



A Guide to Direct Selling in New Zealand

An educational tool and resource for use by those entering the Direct Selling Market for the first time, entering the New Zealand market but looking for information about direct selling in New Zealand and for those that wish to know or understand more about the industry

Disclaimer:

This document is provided for general guidance and the DSA accepts no liability for any liabilities or adverse outcomes arising from decisions made based on the information provided in this document

Version 1: Issued 16 November 2006

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Foreword:

This document is written as a general guide to both existing direct seller companies and new direct selling companies either starting up or establishing in New Zealand.

The document will not cover off all aspects that you need to understand when setting up as a direct seller in New Zealand and is not intended to be a guide in any way for direct salespeople contracted or employed by Direct Selling companies.

The document is sectionalised to allow those sections that are not relevant to the particular company to skip that section and concentrate on the sections that are relevant to them. For example companies entering New Zealand with existing international operations should not need to consider the first three sections other than in relation to ensuring their existing agreements and materials are in alignment.

Nothing in this guide should be considered a substitute for proper legal and accounting advice and the DSA strongly advocates that this should be sought before commencing any trading operations in New Zealand.

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Section 1 - Understanding Direct Selling

Part A - Definition and Explanation

Definition

Direct Selling is the sale of a consumer product or service, person-to-person, away from a fixed retail location. These products and services are marketed to customers by independent salespeople.

Explanations

Depending on the company, the salespeople may be called distributors, representatives, consultants or various other titles. Products are sold primarily through in-home product demonstrations, parties and one-on-one selling.

Direct Selling is as old as civilisation and the foundation for all forms of selling which have evolved as our communities have developed. Even traditional retail started out as direct sales as market places drew the sellers into a single location and eventually into fixed stores.

Many current Direct Selling businesses range from many decades of operation to more than 100 years old.

Like retail, direct sales have evolved and we now see three broad categories of direct sales. These are Network marketing (often referred to as Multi-level marketing), Party Plan and Traditional Direct Selling such as door to door.

Although we give these three categories distinction there is often a blurring of the lines between each with very few Party Plan's not having a network marketing component and many network marketing plans having elements of party plan included. Even some traditional direct sales may have more than one level.

Common elements are discussed in subsequent Parts of this section.

Part B - Network Marketing (often called multi-level)

The term Network Marketing refers to the method by which products are sold. In essence you create a network of people to sell your products both through and to. Sales going through this network generate commissions, bonuses, overrides and incentive payments depending on the terms you choose to use in your system.

The term Multi-level marketing is also often used although this is generally considered misleading

The network is made up of independent contractors which may be give various titles such as salespeople, distributors, consultants or similar title. There is no absolute about the titles you may give and this may be more about branding to give your company some unique aspect that does not sound like it is the same as another.

The network of a distributor is called the downline and the term comes from the line of rewards that flow up from sales of products.

Note: That with any network marketing structure if there are rewards without sale of products or the sale of a product is used to disguise that the reward is for the recruitment process, then it is not a network marketing scheme but a Pyramid scheme which are illegal in most countries including New Zealand.

Network Marketing requires the recruitment of additional distributors into the network on a constant basis. Each distributor will need to tap on friendships, family and associates to build their network known as a downline. This is the key to sales of products since the greater the downline the larger the volume of product sales that occur.

Distributors will drop out along the way for a variety of reasons with the most common being a disillusionment with how quick their business will grow.

It is critical that the speed of growth is not oversold to maintain realistic perceptions of the business and to give the newer distributor's time to learn the skills they will need to build their business effectively.

All Network Marketing companies provide extensive training and education processes to help their distributor sales force to build their business. Without this provision distributors can either become disillusioned quickly or start promoting the business opportunity in misleading ways which can end up with prosecution under Pyramid or Fair Trading law.

All Network Marketing companies provide a wide range of seminars, courses, literature, training manuals and how to guides as part of an effort to provide distributors the ability to build their business however it is important that these seminars, courses and materials are vetted constantly to ensure they do not mislead or indicate earnings that exceed realistic examples in the market that they are operating. For example it is not wise to quote a US based distributor level of earning as being realistic in New Zealand when the markets are so different in size and opportunity. To do this may breach the Fair Trading Act (see the law in Section 6 of this document)

It is also important to ensure that the sale of distributor materials, running of seminars and courses does not become a business for top level distributors as it can disrupt the main product sales focus of those distributors and can lose control of the type of content that is included in the materials, seminars and courses. Participation of top distributors is desirable however the level of reward achievable from this activity must be kept carefully in check.

All Network Marketing companies provide incentives during specific sales periods and achievement of particular sales volumes means rewards in the form of additional payments (special bonuses), travel incentives or other rewards and most have recognition of levels being achieved as an integral part of this process.

Companies will hold regular meetings to both encourage new entrants to the business and to demonstrate reward levels being achieved. So when a distributor has achieved a particular level of sales and their particular network has grown to the predetermined size or structure, it is common to hold a ceremony to recognise that achievement and hold that individual or couple (when the business is a couple) out to the balance of the sales force to demonstrate the achievement.

This is an important part of the business and network marketing companies who fail to both reward and recognise performance will see that reflected in their own sales volumes and performance.

There are a range of types of network structures and in Section 2 these will be explained further.

The main structures used are:

- Buy – Sell down line using wholesale rebates and volume incentives. Stock may be held by the distributor

- Commission on volume using income percentage based on product volumes at the various levels of the downline. Buy-sell is a nominal activity as all purchases are direct with company
- Binary plan with multi-downline structures
- Auto ship & direct customers are a structure used in conjunction with any of the first three structures.

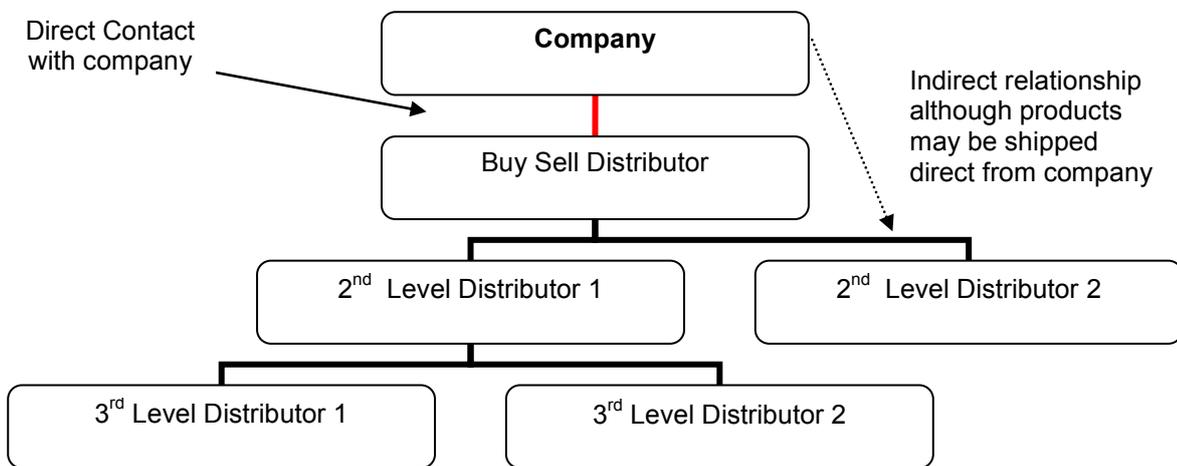
Buy - Sell

This is the traditional network marketing concept which required the distributor at the top of the network to purchase the product and then on sell the product to their downline. This method has some inherent problems with time of delivery, possible fraud and lack of control on the quality of the products ultimately being supplied to consumers or purchasers in the downline. It also placed a barrier between the consumers and the company meaning that if the distributor left the company then so did their customers.

The risk of distributors being encouraged to over stock (inventory loading) was also recognised as a problem and while now a banned practice by the DSA remains a risk of this structure.

Thus this system has generally been dropped by most Network Marketing companies in favour of systems that provide greater control and involve more consumer information being passed directly to the company.

Chart 1 - Typical Buy – Sell Network



Commission on sales volumes – Direct order with company

The most common network marketing structure that has evolved is one where the classic downline exists however all orders and payment processing occurs with the company. The company gains control of the complete network database and can streamline processes by ensuring products are delivered in a timely fashion and largely remove possibility of

fraud by taking away the cash temptation from distributors. This also allows the safe and efficient use of credit cards, direct debit systems and EFPOS.

Companies using this system often provide significant benefits to distributors by giving them on-line access to how their down lines are going, their own performance against incentives and of course on-line ordering.

Earnings are still based on sales of products and the sale nominally goes through the buy sell process with just the shipment going direct to the ultimate purchaser.

Auto-ship & Direct Customers

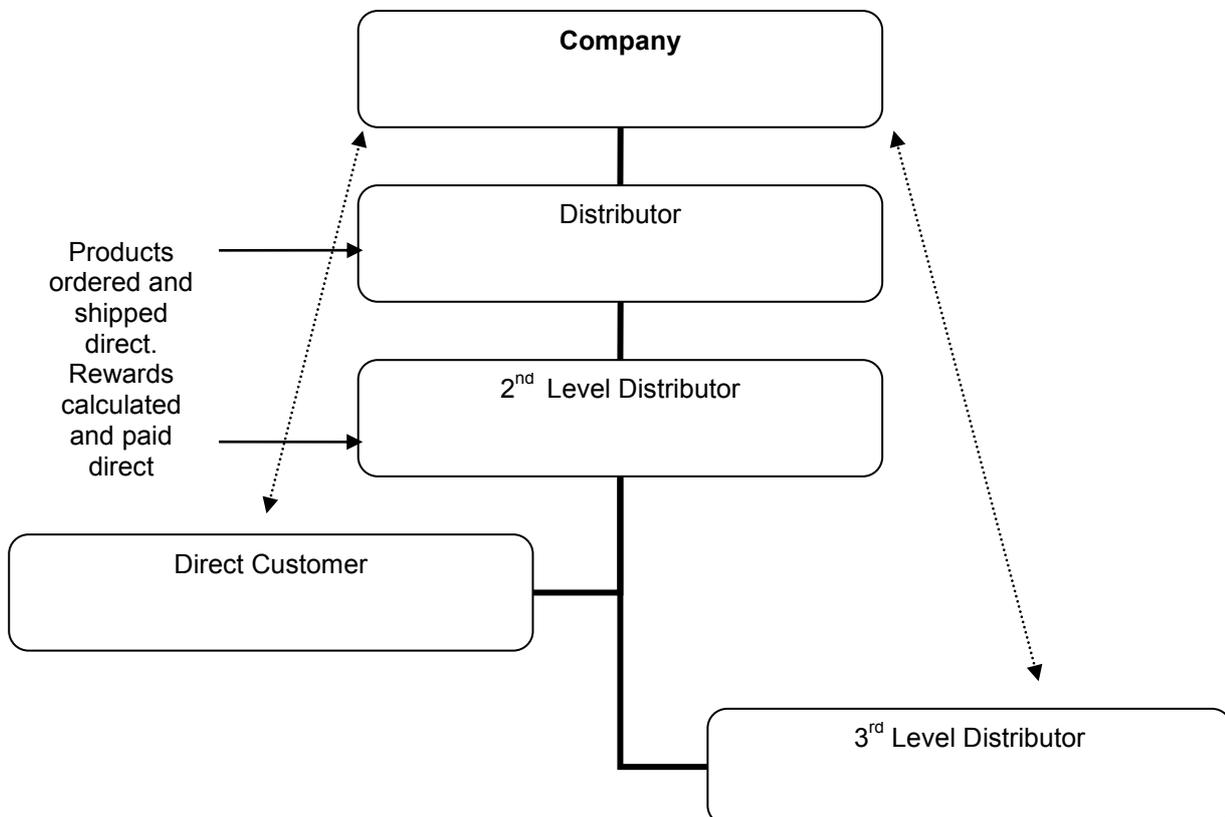
This type of system provides for the relatively new concepts of auto-ship and direct customers. The terms used for this component of direct sales may vary but the principles of operation are the same.

