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Draft Consumer Protection (Direct Selling) Rules, 2021 - Brief

The Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs) issued Draft Consumer Protection (Direct Selling) Rules, 2021- No. J- 10/9/2018-O/o DS (CPU) on 30th June, 2021.¹ With a view to regulate direct selling activities in the Indian market, the Government proposed these draft rules. Views, comments and suggestions are called for by the department on these proposed rules by 21/07/2021 to proceed further.

Direct selling is a retail channel used by top global brands and smaller, entrepreneurial companies to market products and services to consumers. Direct selling consultants work on their own, but affiliate with a company that uses the channel, retaining the freedom to run a business on their own terms.²

Earlier in the year 2016, vide notification no. F.No.21/18/2014-IT (vol II) dated 09/09/2016, the Ministry had set out certain guidelines for such entities.

The guidelines of 2016 were advisory in nature, however, the draft rules under the Consumer Protection Act is authoritative and will attract penalties in the event of violation and default.

¹ <https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Draft%20Consumer%20Protection%20%28Direct%20Selling%29%20Rules%2C%202021.pdf>

² <https://www.dsa.org/about/direct-selling>

The new draft norms lays down comprehensive regulations with regards to conduct of business, to be followed by the Direct Selling Companies. The overview of the norms is as under:

- Mandatory registration of the entities with Department of Promotion of Industry and Internal Trade (DPIIT), involved in the business of Direct Selling and having atleast one office in India.
- Barring the entities from charging any entry fee or registration fee from the agents. The entities cannot charge for the materials and equipment used for sales demonstration by the agents.
- The relevant details of the entity must be conspicuously displayed on the website and all invoices.
- Appointment of an officer dedicated to comply with the government directives and to address grievances. Setting up helpline or a customer care desk to address issues at all time.
- Introduction of 'cooling off period' during which the seller or agent can change his or her mind about an agreement made and has the option to opt out of the agreement and shall be liable for refund of any amount of consideration so paid.

- The Entity shall be liable to take back spurious goods or deficient services and to refund the consideration paid for the said goods or services. Provision for a buyback or repurchase policy for currently marketable goods which are not unpacked.
- The Entities are required to comply with the regulations within 90 days from the rules coming into force.
- It also explicitly restricts involvement of companies in any Pyramid Schemes or Money Circulation Scheme.
- All the entities involved in the said business will have to comply with the norms within 90 days.
- Duties and obligations of Direct Selling Entities have been expressly given.

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