

## Centre notifies the Consumer Protection (Direct Selling) Rules, 2021.

Existing Direct Selling entities to comply these rules within ninety days.

Both Direct sellers as well as the direct selling entities using e-commerce platforms for sale shall comply with the requirements of the Consumer Protection (e-Commerce) Rules, 2020.

Both Direct selling entity and direct sellers are prohibited from promoting Pyramid Scheme or money circulation scheme.

State Government to set up a mechanism to monitor or supervise the activities of direct sellers and direct selling entity.

Well laid down duties and obligations for both direct selling entities and direct sellers to safeguard the interests of consumers.

Direct selling entities to be liable for the grievances arising out of the sale of goods or services by its direct sellers.

Central Government in exercise of the powers conferred by clause (zg) of sub-section (2) of section 101 read with section 94 of the Consumer Protection Act, 2019 has notified the Consumer Protection (Direct Selling) Rules, 2021.

These Rules shall apply to all goods and services bought or sold through direct selling, all models of direct selling, all direct selling entities offering goods and services to consumers in India, all forms of unfair trade practices across all models of direct selling and also to a direct selling entity which is not established in India, but offers goods or services to consumers in India.

Existing direct selling entities need to comply of these rules within ninety days from the date of publication of these rules in the Official Gazette.

The direct sellers as well as the direct selling entities using e-commerce platforms for sale shall comply with the requirements of the Consumer Protection (e-Commerce) Rules, 2020.

Direct selling entity and direct sellers are prohibited from:

- (i) Promoting a Pyramid Scheme or enroll any person to such scheme or participate in such arrangement in any manner whatsoever in the garb of doing direct selling business;
- (ii) Participate in money circulation scheme in the garb of doing direct selling business.

Rules provide for Monitoring by State Government.— For ensuring compliance of these rules by direct selling entity and direct sellers, every State Government to set up a mechanism to monitor or supervise the activities of direct sellers and direct selling entity.

The Rules provide for certain obligation upon Direct Selling Entities which inter alia include :-

- (i) incorporation under the Companies Act, 2013 or if a partnership firm, be registered under the Partnership Act, 1932, or if a limited liability partnership, be registered under the Limited Liability Partnership Act, 2008;
- (ii) have a minimum of one physical location as its registered office within India
- (iii) make self-declaration to the effect that Direct Selling Entity has complied with the provisions of the Direct Selling rules and is not involved in any Pyramid Scheme or money circulation scheme;
- (iv) have a prior written contract with its direct sellers in order to authorize them to sell or offer to sell its goods or services, and the terms of such agreement shall be just, fair and equitable;
- (v) ensure that all its direct sellers have verified identities and physical addresses and issue identity cards and documents only to such direct sellers;
- (vi) create adequate safeguards to ensure that goods and services offered by its direct sellers conform to applicable laws;
- (vii) be liable for the grievances arising out of the sale of goods or services by its direct sellers.
- (viii) every direct selling entity to provide the following information on its website in a clear and accessible manner
  - registered name of the direct selling entity;
  - registered address of the direct selling entity and of its branches;
  - contact details, including e-mail address, fax, land line and mobile numbers of its customer care and grievance redressal officers;
  - a ticket number for each complaint lodged through which the complainant can track the status of the

complaint;

information relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance redressal mechanism and such other information which may be required by the consumers to make informed decisions;

information on available payment methods, the security of those payment methods, the fees or charges payable by users, the procedure to cancel regular payments under those methods, charge-back options, if any, and the contact information of the relevant payment service provider;

total price of any goods or service in single figure, along with its break-up price showing all compulsory and voluntary charges, including delivery charges, postage and handling charges, conveyance charges and the applicable tax;

provide correct and complete information at pre-purchase stage to enable buyers to make informed purchase decisions, No direct selling entity shall adopt any unfair trade practice in the course of its business or otherwise, and shall abide by the requirements specified in any law for the time being in force.

All products of a direct selling entity to comply with the declarations to be made under the Legal Metrology Act, 2009.