Auto-ship allows distributors to sign up a customer who does not want to be a distributor but likes the products to receive a guaranteed amount of products each month or more frequently if desired. It also allows distributors using products to do the same.

The management of this system is critical and customers need to be able to either return stock that is unwanted or adjust the volumes they wish to buy.

Direct Customers may involve the auto-ship concept but also may involve a catalogue being sent to the customer to order from each month. The company may market to the customer in a number of ways but the key element is that the distributor who signed up the customer continues to receive a reward for all purchases that are made by that customer. Some reward also accrues to the up-line of the distributor.

Chart 2 - A typical Direct Customer Commission/Volume based structure



..... Direct links with company are maintained

Binary Systems

Binary systems are used by a minority of companies due to the complexity of such systems and the dangers that they can easily trip into Pyramid territory. If done correctly these are not an issue and the key requirement remains that products must be sold before rewards accrue.

When considering introducing a binary system extreme care needs to be taken to ensure legal compliance and that pyramid laws are not being breached.

Most companies who operate a binary system will use the commission on sales volume system as well, due to the need to have controls of the network and in order to facilitate the reward systems that need to be in place.

Binary systems allow and generally encourage the distributor to start more than one line of business and frequently work well if they are controlled correctly.

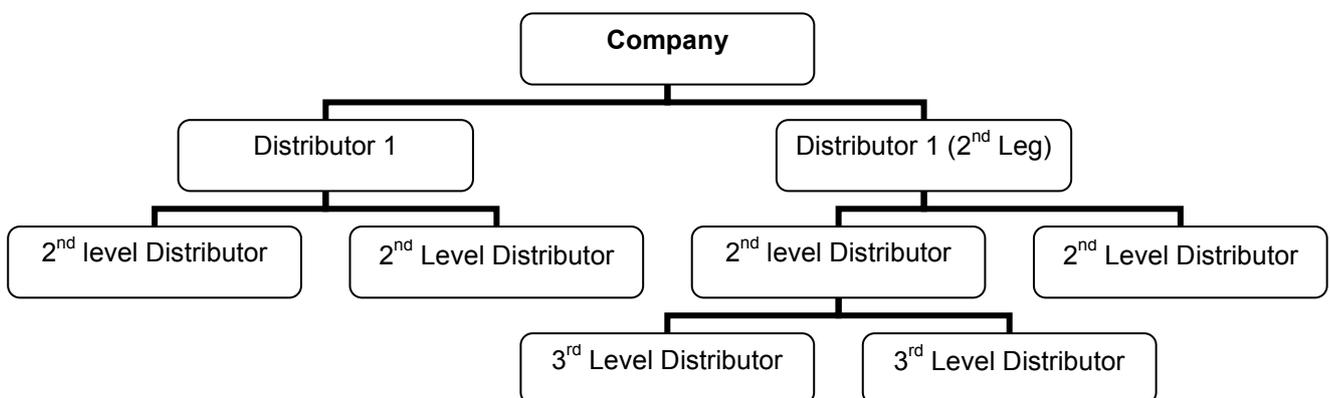
In essence, the distributor will sign up for separate legs and is usually allows to place new distributors to the most advantage within any of their legs of their business.

It is common for downlines to run as long at 12 levels or more with this form of structure however once the volume of people gets sufficiently numerous within a single leg of the structure the reward to the top distributors drops off since there is a maximum of 2 distributors below each distributor and the reward diminishes as the number of levels increases in relation to the commission/bonus/override or incentive that is paid for each levels product sales.

Therefore the real incentive is usually to get more legs established and growing and a range of techniques are used to achieve this. This includes the ability to place a new recruit where they can best advantage the distributor's business downline structure.

The typical binary system is shown in chart 3.

Chart 3 - A typical Binary System (maximum of next level distributors per distributor)



Note: that the flow of products, ordering and shipping and rewards etc is mostly the same as for Chart 2. The difference is in the restriction in the number of distributors immediately below any distributor to just two.

Part C - Party Plan

Party plan has a fundamental philosophy of selling the products to groups of people brought together for the purpose of the sale.

Normally this involves a Host/Hostess whose house will be used for the party and a distributor who arranges for the Host/Hostess to hold the party.

The party will be by invitation to friends and family and the term “show and tell” is commonly used as the sales method during the party.

The core principle of the process is that sales will occur when those attending the party have the product shown to them and its particular attributes explained with the opportunity to try and touch the product.

This system is generally considered much lower pressure selling and uses the fun of the party among friends to provide the right ambience for sales to occur.

It is normal for some food and beverage to be provided by the Host/Hostess however this is optional and the level provided is discretionary.

There are a wide range of products that particularly suit Party Plan sales and particularly those that women find attractive. Such products often include cosmetics, household or kitchen products and can include craft or clothing such as underwear. There is no definitive list of what might be sold using this system.

Party plan just like Network Marketing however needs structure and it needs a reward for those that wish to develop a full time business from it.

Therefore it is also almost unanimous that a number of levels should exist to assist with the structure and to drive the business forward.

It is common to have up to 4 levels of position for reward and while some may have less most will not exceed this.

Thus the “Multi-level” reward system under a Party Plan is based on much flatter structure than most Network Marketing business models.

There is a need to reward the Host/Hostess of the party and this can be done in a variety of ways with the most common being a gift which is based on the value of orders placed on the night or at the party.

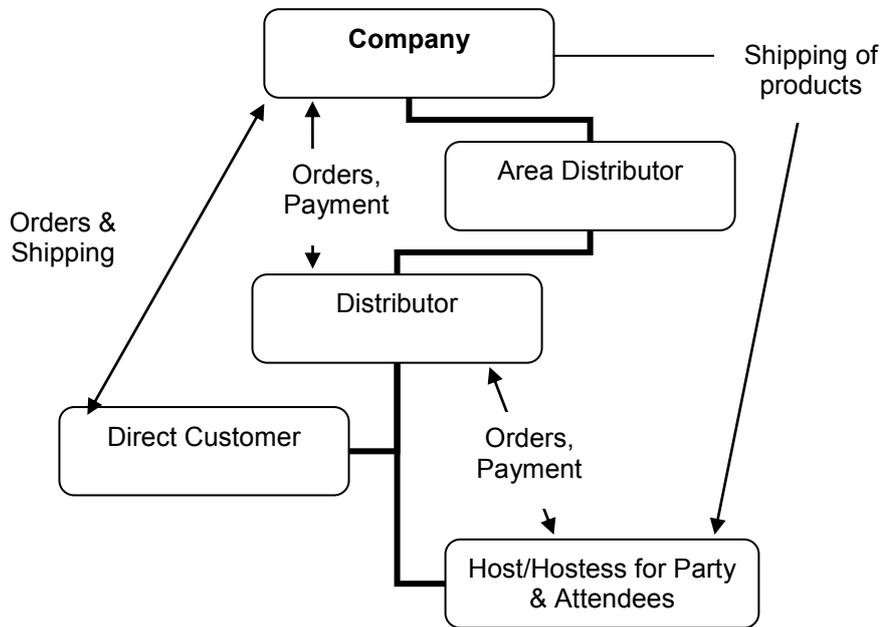
Some companies also provide for “direct customers” to order products in conjunction with the ability to order during parties or from the distributor.

Repeat business is the aim from the first time purchasers and so it is common to gather contact details and also to suggest that any of the attendees could also host a party themselves for their own circle of friends and family.

Often a measure of the success of a distributor is the number of Parties they have booked for the coming month since without parties it is difficult to get new business and prospect for new distributors.

A typical party plan structure may look like the following chart 4

Chart 4 – Typical party plan structure



Additional levels may be added for more structure such as “National Sales Manager or Area Controller. All such positions will be based on both the number of distributors or area distributors present beneath the position combined with actual sales being achieved within that structure.

Typically there is a requirement for a minimum level of sales to occur to retain the position and its rewards as well as a requirement for all positions to maintain both Distributors and Area distributors in their own structure. Most would also require some servicing of direct customers where these are provided for.

As with Network Marketing reward incentives are offered to grow the business and to achieve particular levels of sales in any given period. Such incentives may include travel, provision of cars as a status symbol or other rewards.

Likewise recognition is particularly important for the successful business leaders within the Party Plan Company as part of the essential tools in building the business.

Whether party plan or network marketing or door to door sales, recognition plays a considerable part in the growth of the business and it is essential not to just reward but to praise and show how valued people are if they are to go out and perform to their optimum.

Part D - Door to Door/Commission only/Traditional Direct Selling

This form of selling is the oldest and has the widest understanding in the community however even here additional elements have changed what could be consider the traditional approach.

There are three main types of traditional direct selling normally used although variations of these can exist. These are:

- Door to Door cold calling or appointment sales (credit or cash sales)
- Door to Door Commission Agents selling from mobile shops
- Catalogue selling via territory through part time or full time agents

Door to Door – Cold calling or appointment sales

These can involve both credit sales and cash sales. Often these are high end/high value sales for products that need effective demonstration for the consumer to see the full benefits of the product over retail alternatives.

In essence the traditional door to door seller is looking to sell a product by showing and explaining the products benefits to the consumer at the consumer's home.

This means gaining access to the property and being invited in before the sales process can occur.

This is considered the most difficult element and a number of methods are used to achieve this access to the consumer.

Access the consumer may involve the following activities:

- Knocking on the door and by prompt questions seeing if the consumer is interested sufficiently to gain access
- Telemarketing to the consumer with the offer of a free demonstration and/or gift at the demonstration regardless of purchase
- Leaflets to letterboxes offering to demonstrate
- Stands in local malls for to gather potential demonstration invitations or leads
- Referrals from friends, relatives or from previous sales or demonstration customers
- Catalogues delivered identified customers to promote sales

Many of these tactics can be risky since they require compliance with laws such as the Privacy Act and calling at the wrong time of day may have an adverse impact on how receptive the potential consumer might be.

