouldn't collect debt documents unreasonably that may be consent with legal documents and shouldn't be used (Gheshmi, 2008, 169).

However about complaints article 18 of this rule points: direct selling companies should complain effectively and fairly. Investigation any complaint should be approved immediately and decisions related to the complaint should be made in proper time.

Third section of this rule is about conduct against direct selling¹

In article 20 it emphasizes that direct selling companies should transact fairly and be coordinated with direct sellers and don't abuse reliability and lack of their experience. Payment should be done in the form of trade and reasonably. Direct sellers should get familiar to direct selling companies with characteristics of presented goods completely to be able to give necessary information to customers, in article 21 it explains that: incorrect conducting, or unfair actions shouldn't be done, Unreal information of incorrect promises shouldn't be done, advantage of selling opportunity should be explained honestly and it shouldn't be exaggerated. Provided information by direct selling companies to its sellers, sellers viewpoint regarding selling opportunities and right of relate commitments should be correct and complete. Direct selling companies sign an written agreement to its direct sellers that should be signed by both parties. Direct selling companies should give periodic account to their direct sellers if possible about selling, buying, details of profit. Commission. Rewards, discount. Interactions and other data it should be according to the direct selling company agreement with direct sellers. Also paid commission should be reasonable regarding trade (Gheshmi, 2008, 181).

Direct selling company should reveal selling statistics and selling potential for sellers incorrectly, as any obtained money should be based on reality. Direct selling companies shouldn't encourage sellers to buy

more goods unreasonably. While determine proper amount of each good the following cases should be observed:

Relation of product with selling possibility in realty
Competitive nature of product and market environment

Company product and budgeting policies

Fourth section of the rule is about responsibility, substantiation and implementation².

Article 28 of the rule of direct selling points responsibility in this industry: direct selling companies have complete responsibility for direct selling activity: those who middle in planning, creating and implementing any direct selling activity are responsible to some extent. Due to their position in guaranteeing rules and not acting based on them, they should act precisely in such conditions and it enables direct selling companies to do this responsibility. Therefore direct selling rules by companies should be observed by the following people:

Direct sellers whether being employed, or being another member at direct selling distribution, consultants, functional members in any direct selling activity if being employed or temporarily, rules for direct selling activities has taken from other resources in whole content and shape such as Including encouraging letters, bills, audio and visual material. The reality is that content and form of any direct activity may be taken from other resources completely that is not in accordance with these rules. Article 30 of this rule in about another modification of rule that gives these changes to the responsible group familiar with direct selling while needed. Presented rules and principles should be accepted and implemented, applied at national and international levels by proper members. Of course where it is proper, by whole organizations companies and people in direct selling step. All members that meddle in direct selling should get familiar with these decisions made by familiar members. Responsibility of presenting for approving rule is for any direct seller with direct selling company; request for interpreting principles having rules should be delivered to the group of interpreting international chamber of commerce. Substantion of approving realities should be based on direct selling activity, produced by available rules and while it is known by responsible person. Any direct selling company or direct seller should not implement any direct selling activity that has not been known by appropriate and unacceptable members. Direct selling companies should add this statement in their contract with other agreement of

¹ Conduct toward direct selling
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² Responsibility, substantion and implemmtation

employing that they need direct sellers to implement distinct regulating rules and respect responsible people in this case.*www.iccwbo.org).

3-Conclusion

In this paper we tried consider the function and economic and legal nature of transnational network marketing companies and in this case that pyramid companies have structures similar to direct ale companies(or with current language in Iran network marketing companies) , we considered the function of these companies in separate section that by separating structure and location manifest difference between them in law.

However our main strategy in this thesis is considering the situation of direct selling companies position (correct network marketing). Of course unfortunately in Iran network marketing companies don't have correct activity and foreign great companies don't have delegacy in Iran. (that the reason of this action has separate discussion) as it was mentioned in first section of the thesis direct selling companies achieve high income at free market level. Based on statistics of global federation of direct selling in 2010 only in Asia 4962800000 million dollar was obtained through selling by these countries that about 37194695 direct sellers have activity in this continent in recent year.

Direct selling besides obtaining income through getting commission for people who are active in this industry causes removing poverty and decreasing rate of unemployment because in this industry due to acquiring commission of sellers they do high selling of products and for distribution the product is needed. Therefore production groups are more active and cycle of producing goods start turning more rapidly and needing workforce for working in producing workshops increases. If this direction of production lead to especial and exclusive goods and powerful direct selling companies that have the ability of export will have good exchange technology.

However legally in Iran scheduled rule hasn't been approved for activity of these companies and if we search in rules, only we face articles that is in relation to pyramid companies and respected legislator didn't act legislating in the direction of preparing condition of entering and activity of correct network marketing companies and the only action that is done by respected ministry of trade, is approving regulations in date 18-9-2009 in article 11 that only the condition of receiving activity license of these companies have been pointed out that has many deficiencies.

Rules related to the way of activity of network marketing companies or direct selling in different countries is different and in fact we can say that it is

counted as part of countries internal law but it is obvious that all countries have rules about forbidding and confronting pyramid activities that in this thesis we mentioned internal rules of some different states in United states of America as sample.

However the position that direct selling companies have at international law depends on rules of international law in private trade companies that established delegacies in other countries and start their business activities and based on country's internal rule in which they have activity and dual or multidimensional agreements they pay tax and other requirements.

However the point that is important about activity of these companies, against other private trade companies, direct selling companies have non-government organizations that paly international function. With the name of world federation of direct selling association (Wfdsa) that this organization hold annual meeting in each member country, considers current situation of this new industry; and predict new strategies. This organization has subsets that FEDSA is the most important one.

This federation besides rules that exist at international law about available business companies, approved behavioral or ethical rules that every year updates it; that all associations of selling are forced to act it and play the complementary function for rules of international law. In fact these rules help this industry to move in correct direction and do pyramid selling.

One point that is very important in this behavior rules is investigation of complaints by federations. As customers or sellers have differences at higher levels of companies can solve their problems by selling association of course these complaints are solved at main associations and finally at world federation. Of course as it was said these rules are supplement of rules of international law about activities of international business private companies and it is obvious that the solving problems at international law such as judging are possible.

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