Every direct selling entity to establish an adequate grievance redressal mechanism and display the current and updated name, contact details including telephone number, email address and designation of such officer on its website, and the details of its website shall also be prominently printed on the product information sheet or pamphlet.

Grievance redressal officer to acknowledge the receipt of any consumer complaint within forty-eight working hours of receipt of such complaint and redresses the complaint normally within a period of one month from the date of receipt of the complaint and in case of delay of more than a month, reasons for the delay, and the actions taken on the complaint, are informed to the complainant in writing.

Every direct selling entity shall appoint a nodal officer who shall be responsible for ensuring compliance with the provisions of the Act and the rules made there under, and to ensure compliance with any order, or requisition, made in accordance with the provisions of any other law for the time being in force or the rules made thereunder.

Every direct selling entity shall establish a mechanism for filing of complaints by consumers through its offices or branches or direct sellers, either in person or through post, telephone, e-mail or website.

Every direct selling entity shall maintain a record of all its direct sellers, including their identity proof, address proof, e-mail and such other contact information.

Every direct selling entity shall, on the request in writing made by a consumer after the purchase of any goods or services, provide him with the information regarding any direct seller from whom such consumer has made a purchase, and such information shall include the name, address, e-mail, contact number and any other information which is necessary for making communication with such direct seller for effective dispute resolution.

Every direct selling entity shall ensure that the advertisements for marketing of goods or services are consistent with the actual characteristics, access and usage conditions of such goods or services.

No direct selling entity shall, directly or indirectly, falsely represent itself as a consumer and post reviews about its goods or services or misrepresent the quality or features of any of its goods or services.

A direct selling entity which explicitly or implicitly vouches for the authenticity of the goods or services sold,

or guarantees that such goods or services are authentic, shall bear the liability in any action related to the authenticity of such goods or services.

Notwithstanding the distribution system adopted by it, a direct selling entity shall monitor the practices adopted by its direct sellers and ensure compliance with these rules by means of legally binding contract with such direct sellers.

Every direct selling entity shall maintain a record of relevant information allowing for the identification of all direct sellers who have been delisted by the direct selling entity and such list shall be publicly shared on its website.

Every direct selling entity shall become a partner in the convergence process of the National Consumer Helpline of the Central Government.

The Rules provide for certain obligation upon Direct Sellers which inter alia include :-

- (i) have a prior written contract with the direct selling entity for undertaking sale of, or offer to sell, any goods or services of such entity;
- (ii) at the initiation of any sale representation, truthfully and clearly identify himself, disclose the identity of the direct selling entity, the address of place of business, the nature of goods or services sold and the purpose of such solicitation to the prospect;
- (iii) make an offer to the prospect providing accurate and complete information, demonstration of goods and services, prices, credit terms, terms of payment, return, exchange, refund policy, return policy, terms of guarantee and after-sale service;
- (iv) provide an order form to the consumer at or prior to the time of the initial sale, which shall identify the direct selling entity and the direct seller and shall contain the name, address, registration number or enrollment number, identity proof and contact number of the direct seller, complete description of the goods or services to be supplied, the country of origin of the goods, the order date, the total amount to be paid by the consumer, the time and place for inspection of the sample and delivery of goods, consumer's rights to cancel the order or to return the product in saleable condition and avail full refund on sums paid and complete details regarding the complaint redressal mechanism of the direct selling entity;
- (v) obtain goods and service tax registration, Permanent Account Number registration, all applicable trade registrations and licenses and comply with the requirements of applicable laws, rules and regulations for sale of a product;
- (vi) ensure that actual product delivered to the buyer matches with the description of the product given;
- (vii) take appropriate steps to ensure the protection of all sensitive personal information provided by the consumer in accordance with the applicable laws for the time being in force and ensure adequate safeguards to prevent access to, or misuse of, data by unauthorized persons.