Misuse of these tactics will be a breach of law under the Fair Trading Act, so honesty and being up front about what the distributor/agent/salesperson is selling is particularly important. Potential customers can get quite averse to being misled into a demonstration and as a result the sale is unlikely.

The quality of the prospective sale is particularly important and this is often misunderstood by some door to door sellers who focus only on the percentage of presentations. i.e. if you present to 10 prospects you will sell at least to 1 so the more presentations you do the greater the chance of the sale. It is better to qualify the prospect first and improve your chances of achieving the sale.

Direct Selling companies who are selling high end products such as cleaning systems and therapeutic beds etc will sometimes follow this philosophy and it has the inherent potential of backlash as a result.

There are obligations both in law and the DSA Code of Practice not to abuse the sales process through targeting inappropriate people and pressure sales tactics which result in complaints and ultimately cost more in the fix up process than is gained from the original sales.

Normally agents or distributors who sell high end products are paid on commission for the sale however some are also buy sell distributors.

Control of distributors is often direct to the company since the numbers involved are usually small and easily managed on this basis.

Door to Door Commission Agents – Mobile shopping

There is a more recent trend to sell in remote areas and in the lower socio economic zones lower value products on revolving credit. This usually involves a truck or van with full commission agent

This is an adaptation of the traditional salesperson process and is the only circumstance where there may be a use of a commission only employee rather than the independent contractor. This is not always so, however there is considerable investment in the mobile shop set up which is usually owned by the Direct Selling Company.

When the rules of control established by the Inland Revenue Dept to define when a person is an independent contractor and when a person is an employee is applied these commission agents would normally be defined as employees as a result of this structure.

The key element of this system is that the agent has a full suite of products in the vehicle and available for display and sale to the customer. Repeat sales are particularly important to this system and therefore follow up when the revolving credit sale amount has been substantially paid off must occur.

The system requires tight credit control and limiting the levels of credit provided to manage the risk. Such selling is capital intensive for the company in order to provide comprehensive coverage and also requires good logistical organisation to keep the mobile shops stocked wherever they may operate.

Price pointing against normal retail can be required to ensure that consumers believe they are getting fair pricing although it is not essential that this be the same or even lower due to the credit sale option.

A hybrid of this includes the lay-by system where the consumer pays off the goods prior to receipt over an agreed period and allows access to a wide range of both lower and higher end products. The lay-by system allows better “Just in Time” delivery from suppliers and does not generally require significant warehousing or storage facilities as a result.

It is important however to produce a significant catalogue and have sourced good brand products for the attraction to be effective. Delivery is still via the mobile shop system however and the target demographics generally remain the same.

Control in this type of selling is with the company and as the agents are often employees, they can be bound by the same obligations as employees for actions and dismissal processes. As the numbers grow however some regional control requirement is essential

for good governance however motivation is normally provided by direct reward based on the actual sales made each week. The agents are normally full time and well rewarded for the work undertaken.

Catalogue selling via Territory – Part time or full time agents

This is an alternate to the party plan or network marketing and requires a high number of distributors to be effective. Use of the promotion of being part time income rather than a full time business can make this effective for young mothers with children to supplement income in their geographic area. Such selling is not however restricted to this demographic and can easily be used for a wide range of products.

The core of this type of selling is the need to build a list of contacts to which the catalogue is delivered on a regular cycle. This usually involves friends and family as well as some cold calling initially to build up the business. It may also involve leaflet drops to letter boxes to solicit enquiries. Normally the agent will hold a small stock of demonstration products to supplement the catalogue.

While this method can be as simple as order taking once the business has been established the rewards are usually based on volumes sold with a higher level of reward/commission paid when the volume/value increases to predetermined levels.

The system requires area managers to control the agents in given territories and who may either be paid by salary as employees or as commission agents. These managers will have the task of finding new and replacement agents as agents come and go.

Recruiting is an important element of this form of selling and like other forms of direct sales rewards or incentives for top performers is essential to motivate and recognise those performers.

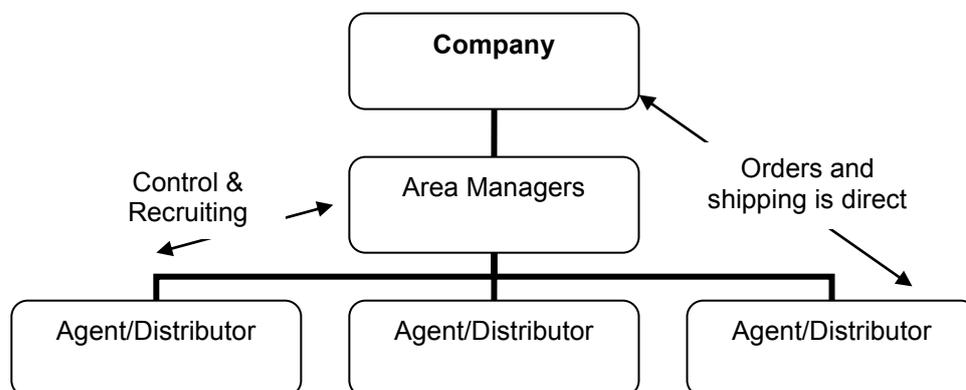
The tax structure that applies for these distributors and area managers needs to be checked carefully before commencement of operations.

It is important for this type of selling to have a top logistics arrangement in place to ensure timely delivery of products to the agents for sale to end consumers. The agents are sometime allowed a period of credit to allow sell through of the goods they have ordered.

This is not always done with some companies opting to use credit card sales to provide the same option but at a reduced cost to the company.

A sample of this structure may be as follows in **Chart 5**

Chart 5 – Catalogue selling via Territory – Part time or full time agents



Section 2 - Remunerations/Commission and Incentives

There are a wide range of remuneration systems, commission structures and incentives used in the Direct Selling industry. It therefore impossible to construct a generic one size fits all or even a best practice since the best fit will always be a development over time.

This section of the document will go over the basics of establishing a reward plan (often known as a sales plan), the legal fish hooks to watch for and then some model examples that might be used.

Remember there is no substitute for good legal advice in this area and while this guide will help you get started it can not guarantee you will be in compliance with the law once you adjust any model to fit your way of business and product types.

Establishing a new compensation/reward plan

For set up companies designing your reward systems will be a matter of establishing a base of how you want to compensate, working through the pricing that will support this base and then adjusting the plan to work effectively.

The following step plan is intended to be usable in any of the main direct selling types although some steps are more applicable to Network and Party Plan than the traditional Direct Sales systems.

Step 1 -

What is your planned structure? (Use the model examples to pick the broad parameters of what you intend to have in place. You need to have this firmly established before you look to allocate any levels of reward, incentives or commission structures

Step 2 –

What is your product(s) pricing structure gap percentage? This will be the difference between your selling price and your cost price including overheads but excluding profit.

Step 3 –

What are you expecting each distributor to sell? What are the likely volumes? You need to know this or have a good assessment as this will dictate the percentages you will allocate for compensation at each level

Step 4 -

Having established steps 1 to 3 you should now be aware of how much money is likely to be available for compensation.

This is the funding base for your compensation system and part of that compensation must include a defined percentage for company profit as well. This is why you need to identify your costs first and exclude them early.

If your gap is not sufficient to fund what you will need to make your system work then you have two choices, increase the gap by lifting prices and/or lowering costs, or adjusting your compensation percentage levels to fit the funds you will have.

Note: If your compensation plan is complex then so will be the accounting systems you will need to make it work and the levels of administration cost you will incur in order to

make it work. Start simple and build up your systems over time if your resources are limited!

Note: You can easily add more remuneration levels, incentives or bonuses later. It is much harder to take these away once distributors have become used to getting them. Be fair but don't be too generous early on with your new business.

Weighting of rewards (Network Marketers, Party Plan and Single Level or Door to door Sales)

Using an existing (International) remuneration plan

Generally this will only apply to multi-national companies looking to operate in New Zealand.

Taking the existing plan and applying it directly to New Zealand may have some appeal however while the law in New Zealand may be very similar to law elsewhere you do need to check that your plan will not contravene the New Zealand law.

Most plans will at best only need minor adjustments from those used for Australia since the New Zealand law is substantially the same as the Australian Trade Practices Act. There are some subtle differences where the New Zealand law has moved in different directions and has differing case law to define what acceptable practice is.

Network Marketers and Party Plan weighting of rewards

When you are starting out you will have a lot of distributors who are all selling or responsible for selling small amounts of products but will not have extensive businesses with many tiers of downline so they will not have the business leaders to show them how they have achieved rewards for establishing their business. Therefore you may consider having a larger reward for the direct sales at the early levels of your system.

If you are considering this, leave some funds aside so you can add in more rewards later on for those that demonstrate longer term business building and do build significant downlines.

It is possible in the early stages to run your incentives or special rewards such as travel at a lower achievement level so you do get winners and those winners are given the incentive to go on to grow their businesses.

Some rewards can also be weighted to particular product types where the margins are greater or where there is a need to move larger volumes of stock however care needs to be taken to ensure this does not throw the system out of balance and damage sales elsewhere.

Weighting is used to either drive more new entrants into the business or to promote movement up the levels by encouraging more motivation by existing distributors for sales and to grow their business.

It is important with Network marketing companies that any weighting not be for the actual recruitment but for the combination getting sales volumes up through the recruitment process. In other words avoid weighting that creates an illegal pyramid scheme!

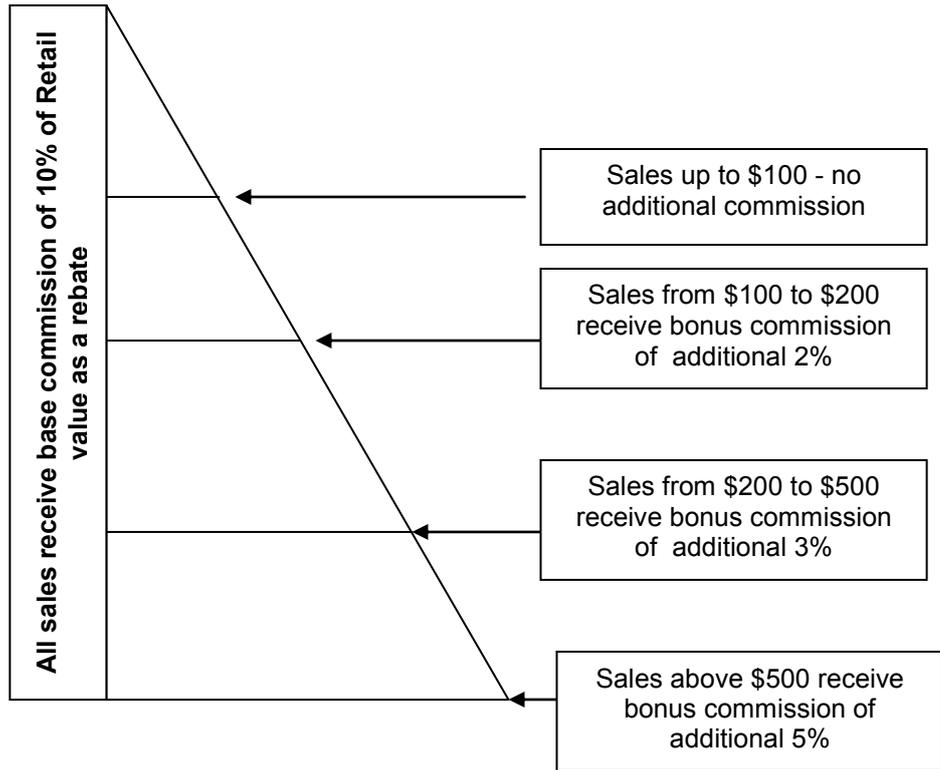
Single Level or door to door weighting of rewards

The additional option that can be undertaken with single level or door to door sales is to structure the normal commission rewards so as to give both good targets and the greatest reward for those that achieve the target or exceed them.

