



Feature Column

A Permission System Would Only Put MLM Industry in a Cage

The Amendment to the Multi-Level Marketing Supervision Act, currently being studied at the Economics Committee of the Executive Yuan, is about to get into the final stage. The attitude and opinions of the Fair Trade Commission (FTC) on the Amendment will be heard at the end of April or early May. It has been an issue of high concern among MLM enterprises as to whether or not, under the pressure of those legislators who are for the permission system, the current supervision method for multi-level marketing will be changed from the existing notification system to a permission system. In the atmosphere of legislative amendment, the big question is whether or not the business model based on free market economy, that has been adopted in Taiwan's multi-level marketing industry over the past 30 years, will be completely forsaken to give way to a "permission system", under which all business matters of MLM enterprises would be tightly controlled by the government, just like what is happening in Mainland China and Vietnam. If so, it would present a big change to the multi-level marketing industry.

Law amendment involves not only a choice of values and beliefs, but also, in the practical side, the fact whether or not it would "prescribe the right remedy for the illness" to really correct the current malpractice. If not, the good intention and efforts of our legislators would go in vain and the interests of stakeholders affected be disrupted. In case that, after all the troubles caused and big money lost, as well as the serious injury suffered, in the end it turns out that not only the problems we intended to solve in the first place are still there, but new conflicts and challenges are raised, as well as large social costs imposed, the action of law amendment really needs to be reconsidered seriously.

In the discussion on the Amendment at a committee meeting, some legislators made the point that in view that deteriorated multi-level marketing practice and illegal fund-raising schemes have been frequently heard in Taiwan and caused extreme damage to our society, it is not possible to make right existing evils unless strict control measures, such as a permission system, are taken. Therefore, they passionately push for the adoption of a permission system, which requires all MLM enterprises submit all matters currently needing notification only to the competent authority for permission. In addition, the method and form of permission shall be determined by the competent authority.

It is inevitably questionable that if there are truly so many social evils with widespread impact on our society, given that mass media in Taiwan have been quite mature, how come media coverage of this kind of cases is rarely heard of or seen? Besides, court judgements or administrative rulings and penalties made by the FTC on such cases are not too many. In addition, the classification analysis on all the violation modalities as described in published literature cannot draw a conclusion that the violation cases have become so serious that it is impossible to maintain a healthy market without adopting a strictly controlled permission system. Isn't it proof that the current system is still adequate to effectively manage cases of similar kind? Or is it true that legislative amendments in Taiwan can be made merely based on street rumors or hearsay? Furthermore, if we think the current system is not adequate to manage and control deteriorated multi-level marketing practices or the administrative power is not enough to protect the rights and interests of the public, what we should do is to clearly redefine the specific elements of deteriorate multilevel marketing behaviors as specified in Article 18 of the Multi-Level Marketing Supervision Act, aggravate punishment, and grant the competent authority – the FTC adequate authority to review the flaws and drawbacks of the provisions from the perspective of behaviors and overall regulatory process in order to completely eliminate illegal fund-raising or deceitful acts related to multilevel marketing. In other words, it is advisable to empower the competent authority to define and clarify the connotation of deteriorate multi-level marketing behaviors in order to regulate and suppress all harmful acts. Unfortunately, Article 18 of the Multi-Level Marketing Supervision Act is not mentioned or paid any attention in the proposed Amendment.

On the other hand, will the current problems be solved simply by replacing the existing notification system with the permission system? Going deep into the matter, there might be room for discretion regarding the answer of this question. Even if we adopt the strictest permission system in the world as proposed by those three legislators of the Economics Committee, the problem would not be solved. To begin with, indecent MLM enterprises might still commit illegal acts after obtaining permission and are not found in advance by the competent authority. In addition, most companies currently involved in illegal fund-raising did not submit their notification to the FTC, how can we expect them to truthfully apply for permission from the FTC? Therefore, trying to eliminate this kind of illegal acts with a permission system is like "climbing a tree to catch fish". The tool used is wrong so no substantial benefits of law amendment can be expected. Furthermore, even in communist countries where the permission system is adopted, their requirements are not as strict as those specified in the draft amendment, which requires all business matters submit to the competent authority for permission.

Even if legislators want to impose stricter requirements to the multi-level marketing industry, it will be fine if they propose some kind of criterion conditions to screen MLM enterprises, such as incorporating provisions that exclude those indicted for fraud by the prosecutor from becoming the shareholder, person in charge, executive, or high-ranking participant of a direct selling company, or make it harder for unworthy people to establish a company and get into the industry to disrupt the market order by setting a higher capital threshold. The right thing to do is not to require all business matters (e.g. marketing activities, promotional programs, all adding or reducing items to a product, or even minor changes to the compensation program) be submitted to the FTC for approval before they can be carried out as proposed by the current draft amendment. A permission system of this kind would only put the entire MLM industry into a cage and deprive it of its overall energy, making it impossible for MLM enterprises to win customers and gain the favor of consumer groups in a competitive environment. Furthermore, the MLM industry may be labelled with negative images by overly emphasizing the indecent behaviors of unworthy MLM enterprises, ignoring the decent operation of most MLM enterprises and their associates. As a result, instead of regulating those unworthy MLM enterprises that are doing evil out of the "cage", the proposed permission system deprives the whole industry of their rights to work and do business, which are highly protected by our constitution.

