

## DIRECT SELLING ASSOCIATION CODE OF PRACTICE FOR CONSUMERS

### METHODS OF SELLING

- 1.1 In selling/supplying goods or services, members (and their direct sellers) will comply with all law relevant to that sale/supply.
  - 1.2 A member engaging in direct selling activities in a country outside the U.K. is encouraged to become a member of that country's DSA. If not a member of that country's DSA, it will conduct those activities in compliance with the WFDSA World Codes of Conduct for direct selling.
  - 1.3 Members (and their direct sellers) will comply with this Code and, in relation to distance or remote sales, with the Annex to this Code.
  - 1.4 Members shall satisfy the Association:
    - (a) that adequate initial training and information is given to all direct sellers with particular regard to their responsibilities to the public; and that continuing training is made available throughout a direct seller's contract;
    - (b) that they have adequate cover against all claims for death, personal injury and damage to property arising out of the demonstration of goods or their use after sale; this cover may either be an insurance policy with a properly authorised insurance company or by the member carrying the risk itself, subject to the approval of that arrangement by the Association;
    - (c) that direct sellers are encouraged to take out adequate public liability cover where appropriate.
- 2 Members whose sales and/or recruiting methods include inviting would-be direct sellers and consumers to meetings shall ensure that all invitations:
- (a) specify the purpose of the meeting;
  - (b) explain that those invited are under no obligation to purchase anything.
- Invitees shall be given details of a named contact person and telephone/fax number or E-mail address.
- 3 Members shall satisfy the Association by production of written guidance that they have taken all reasonable steps to see that direct sellers act with integrity; and in particular:
- (a) do not use misleading, deceptive or unfair sales practices;
  - (b) make personal or telephone contact with consumers only in a reasonable manner and during reasonable hours;

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- (c) respect the customers' right to privacy and their right to bring any contact to an end;
- (d) describe the goods or products truthfully and accurately;
- (e) answer customers' questions honestly and clearly;
- (f) make only such verbal or written product claims with respect to product efficacy as are authorized by the member;
- (g) give clear and legally accurate information about price and all aspects of after-sales service;
- (h) abide by all current guidelines covering the promoting and selling of goods;
- (i) refrain from in any way exploiting the customer, especially anyone who is particularly vulnerable;
- (j) offer maximum co-operation to trading standards officers and other individuals or bodies (such as Citizens Advice Bureaux) representing consumers.

#### FAIR DIRECT SELLING

- 4.1 A phone call to make an appointment to visit a consumer should normally be made between 8am and 9pm.
- 4.2 When making an appointment to visit a consumer with a view to effecting a sale or soliciting or confirming (or interesting the consumer in placing) an order, the member or direct seller should not misrepresent the sales process and should:
  - (i) make the appointment for a reasonable time of day, normally not to start before 8 am and planned to finish by 9pm, unless:
    - (a) it is a party plan appointment with a later finish time acceptable to the host/hostess; or
    - (b) the consumer gives his/her specific express consent to a later stated agreed planned finish time which is no later than 10pm (and the visit must not continue after 10pm).
  - (ii) inform the consumer that the consumer will be under no obligation to place an order;
  - (iii) inform the consumer as to all other purposes of the visit, e.g. to demonstrate/preview products;
  - (iv) if the visit is not a party plan sales event, inform the consumer as to the likely length of the visit, i.e. the total time which the direct seller is likely to spend in the consumer's home, including any breaks that the direct seller may take;
  - (v) inform the consumer as to the different stages, if any, involved in the visit (including the likely length of any demonstration, or DVD presentation);