Elements of this can be used in Party plan rewards at the bottom level.

A typical reward system that might be used is shown in **chart 6** below.

Chart 6 – Single Level or Door to Door weighting of rewards



To put this more in context the at sales person selling \$1000 value of product might be rewarded using Chart 7's formula as follows

Table 1 – Example reward model for single level sales

\$1000 Sales Amount	Reward	Cumulative Reward
First \$100 of sale	10% or \$10	\$10
\$200 of sale	10% + 2%	\$24
\$500 of sale	10% + 2%+ 3%	\$75
\$1000 of sale	10% + 2% + 3% + 5%	\$200

This example is conservative in the percentages given however it does give a good example of how a cumulative reward can be given to help provide incentive to achieve higher value sales to distributors even in a single level environment.

Commission, Wholesale profits Points, Bonuses, and Overrides

All Direct Selling companies will need to pay compensation based on sales made and using commissions and calculations related to sales volumes and size of business to provide remuneration in the form of bonuses and overrides or other rewards. Some of these payments are also tagged to requirements of structure, providing support for downlines such as education and training.

It is normal to pay a remuneration or share of profit based on the products actual sale and this will be at a prescribed percentage which may vary based on actual volumes sold. This applies for all forms of direct sales.

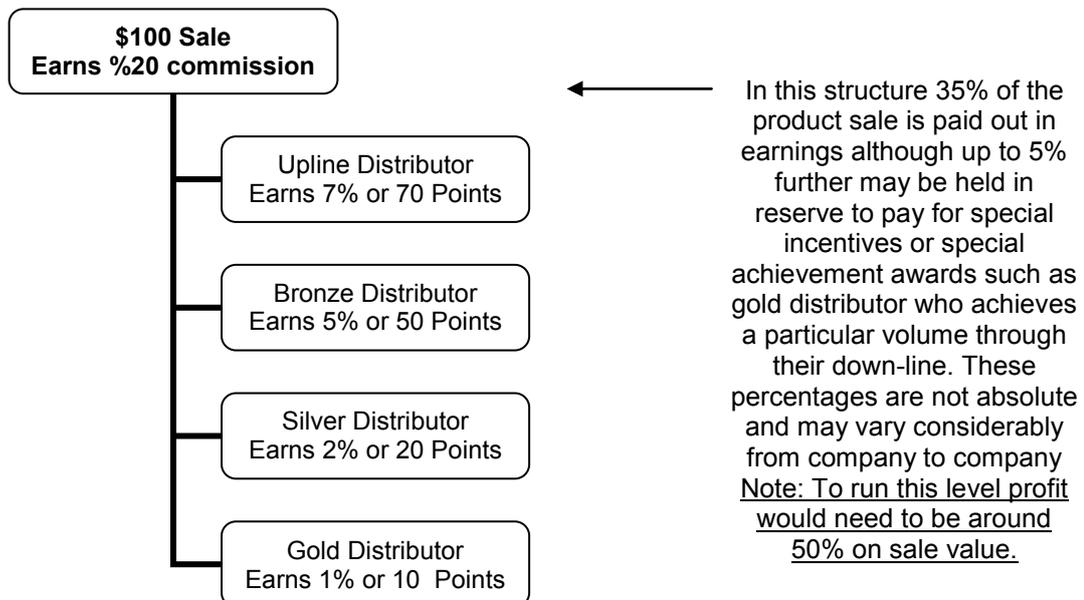
Once the sale has been made of products then there is a an earning of a share of the profit or remuneration by the up-line distributors at various levels depending on how many levels this is required to apply to. This form of remuneration is generally only applied to network marketing and party plan companies although some traditional direct sales companies may allow it to apply to one level through area managers. These are often managed by a points system.

Points Systems

The earning by up-line distributors needs to be calculated and the simplest method used by most network marketing companies is to apply a set level of points that are earned by the up-line distributors at each level. These have an absolute dollar calculation value but their use allows them to be used to measure the value against sale targets needed to achieve both levels of recognition and reward thresholds.

A typical Points based system is shown in **Chart 7**

Chart 7 – Typical Points based system

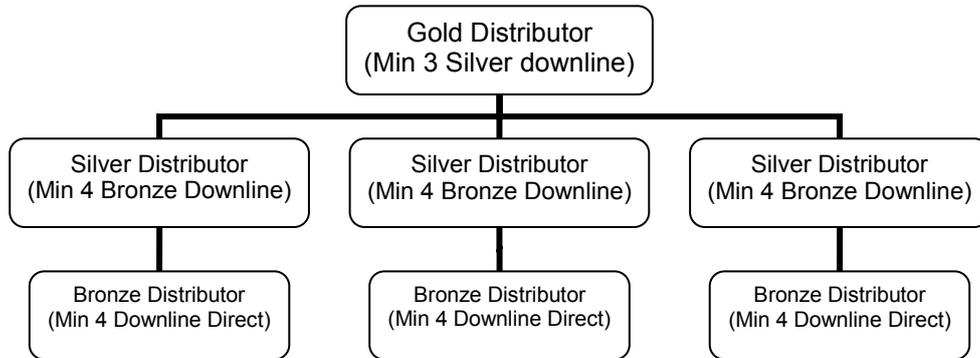


For the structure shown in **Chart 7** to work the up-line distributors need to have a solid structure beneath them so while the up-line distributor may only have one person below them, in order to get to the bronze level it may be a requirement to have a number of distributors below them as well as achieving through those distributors a minimum level of sales or points earned.

Note: When using a Binary system this structure will differ and the criteria will be different due to the nature of that system.

Chart 8 shows how a typical structure of this nature might produce the levels of reward

Chart 8 Typical required structure to move to next level



In the model shown in **Table 2** and using the same sale in chart 7 the earnings would be as follows for each level.

Position	Earning Calculation	Points Earned	Remuneration
Retail Distributor	20% of \$100 sale	Nil	\$20
Direct Distributor	4 X 70 Points	280	\$28
Bronze Distributor	16 X 50 Points	800	\$80
Silver Distributor	64 X 20 Points	1280	\$128
Gold Distributor	192 X 10 Points	1920	\$192

These simple calculations show how using the multiplier effect, that up-line people can easily achieve high earnings by building the down-line numbers.

Of course the sale must occur to earn the remuneration and this is why most companies impose a requirement that in order to progress through the various levels there is a requirement for a minimum of points to be earned by the down-line. Most also have a requirement that some sales must also be undertaken as well at the equivalent of the retail distributor by each level of distributor to demonstrate they are working within their business.

When calculating how a company will reward its distributors this sort of calculation needs to be done using the estimated actual sales each distributor is likely to achieve and of course the number of levels may be significantly larger or less than shown in charts 7 and 8 and in Table 2.

Incentives

The use of incentives is wide spread in the Direct Selling industry regardless of what type of Direct Selling plan is used.

These are normally calculated as a percentage of the sales made and it is important to put aside provision for these in any successful direct selling business.

Normal incentives include:

- Travel rewards where the top performers are taken away to an exotic location or to a company conference elsewhere in the world and of course this gives the opportunity to use this time to promote to and educate those performers further
- Prizes which may range from company products to televisions etc.
- Status recognition symbols such as use of a car where the higher the performance the better the car while they are achieving that level
- Cash prizes – rarely used but a very visual method to promote success
- King and Queen ceremonies – crowning winners and seating on a throne in the robes can produce great results
- Loyalty rewards for those who sell product well but have not achieved the needed levels of recruitment yet to reap the higher rewards
- Rising star, best effort and personality awards can also assist
- Gifts to Hosts/Hostesses (party plan only)

With all of these incentives it is important that they be done in a highly recognised manner so annual conferences, quarterly meetings and in special events, these can be used to give both the incentive its best value and provide for team building of enthusiastic distributors.

Internal publications are an important mix of this process in providing both full recognition as well as communicating current or new incentives that can be achieved.

Incentives are not restricted to Network Marketing or Party Plan and are also able to be used for single level or traditional door to door selling. The focus however is more on the value or volumes sold by the individual and those above can be used in most cases to recognise high achievers with minor modification.

For example it is not unusual to take a single level achiever who sells perhaps \$4000 per month and reward that person with an incentive trip where some additional product training might be delivered along with the first look at a new range of products they can sell. This being held up as being achieved will drive others to strive for this additional reward that is over and above the financial rewards they will receive from the actual sales.

All rewards must be achievable and the levels set must be realistic levels for the market you are operating in. There is little point in setting reward thresholds that might be achieved in a larger market at the same level for a smaller market so there must be a balance on how such incentive rewards will be achieved so that it is seen as achievable but they (the distributor) must stretch themselves to achieve it.

No incentive reward should become automatic where most achieve it. This kills off the value of that incentive very quickly and the distributor(s) will start looking for even more which may not be deliverable in your marketing plan. It is better to move the target upwards where a limited number will be able to achieve but with some effort required to get there.

This is particularly important for new and growing companies where on start-up the incentive is set at a relatively low level to ensure that there are some early winners. As the

company grows however that incentive must move up so that the incentive is not going to most of the distributors.

This transition from the low to a higher target or performance level is often difficult for companies to implement. One of the best options is to offer a lesser value incentive for the first couple of years and then move to both a higher value incentive but with the higher targets once the growth is evident and the new incentive levels can be achieved by a desired number of distributors.

Section 3 – Distributor Agreements, Guides and materials

When setting up a direct selling business in New Zealand this is the most important aspect that the business must deal with aside from the on the ground work that is necessary to gain buy in by the first distributors.

Key Documents

There are some key documents they you need to consider. These can be separate or combined in some instances. These are:

- A distributor application form
- A distributor agreement
- A product order form (some may call this a distributor order form however if there is a direct customer option you may also need to separate these)
- An explanation brochure of the sales, marketing and reward plan
- Product brochures
- A distributor manual or guide

The DSA strongly recommends that once the first drafts of these documents are complete that they are sent to a legal firm for advice on whether they will comply with all laws and to ensure they will achieve the purposes they must under contractual and common law.

There is no substitute for good legal advice!

