

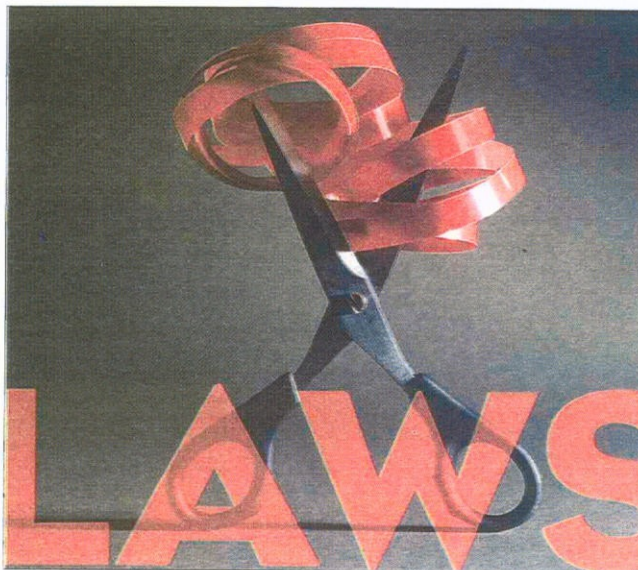
TRENDS 98

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Cutting Through the Red Tape

New Legal Trends will Help Create Success for the Network Marketer



Quite often the red tape of legal issues stand as roadblocks to the network marketer's selling success.

Everyone knows that network marketing is a dynamic business. Facts and legal issues that affect network marketers and their businesses are also ever changing.

Here are 10 legal trends worth watching:

1. OPEN-MINDED LAWMAKERS

Increasingly, network marketing is coming into its own in terms of recognition by legislators and regulators. Perhaps, this trend is a direct result of the fact that most new jobs in America are created by small business and network marketing is certainly a part of the small business and home business trends.

With increasing frequency, legislators or regulators appear in panel discussions at industry-sponsored meetings. In addition, many are increasingly open to the

concerns of network marketers and small business. This is opening the door to favorable legislation.

2. MODEL LEGISLATION

In keeping with the trend of more legislators listening to the direct selling industry, at least three states — Oklahoma, Texas and Louisiana — have adopted model legislation good for both consumers and the industry. There, state legislatures, working with industry representatives, have created legislation which recognizes the importance of personal use as an end goal for products marketed by network marketing companies.

The question of "personal use" has been a thorny issue between the industry and many regulatory agencies over the years. In return, the industry sponsored provisions in legislation in each of the states mandating a one-year buyback policy for returned products.

This effectively addresses the issue of overaggressive "inventory loading" by some unethical distributors and companies. Such model legislation is on the agenda of several more states in the coming year.

3. HOME OFFICE DEDUCTIONS

Home-based businesses and network marketing businesses are about to receive relief from a Supreme Court ruling that denied home office tax deductions unless customers were seen in the home.

This approach failed to recognize the growing phenomenon of home-based businesses and the way many individuals conduct their small businesses in the home. New federal legislation will allow more people to deduct home office costs in 1999.

Under the new rules, the home office must be used exclusively and regularly for administrative tasks as the main business place for the small business. This approach is appropriate for home-based businesses.

4. DIETARY SUPPLEMENT ACT

The network marketing industry has always had a rocky relationship with the Food and Drug Administration (FDA). At times, it appeared the FDA wanted to stamp out the dietary supplement industry.

In 1994, Congress overwhelmingly passed the Dietary Supplement Act. This opened the doors for retail health food stores, catalog sellers and network marketing companies to disseminate published information on dietary supplements to educate the public as well as to make claims under certain conditions where verification of the claims could be established.

In an era where the public is looking increasingly to alternative and natural health measures, the government continues to broaden the ability of the dietary supplement industry to bring products and education to the American public.

5. INDUSTRY SELF-REGULATION

The direct selling industry realized long ago that it must undertake self-regulation so it would not end up under the thumb of regulatory agencies.

As a result, members of the leading trade association for the direct selling industry — the Direct Selling Association — adopted requirements for their members to offer one-year buyback policies on inventory to terminating distributors as well as extensive rules prohibiting misrepresentation of earnings possibilities in business opportunities.

The adoption of these rules was widely heralded by regulatory agencies and served the industry and consuming public very well. One state after another appears to be adopting the industry standards.

6. SUCCESS IN FOREIGN MARKETS

For many of the leading direct selling companies, international markets represent the majority of their sales. Expansion into Asian and European markets have been tremendously successful for many such companies.

The industry's activity and success have prompted legislative agencies in other countries to adopt consumer protection legislation, but the industry has had input in the legislation. The fact that companies are having successes and are well received by the consuming public in other countries has contributed to a more understanding legislative treatment in the U.S. and abroad.

7. POSITIVE PRESS

Although ordinarily it might not be thought that the activity of the press had any legal precedent, the coverage by the press does in fact greatly influence the attitudes of both legislative and regulatory

agencies. The fact is that the tide has turned in recent years and the once critical press has been more favorable toward the network marketing industry.

Positive articles on the industry appear in leading business journals and leading daily newspapers. Such articles have a favorable impact on the selling of products by companies, the attitudes of consumers, and approaches taken by legislative and regulatory agencies.

8. SOME DIFFICULT STATES

Not every state has jumped on the bandwagon. In fact, Florida and North Carolina remain quite critical and skeptical of the network marketing industry.

Regulatory agencies in those states have forced consent decrees upon companies that forced them to operate in ways not required throughout the rest of the U.S. In those states, recent consent decrees have required company distributors to demonstrate that at least 70 percent of their sales revenue comes from sales to consumers outside the network marketing company.

Although such a goal may be laudatory, forcing companies to operate this way is at odds with the fact that personal use by distributors is an important element of the success of many top direct selling companies.

Industry leaders are hopeful these two states will adopt legislation recognizing the legitimacy of personal use by distributors.

9. THE FTC WORRIES THE INDUSTRY

After a favorable decision in 1979 after litigation between Amway and the Federal Trade Commission (FTC), the FTC stayed away from the examination of the structure of network marketing companies (for example, whether they were pyramids) and dwelled more on claims made on products or earnings.

Recent cases brought by the FTC suggest the agency is again questioning the very structure of direct selling companies. Some of the recent cases were brought without notice to the companies. Companies' assets were frozen and they were forced to accept extremely onerous changes to their marketing program under circumstances in which they had a gun to their heads.

The FTC's insistence that the majority of sales be outside the network may make the industry very nervous in the future. Hopefully, this will lead to an ongoing dialogue between leading industry representatives and the FTC to move the agency's

approach more in line with legislation that has been adopted in several states.

10. INTERNET SWEEPS

Until the advent of the Internet and frequent use of Web sites, investigations of MLM companies and distributors were sporadic and disorganized at the very least.

Now, virtually every network marketing company has a Web site and many distributors also advertise on the Internet and promote opportunities in various Usenet or news group forums.

The FTC and state agencies are using this new technology to monitor the offering of business opportunities and take action against those with whom they disagree.

There are pluses and minuses to the Internet sweeps of federal and state agencies. First, it is good that true scams will be ferreted out. The minus, however, is that overzealous agencies that do not understand the industry are given the opportunity to identify and take unnecessary action against many companies that are actually trying to do the right thing.

For many companies, Internet sweeps may have a chilling effect on the honest explanation of the opportunity.

So, keep your eye on these trends — they're definitely ones to watch for networkers. How they go will influence the lives of millions of network marketing distributors.

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