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- (vi) where products are targeted at the elderly or infirm, check for any vulnerability (lack of understanding etc) that the consumer might have. In such cases, the member should provide, and require its direct sellers to use, an effective screening system able to identify vulnerable consumers.
  - (vii) where a consumer is identified as vulnerable, take all reasonable steps to ensure that the vulnerability is not exploited, even unintentionally.
- 4.3 The following will normally be considered as examples of unfair direct selling practices:
- (i) failing to comply with paragraph 4.1 and 4.2 above,
  - (ii) failing to leave when the consumer requests a termination of a visit;
  - (iii) an unreasonably long visit to the consumer's home;
  - (iv) falsely creating the impression that a consumer has won or will win a prize;
  - (v) offering a discounted price unless the undiscounted price quoted is a genuine price at which retail sales of a significant number of goods could reasonably have been expected to have been made;
  - (vi) offering a "there and then" discount except where the discounted price is £500 or less.
- 4.4 A discount offered during a visit to a consumer's home or place of work is a "there and then" discount unless, at the time it is offered, the consumer is informed that the discount will be available for at least a week thereafter.
- 4.5 A visit is unreasonably long if it exceeds the period reasonably necessary to carry out the purposes of the visit: e.g. demonstration of the product; taking measurements (e.g. for home furnishings); writing out a quotation; ascertaining whether the consumer wishes to buy. In the case of a straightforward product easily demonstrated, a visit of reasonable length might not exceed 30 minutes. Party plan visits might well be much longer. Apart from party plan visits, a visit exceeding three hours would normally be too long.
- 5 Members must be able to satisfy the Association that:
- (a) appropriate steps are taken to protect private information given by consumers or potential consumers;

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- (b) they are familiar with current legislation on trade and consumer protection and Data Protection;
- (c) where appropriate they inform direct sellers of their relevant legal obligations and keep them up to date with all changes as and when appropriate.

## ADVERTISEMENTS

- 6(a) Members' advertisements shall be truthful and accurate and, as a general rule, shall incorporate a reference to their membership of the Association. Members' sales and promotional literature shall also be truthful and accurate and shall always contain a reference to their membership of the Association.
- (b) Members must be able to satisfy the Association that they comply with the British Codes of Advertising Practice and Sales Promotion where relevant.
- (c) Where members use direct mail or telephone selling they will make use of the Mailing Preference Service and Telephone Preference Service.

## IDENTIFICATION

- 7 All direct sellers should immediately:
  - (a) identify themselves to prospective customers;
  - (b) explain the purpose of their approach;
  - (c) identify the member and the goods.
  
- 8 Members will supply copies of this Code of Practice to all direct sellers. It must be available for any customer.

## ORDER FORMS

- 9 Customers' order forms must be approved by the Association and Code Administrator before they are used. They must:
  - (a) be clear and legible;
  - (b) contain the member's full name and address;
  - (c) set out any guarantee referred to in Rule 10;
  - (d) set out the consumer's right of cancellation referred to in Rule 12;
  - (e) show that the member belongs to the Association and contain the Association's logo;
  - (f) give contact details of the direct seller and indicate the direct seller's contractual relationship with the consumer;
  - (g) indicate that the DSA has a dispute resolution procedure.

A copy of an order must be given to the customer when it is placed. Either the order form, or some other document given to the customer at or before the time of

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the order, must contain clear information as to the terms and conditions of supply and must include information as to delivery/completion dates. Unless otherwise agreed, delivery/completion shall be within 30 days of the order.

## GUARANTEES

10 Any guarantee of goods shall be clear and easy to understand. It must exceed the customer's existing legal rights, and not affect his statutory rights. The terms of all guarantees must be approved by the Association and the Code Administrator before they are used.

## AFTER SALES SERVICE

11 When an after sales service is offered, details and limitations must be clearly stated in writing. Where a customer would normally expect an after sales service but none is offered, this must be stated in writing and given to the customer.

## RIGHTS OF CANCELLATION & REFUND

12.1 Members must ensure that customers are allowed to cancel any order within 14 days from the date of an order and are informed of that right in writing. A full refund of the price or any deposit shall, subject to paragraph 12.2 below, be made forthwith. If the goods have deteriorated because the consumer has failed to take reasonable care of them, the member may make an appropriate adjustment.

12.2 Where a consumer's contract (as set out in the customer order form) so provides, a consumer may be required to pay a reasonable sum (including, if it is reasonable, the full contract price) for the following services or goods supplied at the consumer's written request before the contract is cancelled:

- (a) Any services.
- (b) Goods which are supplied under a contract having a value of £500 or less and which it is commercially unrealistic to return to the member's general stock on account of them being:
  - i) made to the customer's specifications,
  - ii) clearly personalised,
  - iii) by their nature unreturnable, or
  - iv) liable to deteriorate or expire rapidly.
- (c) Newspapers, periodicals or magazines.

After a contract is cancelled, the consumer is under no obligation to return any goods for which he is required to pay a reasonable sum under this paragraph 12.2.