Distributor Application Form

You must get a commitment from a prospective distributor to become a distributor with your company. This is the contractual agreement that is signed. It may be stand alone or combined with the full distributor agreement terms and conditions

For first time companies into the direct selling business we have prepared in appendix 1 a draft template for an application form. This document will need to be modified to met the specific requirements of your company and will still need to be vetted by an experienced Direct Selling legal counsel before it is used.

For companies entering New Zealand from other countries, your existing application will normally cover most if not all of the requirements you will need to meet. We still advise getting this document checked by a top legal counsel.

What should appear on your application?

1. Name and contact details of the distributor (Spouses may also be required if appropriate)
2. Any business or trading name of the distributor
3. The sponsoring distributors name ID number
4. Provision for the distributor signature and spouses signature if this applies
5. Reference to the acknowledgement of the distributor agreement if this is separate
6. Reference to the distributor manual or guide where these are used
7. Coverage of specific laws such as the Privacy Act or Anti-spam laws where you will be communicating with them directly with materials, promotions or other communications
8. Your logo, company contact details
9. The DSA Logo if you hold full membership and are permitted to use this

Distributor Agreement

This is essentially a terms of acceptance or terms of trade document. It is common to have this combined with the application however we have separated this out in appendix 2 for the purposes of clarity and for use of first time direct selling business use.

This is the core of what is being agreed with the distributor and sets the basis for your relationship. It should refer to the Distributor manual or guide where these are available and may also refer to other publications.

For direct selling companies entering New Zealand from other markets your existing agreement document will not need significant changes but should be passed to an experienced Direct Selling legal counsel for any changes to meet comply with domestic law.

Those choosing to start with an existing document used from an international operation should check to see that the document does not use terms that are unfamiliar to New Zealand distributors. Some taxation terms used elsewhere do not have usage in New Zealand and vice versa. If you want New Zealand prospective distributors to fully buy into your business proposition you need to put it in terms that are used in the domestic market.

Product Order Forms

These are normally aligned to your internal systems however we have provided in appendix 3 a draft product order form for first time direct selling businesses. This will need to be modified to meet your product range, reward system and selling plan.

We have used the model for a network marketing/multi-level reward system however columns may be deleted to meet the needs for a single level company structure.

International companies entering New Zealand should be able to use their existing product order forms with appropriate modification for those products to be released in the market and with New Zealand pricing.

All pricing should be in New Zealand dollars as foreign currencies pricing may breach the Fair Trading Act if used for end consumers and where this is not made clear.

Those that have a direct customer category of distributor whether the term auto-ship or the like is used must ensure they comply the pricing includes GST or what the price will be when GST is added

You will need the following information on a product order form

1. Your company name, logo and contact details
2. How to place an order (0800 number, Fax, Mail or by on-line systems)
3. The purchaser details (name, ID and current contact phone are the minimum)
4. Who to ship to details (name, physical address, delivery instructions and contact numbers)
5. The order date
6. Product list with pricing shown
7. A column for quantities being ordered from the product list column
8. Totals for order including how the GST, packaging and shipping will be added
9. Payment details (Cheque, Credit Card details)

10. How to calculate any volume discounts on the total if these apply
11. Signature of the distributor/customer placing the order

You may add a number of other features such as Points or PV that might be earned for each product, pricing for single and bulk lots and immediate up-line distributor reference.

Do not add any details that you can easily capture within your own systems however if the capture of a particular piece of data is helpful due to difficulties in the operation of your systems, add it until you are reasonable able to modify the backroom systems to remove it.

All businesses whether Direct Sellers or not should review all such documents at least annually and when pricing changes are implemented to ensure that data is being captured in the most effective way to suit your business.

This template provided in appendix 3 may be used as a guide for this purpose.

Brochures – Sales and Marketing Plan, products and company explanation

The Sales and Marketing Plan Brochure

You need to have a brochure that explains simply your sales plan and how rewards are achieved. This is promotional but you must still check it with a legal opinion to ensure that it does not give the wrong message or could be construed as promoting recruiting over sale of products.

This is a key sales tool for your distributors and senior people in selling the opportunity for the business whether this is network marketing, party plan or single level sales.

The Product Brochure

If you are selling a products or services then you need to have brochures explaining the products or services, why they are unique, better than alternatives or has properties that stand out. You still must comply with the law so you can not falsely state properties or give examples that are false or misleading comparisons. You can use promotional wording providing it does not give off a false impression.

Your product brochure is a tool for distributors to sell products but also may be used in selling the opportunity so you can make reference to how the sale of a particular product or service will affect PV or earning potential.

Generally it is unwise to put pricing on such brochures as it will restrict the life of the document. Pricing should be on order forms and where appropriate on a pricing sheet or catalogue if you are producing these on a regular basis.

If you have a large range of products then you wish to consider a catalogue as opposed to a range of product brochures which may be more cost effective.

Company Explanation

This can be done in conjunction with the plan brochure and/or the product brochure. The choice is yours when considering what materials to produce however it is important to have some explanation about the company such as where you started, how long you have been in business and even a mission statement if appropriate.

You will have this explanation in more depth in your distributor manual or guide but you should not rely on that to explain your business since again this will be a selling tool for distributors on the opportunity. Combining this with the sales plan brochure does allow for reduction in production costs and is consistent with the explanation of the plan.

Distributor Manuals or Guides

A distributor manual or guide explains in more depth the company but also goes into how with Network Marketing companies or Party Plan companies the distributor should go about building their business. This might involve tips or advice on how to approach prospective new distributors, to book parties for party plan or explaining how to deal with administration issues such as tax, placing of orders, faulty products, returns and termination of agreement procedures.

A distributor manual should be referred to clearly in the distributor agreement and given the appropriate backing in other material and during presentations to ensure it is referred to. Most companies would consider that a distributor manual is crucial to ensure the right culture is in place and that rules on what is acceptable and what is not are clear. We therefore strongly recommend that companies consider this document even though it will take some time to construct if you do not have one.

There are a couple of key rules in producing a distributor manual or guide. These are don't repeat the contents of the distributor agreement and focus on explaining the business and how your distributors should operate. This is a policy document and if your policies are not clear they you expose your business to challenges by your distributor force.

Other documents

The documents described in this guide are key documents however you may well produce other documents such as testimonials or support materials for use by distributors in either selling the opportunity or the benefits of your products. These are not critical but can be highly beneficial if they are constructed within the legal requirements of the Fair Trading Act and the Advertising Standards Codes of Practice.

Section 4 - Product Choice and Range

In many cases the product choice is made before the decision to enter Direct Selling. In some instances the entry to Direct Selling is simply because the product lends itself extremely well to the Direct Sales process.

There is no restriction on what may be sold through Direct Sales however the movement into this market should always be done with full awareness of what the market will need from the products for it to be successful.

Product Choice

If you are looking to establish a product in a Direct Selling business there are some key criteria that you may look for regardless of the physical product.. These are:

- Uniqueness or stand out properties
- Price point
- Consistency with the business or Product Mix
- Transport and delivery ability
- Repeat business possibility
- Compliance requirements

Some of these points will be traded off against other points in some product types so it is not necessary that all of the key criteria points are met.

Uniqueness or stand out properties

Your competition is the main stream retail sector. Therefore you need to have products that have characteristics that will help you sell this product over your competitors.

The characteristics might include, a unique patent, having natural ingredients, being manufactured to a particularly high standard or exceptionally long life expectancy of the product. There are many other characteristics that might be exceptional and most importantly not available through mainstream retail.

While it is possible to have the same products sold via both retail and direct sales this is difficult to achieve and normally relies on unique products or brand that seek a wider distribution than the retail outlets can provide.

Price Point

It is a fallacy that Direct Sales can not price point against mainstream retail however it is important that if this is done that the price point can support the remuneration structure that is being applied to the products.

If you have a high quality product then your price point can be higher since you can use that property to justify the price and it is assumed that your cost of manufacture will be higher as a result.

Your choice of product should look at the price point you will be able to achieve with it before you decide to run with that product. If it is not going to produce sufficient reward to either the company or the distributors and it is a core product line, then you will need to revisit the product choice or how you can move the price point to support the remuneration structure.

You will find that distributors will quickly tell you when a product is too highly priced and of course any product that is excessively priced will run the risk of being deemed a pyramid scheme since the only purchasers may be the distributors.

You can only sell a product if there is perceived value in that product at the price you have set.

Consistency with business or product mix

There are many Direct Sellers who sell a large range of products types and who find this works in their company. This is particularly true for Network Marketing companies who find a diverse product mix boosts sales and allows distributors with a particular focus the ability to focus on those products they find attractive to promote and sell.

For example it may be difficult for a man to sell cosmetics but he may find nutritional supplements or car cleaning products far more comfortable.

If however you are a cosmetic brand company or a wellness company then other products that are not consistent with the company philosophy. Those involved in party plan will find that this becomes important.

So when choosing new products to add or introduce, care should be taken to ensure that the product will be consistent with your overall image, philosophy, mission statement and existing product ranges.

There is no absolute with product mix however if you have recruited a sales force on the basis of a particular product mix and you then introduce another product that they are not familiar or comfortable with, you will need to undertake considerable training to make that product sell through that sales force.

You may find that ideas for new products will come from the sales force based on requests they receive however you need to vet these ideas against the other criteria first and not just add the product because it is being requested.

Transport and Delivery

You must be able to get the product or service delivered otherwise you risk disillusioned distributors and consumer complaints. Some products will incur additional transport costs due to their physical properties and through packing requirements. You need to take this into account prior to making the decision to introduce the product since this will be a key cost that needs to be factored in your overall profitability.

For those Direct Sellers offering services such as telecommunications there are additional issues of availability in specific regions or areas and these should be carefully looked at before such services are introduced. This does not preclude the service but materials will need to reflect that actual delivery that can be achieved.

Repeat Business

The optimum business for Direct Sellers is repeat business. When considering a product, the question of whether it could generate repeat business should be asked. Consumables offer this option where as long life products may not.

The price point will also dictate the level of repeat business that is achieved. For example a high ticket item may not normally expect to achieve repeat business when the product has a long life expectancy.

This does not mean however that repeat business is not possible but such business may be in additional products or add on products that add to the benefit of the original product.

Compliance requirements

Many products have specific compliance requirements which may include meeting particular standards, labelling or packaging requirements and handling requirements.

When looking at a product choice the level of costs associated to these should be considered. Some of these compliance requirements will add to transport or delivery costs. Again you may still choose to go ahead with the product however you will then need to factor in the additional costs against profit margins and remunerations paid.

Some products are restricted in sales channel in some markets and you will need to ensure that the product choice will not pose this problem. Generally in New Zealand this is not a particular problem with the exception of Pharmaceutical Prescription products. Some products like Alcohol, Cigarettes and Motor Vehicles apply tight controls on how sales occur and generally prove too difficult for Direct Sellers to operate under.

Product Range

As a rule the wider the product range, the less the chances are that a Direct Seller might be deemed to be a pyramid scheme. However this must be balanced with the costs of having a very broad product range in both inventory and warehousing costs.