(viii) A direct seller shall not—

visit a consumer's premises without identity card and prior appointment or approval;

provide any literature to a prospect, which has not been approved by the direct selling entity;

require a prospect to purchase any literature or sales demonstration equipment;

in pursuance of a sale, make any claim that is not consistent with claims authorized by the direct selling entity.

Every direct selling entity and every direct seller shall ensure that—

- (i) the terms of the offer are clear, so as to enable the consumer to know the exact nature of offer being made and the commitment involved in placing any order;
- (ii) the presentations and other representations used in direct selling shall not contain any product description, claim, illustration or other element which, directly or by implication, is likely to mislead the

consumer;—

- (iii) the explanation and demonstration of the goods or services offered are accurate and complete, particularly with regard to price and, if applicable, to credit conditions, terms of payment, cooling-off periods or right to return, terms of guarantee, after-sales service and delivery;
- (iv) the descriptions, claims, illustrations or other elements relating to verifiable facts are capable of substantiation;
- (v) any misleading, deceptive or unfair trade practices are not used;
- (vi) direct selling is not represented to the consumer as being a form of market research;
- (vii) direct selling shall not state or imply that a guarantee, warranty or other expression having substantially the same meaning, offers to the consumer any rights in additional to those provided by law, when it does not;
- (viii) the remedial action open to the consumer shall be clearly set out in the order form or other accompanying literature provided with the goods or service;
- (ix) the presentation of the offer does not contain or refer to any testimonial, endorsement or supportive documentation unless it is genuine, verifiable and relevant;
- (x) when after-sales service is offered, details of the service are included in the guarantee or stated elsewhere in the offer and if the consumer accepts the offer, information shall be given on how the consumer can activate the service and communicate with the service agent;
- (xi) unless otherwise stipulated in the offer, orders shall be fulfilled within the delivery date proposed to the consumer at the time of purchase and the consumer shall be informed of any undue delay as soon as it becomes apparent or comes within the knowledge of the direct selling entity or the concerned direct seller;
- (xii) in cases of delay any request for cancellation of the order by the consumer shall be granted, irrespective of whether the consumer has been informed of the delay, and the deposit, if any, shall be refunded as per the cancellation terms proposed to the consumer at the time of purchase, and if it is not possible to prevent delivery, the consumer shall be informed of the right to return the product at the direct selling company's or the direct seller's cost as per the procedure for return of the goods proposed to the consumer at the time of purchase;
- (xiii) whether payment for the offer is on an immediate sale or installment basis, the price and terms of payment shall be clearly stated in the offer together with the nature of any additional charges such as postage, handling and taxes and, whenever possible, the amounts of such charges;
- (xiv) in the case of sales by installment, the credit terms, including the amount of any deposit or payment on account, the number, amount and periodicity of such installments and the total price compared with the immediate selling price, if any, shall be clearly shown in the offer;
- (xv) any information needed by the consumer to understand the cost, interest and terms of any other form of credit is provided either in the offer or when the credit is offered;
- (xvi) unless the duration of the offer and the price are clearly stated in the offer, prices shall be maintained for a reasonable period of time;
- (xvii) A direct selling entity or direct seller shall not—
  - indulge in fraudulent activities or sales and shall take reasonable steps to ensure that participants do not indulge in false or misleading representations or any other form of fraud, coercion, harassment, or unconscionable or unlawful means;
  - engage in, or cause or permit, any conduct that is misleading or likely to mislead with regard to any material particulars relating to its direct selling business, or to the goods or services being sold by itself or by the direct seller;

indulge in mis-selling of products or services to consumers;

use, or cause or permit to be used, any fraudulent, coercive, unconscionable or unlawful means, or cause harassment, for promoting its direct selling business, or for sale of its goods or services;

refuse to take back spurious goods or deficient services and refund the consideration paid for goods and services provided;

charge any entry fee or subscription fee.

(xviii) direct selling entity and a direct seller shall not induce consumers to make a purchase based upon the representation that they can reduce or recover the price by referring prospective customers to the direct sellers for similar purchases.

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