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- 12.3 Where the member is unable to supply goods or services, the member must make a full refund of any price or deposit, unless the customer agrees to accept substitute goods or services.
- 12.4 The cancellation and other rights given by this paragraph are in addition to any provided by law.

#### PRE-PAYMENTS

- 13.1 Where a consumer makes a pre-payment (or pays a deposit) under a contract to buy goods from a direct seller who is acting as principal (as retailer), the direct seller shall refund that pre-payment in the event that delivery of the goods is not possible. If the direct seller is unable to (or fails to) deliver the goods and also is unable to (or fails to) refund the consumer's pre-payment, the member will either deliver the goods or else will itself make the refund.
- 13.2 A DSA member which holds a consumer's pre-payment or deposit for longer than two working days must make provision for the protection of such payments in the event that the member is unable to deliver the promised goods or services. This does not apply to pre-payments or deposits paid by direct sellers.
- 13.3 The requirement in 13.2 does not apply to members where an exemption has been agreed by the Code Administrator and the Office of Fair Trading.
- 13.4 Refunds under this paragraph 13 are subject to verifiable evidence as to pre-payment and non-supply/non-delivery.

#### SELF REGULATION & COMPLAINTS HANDLING

- 14 Members must:
- (a) make regular audits of systems, procedures and documentation to prove compliance with this code of practice;
  - (b) inform customers in writing of to whom (name & postal address) they may address any complaint;
  - (c) have effective procedures for dealing with consumers' complaints and responding within a reasonable time (normally within ten working days);
  - (d) keep records of customers' complaints and of the action taken in response.

#### CODE ADMINISTRATION

- 15.1 DSA Codes are supervised and administered by an independent, legally qualified Administrator appointed by the Council on behalf of the Association.
- 15.2 The Code Administrator shall:
- (a) satisfy himself that members' trading practices and documentation comply

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with the Codes;

- (b) report any breach of the Codes to the member's Chief Executive and recommend appropriate remedial action;
- (c) investigate any failure by a member to act upon any recommendation;
- (d) report any failure by a member to remedy any breach to the Council of the Association;
- (e) publish an annual report which includes any suggestions the Administrator has for the improvement of the Code in the light of experience, and forward a copy to the Office of Fair Trading for information.

## BREACHES OF THE CONSUMER CODE

16 Any complaint about a breach of the Consumer Code (or its Annex) shall be treated in the following way.

- (a) The complainant may refer it:
  - (i) to the Chief Executive of the member; or
  - (ii) the Director of the Association.
- (b) If the complainant is dissatisfied with any solution proposed by the member, or it is referred initially to the Director, the following procedure will be used:
  - (i) The complainant will be asked to set out details of the complaint in writing;
  - (ii) The Director will send a copy of the written complaint to the member requesting prompt remedial action; the complainant will be kept informed at all times;
  - (iii) If the Director is not notified within 21 days that the matter has been resolved, he shall refer it to the Code Administrator and may notify the Council of the Association;
- (c) If the complainant is dissatisfied with the recommended action, or if the member fails to act as required by the Director, the Director shall refer the complaint to the Code Administrator.

## INVESTIGATIONS BY THE CODE ADMINISTRATOR

17.1 The Code Administrator will investigate any complaint referred to him, obtain evidence from the complainant, from the member and any other relevant person and make a written adjudication as quickly as possible.

17.2 The adjudication is binding on the member and any direct seller; the complainant is not bound by the adjudication.

## SANCTIONS

18.1 Where a member is found to be in breach of the Consumer Code (including the Annex), the Code Administrator may require the member:

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- (a) to repay all money paid by the complainant;
  - (b) to replace or repair any product without charge;
  - (c) to pay any costs incurred by the Code Administrator for technical advice or testing;
  - (d) to take all reasonable steps, including any specified steps, to prevent a recurrence of the breach;
  - (e) to pay compensation (not exceeding £5000) to the complainant.
- 18.2 The Code Administrator may recommend that the member appear before the Disciplinary Committee and may make recommendations as to the action it should take.