It is important to ensure that you have a range of products although the depth of these is dependant of the company and product mix decisions. A range of products means that recruitment can be seen as clearly separate from the income stream produced from product sales.

A range of products can also produce a number of product incomes for distributors and the company and reducing dependence should problems occur with any one product in either supply or quality.

It also allows change outs and product updates to be introduced with less disruption to the incomes of distributors. Special promotions can of course be run to push a particular product either as an introduction or as a run out without the income flows being unduly impacted for the company.

For multi-national companies New Zealand is a small market and therefore launching all products for a company may not be cost efficient however it must be remembered that distributors normally have good access to the internet and will be aware of what else is on offer by the company in the other markets it operates in.

It may be that a restricted range is launched until such time as volumes overall justify bringing in more or the full range of products available elsewhere.

A similar situation exists for start up companies where jumping to an extensive range of products is a costly overhead and not normally something that is readily achievable. Even so the range should be adequate for the product types you are focused on.

For example if your product type is cosmetics then you should have a range that covers the most expected products within the cosmetic category. This might be skin care, deodorants, hair care and perhaps body wash or soap products.

It is easier to add products progressively over time which gives the opportunity to refresh the sales opportunity. This is particularly so for the likes of party plan and the Network marketing structures.

In the cosmetic example the additional products might then be colour make up, facial cleansers, sunscreens, nail products and fragrance products

Section 5 - Supply/Distribution and logistics options

There are a number of options and sub-options available when looking at logistics for New Zealand.

The main options are:

1. Manufacture, office and warehousing by the company
2. Full branch/office and warehouse by company (products imported or contract manufactured)
3. Sales office only with contract warehousing/fulfilment (products imported or contract manufactured)
4. Sales office only with all products shipped in directly from another country
5. No physical presence and contract warehousing/fulfilment
6. No physical presence and all products shipped in directly from another country

There are variations for these options which relate to the nature of sales presence, the shipping and fulfilment and even the country of origin.

We will deal with transport later in this section as it can be a topic in itself and can be a further set of options depending on the main options selected.

Manufacture, office and warehousing by the company

For domestic start up companies the first option is almost a given and it is not uncommon for the office and warehouse to be the home of the owners during the early years. As the business grows it is then possible to formalise operations to commercial premises or outsource some elements of the operation to a contract fulfilment centre.

While some operations have opted to also manufacture at domestic residences this is not recommended in the long term due to local council regulations and risks that are associated with the manufacturing process.

Where products have health or regulatory approval requirements, it is important to ensure that the facilities used for manufacture will meet those requirements. Of particular concern are products like Food or Food/dietary supplements, Cosmetics, Therapeutic products Children's nightwear and electrical goods. The first three have very tight controls for hygiene and health while the remainder have specific manufacture obligations and testing requirements.

The golden rule is not to jump into commercial premises too early for start up businesses that have limited capital. When you do sign up for a maximum term of 3 years lease if possible on premises that will meet your needs for at least that period. You can always lease or sub-lease more space for storage and warehousing if needed should your growth exceed your expectations. At the end of 2 years plan on a review of where you are, whether you will renew, shift or even build purpose built premises to suit you. Direct Selling businesses are dynamic so long term growth can not always be predicted and you will find that what you need to start may not be what you need when you undertake a review.

A New Zealand company is normally formed to undertake all business transactions, hold bank accounts and perform all accounting operations including tax.

Full Branch/Office and Warehousing by the company (products imported or contract manufactured)

Again this normally suits domestic start up companies however it can also suit many multinational companies who are either establishing a franchise or full branch operation. This is very much based on what the overall business model will be and the level of presence in the market that is desired. There have been a number of very successful multi-national launches into the New Zealand market using this option but again advice given in the last paragraph of the first option should apply to both domestic and multi-national companies setting up in New Zealand.

There are a range of contract manufacturers in New Zealand for products such as Cosmetics, Food, Food and Dietary supplements and other goods. This can be a very good option for domestic start up companies to ensure a good range of products and can also a cost effective option for multinational companies wishing to keep shipping costs down.

Normally multinationals who consider contract manufacture will do so for bulky or heavy items such as hair shampoos or in order to meet good manufacturing practice requirements for dietary supplements going into Australia. (New Zealand is just an add on for this last point)

New Zealand has free trade agreements with Australia (CER), Singapore, Chile and Brunei (P4 – CEP) and with Thailand. Agreements are likely to be concluded shortly for Malaysia and for China.

These agreements make it possible to import or export freely between these countries and New Zealand. In some cases tariffs may still exist at low levels but are scheduled to be removed by 2015 at the latest and dropping significantly by 2010.

Those companies importing products into New Zealand from non Free Trade Agreement countries will find that in 90% of products there is no tariff and with a few exceptions the tariff remaining is very low. The exceptions include footwear, clothing and textiles where the maximum tariff is 17%

Of those common to Direct Sellers, Cosmetics has the highest tariff of 5% where the same product can be made in New Zealand. Where it can not be manufactured in New Zealand no tariff can be applied under a special exemption application.

All products entering New Zealand for commercial importation will be liable for 12.5% Goods and Services Tax (GST) at the border. This is also the domestic level for goods produced domestically. So if you are operating under this model you will need to be aware of this charge. The amount paid however may be recovered against the sales made along with other input costs such as the GST on leases and services you use. There are no exemptions for any type of product although thresholds do apply. This is explained later in this document along with methods to avoid this liability.

A New Zealand company is formed to undertake banking, transactions and for tax purposes. Some accounting and transactions as well as senior administration can be undertaken offshore leaving the main focus on the sales and warehousing aspects of the operation.

Sales office only with contract warehousing/fulfilment (products imported or contract manufactured)

This is very similar to that of the last option except the warehousing and fulfilment function is contracted out. The issues on contract manufacture or importation remain the same. This will normally reduce the costs however many use this option to have a larger sales facility including presentation areas, product displays and meeting rooms.

Some companies offer the use of facilities to distributors on cost share basis however there needs to be a buy in by the distributors on the value of the premises where this is done. This sub option is not restricted to this main option as it can be done with others as well.

In this option the contract warehousing/fulfilment received the goods in bulk and undertakes the pick and pack for distribution to the sales force. In most cases the orders may also be processed by the fulfilment centre and may even go as far as performing banking, GST returns and other accounting functions.

There would normally be a New Zealand company formed for multi-nationals on a wholly owned basis to provide arms length transactions, provide for bank accounts and tax liability. Accounting may also be undertaken outside of New Zealand if desired.

Sales office only with all products shipped in directly from another country

This is almost the same as the last option except there are logistics involved in how the products are shipped in and broken out for movement to distributors.

The sales office may or may not have corporate staff and it may be based at a domestic residence if costs are an issue.

This is not normally a domestic start up company structure but is one that can be used by multinational companies wishing to establish a presence with out high overheads.

The need to have a New Zealand registered company may not be required if no corporate employment is undertaken and if the products are shipped using sub option 2 shown below.

There are two sub options here. These are: -

1. Bulk ship through a freight forwarder in palletised form but with the individual consignment then broken out on arrival and then sent on to the individual distributor
2. Consign each order directly to the distributor using Post or DHL or the like from the country of origin.

The first of the sub-options require an arrangement with a freight forwarding company for the delivery logistics but all ordering and the pick and pack is done in the country of origin. This process is already done by several Direct Selling companies from Australia to New Zealand.

Under this sub-option there is still a requirement to deal with GST at the border plus any tariffs although variations of the process may change obligation.

Under sub-option 2 the orders, pick and pack are all processed in the country of origin however it is normal to ensure that the order does not exceed the personal import

threshold of \$450 or \$50 GST. This means that no charges are applied at the border for either tariffs or GST.

This sub option is used by several direct selling companies with most products shipped in from Australia although other countries can also access this delivery system.

It is important using this sub option that the value is New Zealand dollars and care needs to be taken to ensure declarations are correct.

The savings on operational facilities within New Zealand are offset by some higher shipping costs however on smaller volumes and medium value products this can prove very cost effective. This sub-option does not work for high ticket items or large products.

There are also tax implications for senior distributors above the GST threshold that need to be considered along with bonuses or overrides that need to be paid.

Using either of these sub-options needs to be worked through carefully with the logistics providers but either can be effective.

No physical presence and contract warehousing/fulfilment or no physical presence and all products shipped in directly from another country

These last two main options and use elements of previous options and are only applicable to multi-national companies wishing to access the market but not incur the costs of premises or corporate staffing.

Having no physical presence from a sales perspective may create some credibility difficulties within the market but this can be overcome with regular attention by corporate or senior distributors from multinational companies.

The rules that apply for the last option on importing using either of the sub-options apply equally when contract warehousing /fulfilment is not used.

It is however possible to have the virtual office which may use either delivery using contract warehousing/fulfilment or one of the sub-options in the previous option to deliver products.

If the contract warehousing/fulfilment is used then ordering can be either provided locally by the same facility or via an 0800 number directed to a call centre in another country such as Australia.

The operation of multi-national call centres is an option already being used by a number of Direct Sellers where either the call centre is based in Australia or in New Zealand servicing both markets.

This allows the call centre resources available to be used to their optimum levels.

When using either of these options it is essential to ensure regular visits to the market to drive sales and recruitment for network marketing and party plan businesses. Failure to do so will inevitably mean the potential of the business will not be met.

Transport

To get products delivered to distributors you may use a range of options. If you are delivering products from another country directly to the distributor then the options are reduced to those you have chosen to get the products into the country.

If however you have chosen a physical presence or are a domestic company then you will need to look at the options you wish to use.

New Zealand is a geographically spread out country with the main access point being Auckland. Most imported products will be through the Port of Auckland as a result and most international airfreight is via Auckland Airport.

Therefore when you have a distributor force spread throughout the country you will need to consider how you will deliver to rural and regional areas and in particular how you will deliver to the South Island.

Most products sold by Direct Sales companies will be capable of being shipped using Courier companies in packages directly to the distributor in the North Island however the South Island does pose some additional costs and issues to arrange delivery.

When shipping to the South Island many companies palletise the shipment which is then line hauled to Christchurch and then broken up by the Courier Company for delivery around the South Island.

This line haul option only becomes cost efficient when volumes are sufficient to form a pallet and it is important understand where the cost point moves between the line haul and sending the shipment directly.

You should negotiate with the courier companies on who can provide the best option based on your known volumes. For start up companies it is better to use the direct shipment until you know what your volumes are and can identify trends on growth.

There will be some products that are either fragile or need special care. Large volumes of fragrances and other flammable products fall into this category and if you are shipping such volumes you will need to undertake the special labelling and treatment necessary for these products. Small quantities are acceptable and more frequent smaller shipments can get around this issue for most companies.