To sum up, the Amendment would only force all the legal MLM enterprises to jointly bear the price of the cumbersome administrative procedures and inconvenience, plunge of business efficiency, and surge of business cost brought about by the permission system. In the meantime, all MLM participants would indirectly suffer the consequences of a limited industry scale, negative labeling, and reduced bonus due to the increased cost borne by the MLM enterprises. Therefore, we urge our legislators to be careful about law amendment so as not to harm the entire MLM industry and ruin the hard-earned outcomes of the MLM circle over the past 30-plus years due to careless legislation. We are grateful of the goodwill of the Legislative Yuan for making the proposal to care for MLM participants and protect the interests of the general public. However, we hope all related law amendments would directly go to the core of the problem and solve it so as to make the advantages of the reformation outweigh the disadvantages with evidence-based practice. On the other hand, if our legislators insist on pushing for a system that is not in line with the context of the past system, against the values and beliefs of Taiwanese people, and likely to harm the future development of the industry, how can people who are knowledgeable of the situation not be worried?



DSA News

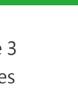
Upcoming Events of Public Affairs Committee

With the recent heating up of the pandemic in Taiwan, everybody is living in an anxious mood. During this time of pandemic, apart from taking precautionary measures to prevent from getting infected, maintaining a healthy mindset is also important for epidemic prevention. In the midst of this situation, the Public Affairs Committee of the DSA plans to arrange a variety of fun and educational activities in 2022. The Basic Course in Crisis Management takes the lead to explore important guidelines for dealing with crisis. For example, how could an enterprise face the media calmly and defuse the crisis leisurely when encountering a brand crisis? In the second half of the year, the COE Classroom and CSR-related activities would go on stage, in the hope of eliminating the gloomy atmosphere caused by the pandemic for member companies with a variety of fun activities. If you do not want to miss the brilliant and rich activities in 2022, please scan the QR code below with your smart phone to get the latest news of the DSA on our FB fan page. Like and follow the DSA first-hand information in an easy way.

* The eligibility and content of any activity shall be subject to the public information released on DSA's FB fan page.



New Regulations on Personal Data Protection in MLM Industry



On March, 2022, the Fair Trade Commission (FTC) published the amendment to Article 3 and addition of Articles 6-1 and 6-2 to the "Regulations for Multi-level Sale Enterprises to Set Up Plans of Security Measures for Personal Information Files and Disposal Measures for Personal Information after Termination of Business" as follows:

1. Paragraph 4, Article 3 – On time-limit reporting obligation of personal data leakage: The provisions regarding "the MLM enterprise shall fill in the Reporting and Recording Table of Personal Data Breaches" and submit it to the Fair Trade Commission within 72 hours after discovery of the personal data leakage" are specified to be the obligation of the enterprise. Therefore, one of the items of Paragraph 1, Article 3 – "Things to be considered" has been amended to become Paragraph 2 of the Article.
2. Article 6-1 – On information security measures for e-commerce services Pursuant to a resolution of the Joint Meeting on Implementation of Personal Data Protection by Administrative Agencies and the principle of the Guidelines for Consumer Protection in E-Commerce, the FTC set out this Article to require enterprises providing e-commerce services take information security measures and make regular reviews and necessary improvement. The required information security measures include: User's identity verification and protection mechanism, hidden digit mechanism for personal data display, encrypted data transmission mechanism, data access control and protection monitoring mechanism, countermeasures to prevent external cyber intrusion, and monitoring and coping mechanism for illegal or abnormal use behaviors.
3. Article 6-2 – On regulations on cross-border transfer of personal data: The FTC set out this new article to regulate cross-border transfer of personal data carried out by an enterprise. Before making the data transfer, the enterprise shall:
 - (1) Check up to see whether cross-border transfer of personal data meets any of the restricted circumstances as specified in Article 21 of the Personal Data Protection Act;
 - (2) Inform the participant in question of the region to which his/her personal data is to be transferred.
 - (3) Conduct related checks on the data recipient, such as details about the region and method the personal data is to be dealt with and used by the recipient; whether or not the participant in question is allowed to exercise his/her rights as specified in Article 3 of the Personal Data Protection Act.

In order to get in line with the international trend in personal data protection, Taiwan is likely to adopt increasingly stricter and more established regulations to protect personal data. Therefore, it is advisable for member companies to review and draw up related measures as soon as possible in order to provide their customers and distributors with a safe barrier and operating platform so as to avoid related risks.



Member News

JEUNESSE Launches Annual New Product – naära luxe and a Brand-new Project – Playful Beauty Brand Day

In March, 2022, JEUNESSE held her first large-scale online event, of which the focus was on her Y.E.S. annual new product – naära luxe. The key ingredients of naära luxe include several rare plant extracts that are mixed in a patent collagen advanced formula. JEUNESSE's naära luxe helps make your skin clean and crystal clear with a 3-stage process – barrier, moisture, and protection, giving your skin the most healthy and beautiful care both inside and outside 24/7 rain or shine.

In the meantime, JEUNESSE also launched a brand-new project – Playful Beauty Brand Day. This year to facilitate learning about products and health knowledge through play. During the event, drinks and handmade cookies prepared by kids at Children Are Us Foundation were served to show our support for mentally challenged children. In addition, Eason, nicknamed a "movable PVS", was invited to serve "a cup of coffee with a story" to participants and their family and share his personal traumatic experience in a car accident in order to encourage partners to be always positive and turn their face to the sun. We hope this persistent and optimistic life inspired by beliefs would move and influence all people around us.