## DISCIPLINARY COMMITTEE

- 19.1 The Disciplinary Committee shall consist of two Council Members and three Independent Members nominated by the Council. The Disciplinary Committee shall consider all the evidence and may call for written or oral evidence from any person. The Disciplinary Committee's decision will formally be a recommendation to the Council of the Association of any one or more of the following:
- (i) no action be taken;
  - (ii) the member be required to undertake a specified course of remedial action;
  - (iii) issue by the Council of a formal warning;
  - (iv) suspension of the member from the DSA for a stated period;
  - (v) expulsion of the member from the DSA.
- Suspension and expulsion can be "suspended", i.e. not to take effect if one or more conditions are met.
- 19.2 The Disciplinary Committee shall send its report to the complainant and the member and the Council of the Association. The member is bound by the adjudication.
- 19.3 The Council may not reverse or overturn the decision of the Disciplinary Committee. Upon application by the member, however, or on its own initiative, the Council may refer the decision back to the Disciplinary Committee for re-consideration
- 19.4 The Office of Fair Trading will be invited to send an observer to all Disciplinary Committee meetings and any meetings of the Council of the Association which considers Disciplinary Committee recommendations.

## DEFINITIONS

"the Association" and "DSA" means the Direct Selling Association;

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"direct seller" means any person involved in direct selling in any capacity;

"direct selling" means the direct selling of consumer products either in the home or away from normal retail premises by which a salesperson either: demonstrates the product or presents a product catalogue; or, collects an order; or arranges for the delivery of the products; or collects payment for the product or arranges for credit;

"member" means a member of the Association and includes its employees;

"product" means any goods or services.

## DIRECT SELLING ASSOCIATION Annex to Code of Practice for Consumers

*This Annex gives additional protection to consumers who buy goods or services by remote or distance sales contracts*

### REMOTE OR DISTANCE SELLING

1. This Annex supplements the DSA's Code of Practice for Consumers. It applies where goods or services are sold to consumers by sales which are remote sales or distance sales, for example where a consumer places an order over the telephone, by mail or over the internet. In those cases Members (and their direct sellers) will comply with:
  - (a) the terms of this Annex;
  - (b) the requirements of the Consumer Protection (Distance Selling) Regulations 2000.

### CONSUMER INFORMATION

- 2.1 Members will ensure that consumers are given full information, clear and comprehensible, both before the contract is concluded and also in writing (or other durable form) before or at the time of performance of the contract or delivery of the goods.
- 2.2 The information must include details of the consumer's right of cancellation under paragraph 3 below.
- 2.3 The information must also include: the seller's/supplier's name and address, a description of the main characteristics of the goods or services, the price (including for how long it is valid and whether it is inclusive of VAT and delivery), arrangements for delivery/performance and payment, charges for delivery (where the price does not include them).
- 2.4 The information given in durable form must also include: the conditions and procedures for exercise of the consumer's right of cancellation, a geographical address where any complaints can be sent; information as to any guarantees or after-sales services.

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2.5 Members will observe the information-giving requirements of the Consumer Protection (Distance Selling) Regulations 2000.

## RIGHTS OF CANCELLATION

3.1 In the case of services members must ensure that customers are allowed to cancel any order within 14 days from the date of the contract being made and are informed of that right in writing.

3.2 In the case of goods members must ensure that customers are allowed to cancel the order within 9 working days of delivery (or, if it is later, within 14 days of the order).

3.3 A full refund of the price or any deposit shall be made forthwith.

3.4 By way of exception, there is no right of cancellation of a contract for the supply of the following goods or services, provided that the customer has been informed in writing prior to the contract that he will not be able to cancel the order.

(a) Any services (other than services to be provided continuously on a long term basis), where performance has with the consumer's consent begun before the end of the cancellation period.

(b) Goods which are supplied under a contract having a value of £500 or less and which it is commercially unrealistic to return to the member's general stock on account of them being:

- (i) made to the customer's specifications,
- (ii) clearly personalised,
- (iii) by their nature unreturnable, or
- (iv) liable to deteriorate or expire rapidly.

(c) Newspapers, periodicals or magazines.

## PERFORMANCE

4. Unless otherwise agreed, delivery/completion shall be within 30 days of the order.

## FRAUDULENT USE OF PAYMENT CARD

5. Where, in relation to a remote or distance sale, fraudulent use is made of a consumer's payment card by someone else not acting as his agent, the consumer is entitled to cancel the payment and to have his account re-credited. Members will co-operate with card issuers in ensuring this right of consumers is honoured.