Section 6 - The law as it relates to Direct Selling

There several laws that all Direct Sellers must be aware of. These are general laws for the most part and not product specific which are dealt with under section 7

In ensuring your documentation complies with these laws and any other that may be caught by claims, actions or offers the DSA recommends strongly that you consult with a legal firm familiar with the Direct Selling industry such as those holding associate or supplier membership of the DSA.

Laws all Direct Sellers must be both aware of and compliant with include:

The Door to Door Sales Act	1968
The Fair Trading Act	1986
The Consumer Guarantees Act	1986
The Privacy Act	1993

The Door to Door Sales Act 1968

This act came into force in 1968 although was passed through parliament in 1967. It is old but still applicable. If a Direct seller is operating on a door to door basis and selling on credit for sales over \$50, then compliance with this act is critical.

The essential elements of this act are to provide 7 days right of cancellation for the consumer and require the seller to provide the consumer with the appropriate cancellation form. Failure to provide this form gives the consumer 30 days right of cancellation.

Care needs to be taken when constructing your agreements to ensure that placement of the right to cancel information is on the same page and near the point the consumer signs the agreement. Failure to do so could invalidate the agreement without quick follow-up to advise the consumer.

You must also use the exact wording provided in the Act in your agreement.

This act does not apply to non credit sales including credit card sales or sales below \$50 unless they are books at which time a \$20 threshold applies.

Examples of what are typically captured are:

- hire purchase agreements for any product over the thresholds
- finance agreements including payment over three months or similar options over the thresholds
- telecommunication services such as mobile term contracts, broadband term contracts and line rental agreements over the threshold
- insurance services where there is a term or the amount will exceed the threshold
- security systems where there is a monitoring agreement for a period incurring amounts over the threshold
- Power connections where door to door calling is used to sign up customer

As with all compliance to legislation, get your agreement checked by good legal advisors.

The Fair Trading Act 1986

This law is based on the Australian Trade Practices Act and is similar to Fair Trading law elsewhere in the world.

The critical provisions under this law for Direct Sellers are:

- No false or misleading claims
- Prohibition of Pyramid Schemes
- Prohibition of referral selling
- Rules on what can be offered for home businesses

It should be appreciated however that there this act covers most elements of trading practices and affects what you can or can not state or claim in all of your literature or materials and includes web sites.

Get this wrong and the costs are high in bad PR, legal defences and potential fines or penalties.

You should get good legal advice on all of your documentation, advertising materials, claims and advertorials before releasing them.

You should also get this advice in regard to ensuring you sales plan does not breach the Pyramid, referral selling and home business rules under this law.

The Consumer Guarantees Act 1986

This provides for consumers to receive a replacement or refund for defective goods and services. It does not provide the absolute right of cancellation provided by the DSA Code of Practice and many consumers misunderstand the exact nature of their rights under this act.

It should be noted that in most instances, this Act does not apply to the buy/sell arrangement with the distributor (a business-to-business transaction) but it does apply to the end consumer sale of the product.

Therefore, if the distributor is the end consumer then they still have rights under this act on defective or faulty products.

As a DSA member company you are expected to meet the DSA Code of Practice obligations and to err in favour of the consumer even if neither the Code nor this act is applicable.

The reason for this expectation is simple; a complaint resolved quickly reduces the risk that the consumer will make adverse comment to other consumers about your company, products or business opportunity.

The Privacy Act 1993

This act covers the protection of personal or private information gathered or requested during the course of your business activities.

It does not cover information gathered on businesses, which would normally mean that a distributor as a business would be excluded from the acts coverage.

If however you have direct customers perhaps signed up on an “Auto-ship” basis or some similar purchasing method, the details you capture for those individuals must be treated in accordance with this law.

Essentially you can not request, keep or use any data that is not necessary for the purpose of your business unless it is with the full awareness of the individual who data you are capturing. There are ways to ensure that the data you capture meets these requirements and you are recommended to run your data capture documents via good legal advice to ensure this area is compliant.

Other laws

There are a range of other laws that can impact on Direct Selling businesses operating in New Zealand. While most are likely to have minimal coverage or impact, it is important to vet your sales operation and plan along with product materials, distributor guides and other materials with a suitable legal firm before commencing operations and at regular intervals thereafter.

Section 7 Product Specific Issues and Laws

The range of products sold by direct sellers can be significant and therefore it is impossible to cover off all forms of product under this section. However a number of products are commonly sold by Direct Sellers and therefore this section gives direction on the nature of issues or laws that affect sales of these types of products.

The key product types that are covered in this section are:

9. Cosmetics
10. Cleaning or Household products (chemical based)
11. Dietary Supplements and Therapeutics products
12. Clothing
13. Food & food type products
14. Electrical goods & Gas Products
15. Financial and Insurance Services
16. Telecommunications Products and Services

General Explanation

Many goods sold in New Zealand will be subject to a standard or regulations that control aspects of the sale, warnings or compliance requirements.

In most instances, products sold in New Zealand will have a voluntary standard but in some product types, there are mandatory standards that are required by regulation/legislation (the law). These are usually where public safety or health is a concern.

There are normally less legislative requirements in relation to services however even these may have either a standard or some legislative element setting compliance requirements.

If in doubt companies, introducing a new product to the New Zealand market should check with the DSA in the first instance on whether requirements exist and if requirements do exist ensure that the legal obligations are going to be met before placing the product on the market.

Cosmetics

Cosmetics in New Zealand are defined as low risk Hazardous Substances under the Hazardous Substances and New Organisms Act 1996 (HSNO)

There are some cosmetic products that may be subject to the Medicines Act and these are exempt from the HSNO act as a result.

Such products include anti-dandruff Shampoo and may include Sunscreens although current interpretation has sunscreens remaining under the HSNO legislation.

To sell a new cosmetic product under the HSNO Act after 1 July 2006 requires it to comply with the Group Standard for Cosmetics

Following 1 July 2006, the various cosmetic types have been grouped under the Cosmetic Group Standard which will allow any cosmetic legally allowed to be sold in the USA, the EU or Australia to be legally sold in New Zealand without any approval requirement providing the product type already exists in New Zealand.

This means that a Shampoo regardless of formulation will still be a shampoo providing it still does what is stated and it meets the understanding of what is a shampoo. If however the product is actually doing something else or it has harmful properties or can not be sold in the other markets then it will need to go through the ERMA approval process.

Under the HSNO law there will be categories of products with broad parameters to allow the least legislative interference possible on bring products to market.

The overriding schedule used for ingredients accepted under the HSNO Cosmetic Group Standard is that of the European Unions Cosmetic Directive Annexes.

If in doubt, check with the DSA for advice on whether products may need to undergo approval prior to introducing them to the New Zealand market.

A copy of all Group Standards and the legislative documents are available from the DSA on CD Rom that may be purchased from the DSA.

Cleaning & household Products

All chemical based cleaning or household products such as detergents or the like also fall under the HSNO legislation and the low risk category of products.

These are also be governed by a Group Standard which allow existing products to be sold without changes and new products generally on to the market without special approval.

However if the new product is substantially different to any existing product and used new proprietary ingredients then a similar substance application will most likely be required to be lodged with the ERMA and go through the approval process.

A copy of the various group standards for cleaning products is contained on the DSA CD Rom that may be purchased from the DSA

Dietary Supplements and Therapeutic Products

Dietary supplements in New Zealand are currently treated as a Food product and have their own regulations as a result which prescribes the substances that can not be included and those substances which have a maximum threshold limit applied. This is known as the negative list system which means if it is not banned or restricted it is ok to sell.

This system is due to change from 1 July 2007 although it is entirely possible that this date will slide and that the change itself may not occur. A joint therapeutics agency is intended to be implemented from this date with Australia and at this time the rules for new dietary supplements would be subject to the new joint agency rules or in effect the existing Australian rules with perhaps some modification.

Companies can list their existing products on the COMET database up to the time of the implementation and those products will then remain legal for 3 years after the implementation date.

From the implementation date there will be a fee charged for keeping these products on the COMET register and the products must be moved over to the full approval system within that time. Products registered under the Australian system can be moved immediately to the new combined joint agency register should companies wish to hold a single registration across both countries however there will be a higher cost than for registration in just one country.

There is no cost in lodging the product to the database prior to the implementation date.

Other therapeutic products will also be subject to these rules should the agency go ahead. Included will be sunscreens and therapeutic devices.

Companies can lodge sunscreens onto the COMET database on the same basis as for dietary supplements.

Therapeutic devices however are required to be lodged on the WAND database from 30 January 2004 and therefore no therapeutic device may be sold legally in New Zealand unless it is lodged in that database first.

There is no cost in lodging therapeutic devices to the WAND database until the joint agency is implemented and then rules will be applied on a similar basis to that of the COMET database.

Access to the COMET and WAND databases is via the MEDSAFE web site at www.medsafe.govt.nz and lodgement may only be made electronically to either.

All therapeutic products including sunscreens, anti-dandruff shampoos and devices are governed under the Medicines Act which sets down guideline for what is a therapeutic and what may be claimed. These guidelines are mirrored under the Advertising Standards Authority (ASA) Codes of Practice which governs all advertising claims from main stream media down to point of sale materials.

In most cases Direct Seller point of sale materials does not get examined by the ASA and complaints would normally be dealt with by the DSA under the DSA Code of Practice where it involves a member company.

Clothing

All clothing in New Zealand must conform to mandatory standards which include care instructions and country of origin labelling. There is an exemption under the CER agreement for Australian products however from this provision.

Children's nightwear has additional mandatory standards related to fire risk warnings. Again these must be included on the garment labelling in a clear fashion to ensure the level of fire risk is understood.

These standards are empowered under the Fair Trading Act and the penalties available under that act can apply if they are not adhered to

All standards may be purchased through any international standards organisation and are available for purchase electronically from Standards New Zealand at www.standards.co.nz

Food and Food Type Products

All food products must be manufactured to the Food Good Manufacturing Practice set out by the New Zealand Food Safety Authority which is jointly operated with Australia. Therefore generally manufactured food products able to be sold in Australia are also able to be sold in New Zealand without modification to labelling or packaging.

All imported food products are subject to scrutiny by the Ministry for Agriculture and Forestry and must meet their strict Phydo-sanitary requirements at the border. When

importing food or food type products check with the MAF web site www.maf.govt.nz for the rules that will apply to the particular food product being imported.

Most processed or packaged foods generally will not find major problems in passing the border requirements however food such as any raw meats or fresh produce or food products containing unprocessed components may find particular requirements are necessary before such products can be imported.

The food rules in New Zealand also extend to Food Type products and here there are a couple of areas to watch. Particular attention should be paid to foods that have statements that they contain additives such as Vitamin C etc since these are subject to particular rules on what is permitted.

Another area for particular attention is products that look like a food or give a reasonable indication that they might be a food but are in fact not a food. Examples where products have been ordered off the market by the NZFSA included:

- Shampoo showing Jelly beans – it was contended that the Jelly beans would be interpreted by a child as food since the shampoo was intended for use by children.
- A skin care cream which was packaged in the shape of a milk bottle – it was contended that the product might be mistaken for milk and used by adults or children even though the physical size was smaller than a normal milk bottle

Check out the Food Safety Authority Web site for rules and regulations on all foods and food type products at www.nzfsa.govt.nz

Electrical Goods and Gas Products

These products are governed by specific laws under the Electrical Regulations and the Gas Act.

All electrical and gas products sold in New Zealand must conform to the appropriate standards.

Electrical goods have a variety of standards for each product type so you must look up the appropriate standard at standards New Zealand to establish what they require for that particular product. There are a small number of declared items which must be declared compliant on entry to the country such as Televisions.

As a general rule all electrical goods designed to run from a mains outlet must run on 240 Volt, must have a New Zealand/Australian plug fitted and the plug must have the correct safety shielding before sale.

You must keep a full dossier of the product, testing to the standard and safety checks undertaken on your premises for 5 years after the last sale of the product should you be audited.

Stiff penalties do apply if you fail to meet your obligations in any of these areas.

Gas Appliances or products must meet the standard for Gas Appliances whether the product runs on a gas main or from a cylinder (LPG) These are regulated under the Gas Act and its regulations.

The general rule for gas appliances is that they must be manufactured to a recognised international standard, must be tested to that standard and must run safely on New Zealand gases before sale in New Zealand.

You must keep a full dossier on this information and must also notify your gas products to the Energy Safety Service of the Ministry of Economic Development before you place the

product on the market. You may be audited at any time by the Energy Safety Service and will need to be able to product this information on request.

Financial & Insurance Services

There is no reason why Direct Selling companies can not provide financial products however there are a number of additional elements of legislation that may apply depending on what type of product you are looking to offer.

Normally these products will be issued in conjunction with a bank or recognised financial institution and therefore such legal requirements will be known to them and you should check on any of those requirements that may need to be undertaken by either the company or your sales force.

All financial transactions are also covered by the Banking and Insurance Ombudsman and so complaints may also be able to be referred to the B & I Ombudsman for rulings. All major banks and institutions are bound by this Ombudsman.

If you are seeking to offer financial or insurance services without the backing of a recognised bank or insurance organisation you need to check the legal requirements in depth through a legal firm knowledgeable in this area such as those holding DSA Associate membership.

In the case of insurance products the Door to Door sales Act 1968 may apply if the products are sold on that basis as the value of the product will exceed \$50 and will be deemed a credit sale for the purpose of that law. Therefore the right of cancellation will need to be provided for in documentation

In the case of financial products some will be subject to the Credit Contracts Act allowing 3 days to cancel so it is important to consider this although in either the case of financial or insurance products if the Code of Practice is adhered to there would be no issue under the laws.

Telecommunication Products and Services

These products or services are required to meet all the provisions under the Fair Trading Act and Consumer Guarantees Act as well as the Telecommunications Act. There may also be costs associated with some services in contributing to the “Kiwi share” and this needs to be investigated fully before proceeding in those services.

Most products sold for attachment to the telecommunications network should be Tele-permitted by Telecom and information on this requirement and the costs are available through the Telecom web site www.telecom.co.nz

Where services are provided such as credit accounts and term periods for tolls/mobile or broadband then the Door to Door Sales Act will apply and you much ensure that the right to cancel within 7 days is given to the consumer in accordance with that Act. Failure to do so gives the consumer more time to cancel (30 days) and also may be a breach of the Fair Trading Act if the cancellation is not accepted.

Note: the DSA Code of practice requires a 10 day right of cancellation and this would also apply to telecommunication services.

Section 8 - The DSA and Code of Practice

The DSA

Direct Sellers in any country and New Zealand is no different, have difficulty in establishing credibility and gaining acceptance by customers, prospective distributors and even from suppliers of services.

The DSA is about establishing credibility and acceptance for its member companies. It allows the company to hold up its membership and the DSA Code of practice as examples of its ethical principles.

Of course this is not one sided. There is an obligation from any company joining the DSA to ensure they meet the requirements of the Code of Practice and most importantly that their distributors are both aware of, and meet those requirements.

The DSA is a membership organisation made up of the companies (corporate bodies) that are involved in direct selling regardless of sales plan, product type or remuneration scheme.

Companies joining the DSA must agree to adhere to the Code of Practice and rulings made by the Code Administrator should a ruling be required on complaints or issues raised.

Members of the DSA gain access to a wide range of information to assist them in operating their business, opportunity to network through different networking events and advice on how to deal with issues that impact on their business.

The DSA will speak at company functions about the industry, the code and about statistical trends if requested and available. This assists Distributors in understanding the ethical requirements and benefit of operating to those requirements within their own business.

The DSA will assist in dealing with regulatory investigations or authorities when requested to put the industry perspective should this be required.

The DSA will field any media enquiries from an industry perspective and suggest companies do not deal with media without assistance from the DSA.

We are the industry spokesperson to government, the media and the public and with our administration of the Code handle the complaints and issues that do arise from time to time.

Most complaints received are not about DSA member companies but about those who do not adhere to the rules or ethics we hold up in our Code of Practice. Such complainants are assisted where possible in dealing with the non member company to find a solution and result in many successful conclusions. For those that can not be assisted or are not able to be resolved through correspondence, the DSA gives free advice to the consumer on their legal options and how to lodge a disputes tribunal case should this be both an option and required.

Use of the DSA logo is restricted and only allowed by full members of the DSA within New Zealand. Misuse of the logo is a breach of copyright and the Trademarks Act and will

be pursued strongly by the DSA to protect this symbol if necessary. Use of the logo without permission may also be a breach of the Fair Trading Act as passing off

The Code of Practice

The Code is the ethical guidelines that all members must operate to as a minimum level. Many provide substantially better offers of refund periods or guarantees and the DSA encourages these where possible.

Full copies of the Code of Practice are available on the DSA web site in HTML (Browser format) PDF and Word to ensure it can easily be access.

A consumer Guide version focusing just on the consumer sections has been produced and distributed to all Citizen Advice Centres around New Zealand.

The Code is reviewed every three years and either amended or ratified when no changes are required.

The DSA New Zealand Code of Practice is aligned to the World Federation of Direct Selling Associations (WFDSA) – World Code although modified to comply with New Zealand laws.

When changes are agreed to at the WFDSA level the New Zealand DSA Code of Practice is reviewed to ensure those changes are reflected within our code.

The New Zealand Code is applicable only to New Zealand unless a New Zealand based member operates in another country where no DSA exists or that company does not hold a membership of the DSA in that country. In such cases the World Code may be applied to the operations of that member company within that other market subject to any local laws that might apply.

Examples of this are New Zealand based members operating in Fiji, or other pacific islands where no DSA exists.

Complaints from consumers in those countries may then be lodged with the New Zealand DSA in respect of that member should that be necessary.

This is known as the Extra-territorial clause.

This clause does not apply to a “non New Zealand based company” such as those based in the US, Australia or elsewhere as the DSA’s in the home countries would apply the World Code to the company on such complaints under their own membership obligations.

Glossary - Terms used in this Guide

Direct Selling	Person to person selling of goods or services
Salesperson	Usually an independent contractor who sells the product or services of the Direct Selling company but may be a commissioned or salaried sales person in some instances
Distributors	Usually an independent contractor who sells the product or services of the Direct Selling company but may be a commissioned or salaried sales person in some instances
Representative	Usually an independent contractor who sells the product or services of the Direct Selling company but may be a commissioned or salaried sales person in some instances
Consultants	Usually an independent contractor who sells the product or services of the Direct Selling company but may be a commissioned or salaried sales person in some instances
Network Marketing	Sales achieved using a network of sales people where rewards are shared on the sale of the product or service with those higher up in the network
Multi-level marketing	The reward system used in Network marketing is sometimes described as this
Down-line	The structure of sales people below the salesperson from whom the salesperson will receive rewards on product or services sold
Up-line	The structure of sales people above the salesperson with whom product or services sales rewards are shared.
Buy –sell	When products are purchased by the salesperson for on sale and ownership changes
Commission	The reward generated when a sale is made
Over-ride	The reward portion paid to an up-line person on the sales made by salespeople in their down-line
Bonuses	Usually this is the same as the definition of an Over-ride when used in Direct Sales but may also be a genuine bonus achieved when a particular sales target is met.
Auto-ship	Automatic ordering by consumers/customers and distributors of products at an agreed level.
Binary System	A tiered system where the maximum number of recruited distributors that can be in the next level down is two.
Pyramid Scheme	An illegal system that is principally about recruitment for reward and not about reward for the sale of products or genuine services
Party Plan	Sales are achieved using a show and tell gathering of prospective customers to demonstrate the products being sold. Normally such gatherings are called parties hence the term and normally held in the home of a hostess
Hostess	The person who hosts the party for a party plan gathering
Territory Manager	A person who has been allocated or earned by growing their business structure, responsibility for a particular territory or area. This is frequently used in Party plan structures but not exclusively
Area Manager	A person who has been allocated or earned by growing their business structure, responsibility for a particular territory or area. This is frequently used in Party plan structures but not exclusively

Regional Manager	A person who has normally earned by growing their business structure a recognition level of regional manager although this may also be an appointed position in some situations. Most often this position is used in Party Plan but may also be used in single level companies in some situations.
National Manager	This position may be earned or an appointed position with a combination of salary and incentives. This position may be used in all forms of Direct Selling structures and usually has additional responsibilities attached to the position. The term national may not always be applied in literal terms.
Door to Door selling	Traditional direct selling of products by knocking on a succession of household doors to generate sales
Cold calling	Selling without any appointment by visit to the household or prospect
Appointment sales	Selling where an appointment has been generated through either referral leads or telemarketing processes
Telemarketing	The approach of customers by telephone to establish sales or sales appointments. This may be initial prospecting or as follow-up approaches including approaches for recruitment
Catalogue Selling	This is a form of Door to Door selling where the catalogue is left at the door for the consumer to view and place an order with the catalogue is picked up a few days later. This form of selling can be single level or multi-level or network marketing
Demonstration	Where the product is demonstrated to the potential consumer with a view to the consumer seeing how the product would work in their own home. Mostly this term is used for Door to Door sales but may also be part of a Party Plan presentation
Show and tell	This is a US term not often used in New Zealand but relates to the Party Plan system where the product is shown to the prospective consumers and its benefits are explained
Agents	Usually an independent contractor who sells the product or services of the Direct Selling company but may be a commissioned or salaried sales person in some instances
Compensation Plan	The organisational structure of the compensation paid out on the sale of products or services and the value to each level where levels are part of the structure
Reward Plan	The organisational structure of the compensation paid out on the sale of products or services and the value to each level where levels are part of the structure
Incentives	Specific offerings or remuneration intended to drive sales. Offerings may be travel or prizes or similar and are normally tied to a specific period of time
Rebates	These are usually part of single level selling where the difference between the selling price and the wholesale price moves according to the value of products sold by the distributor. This term however can be used in conjunction with network marketing structure compensation plans as commission or overrides although this use is infrequent.
Level	This term relates to the position within a multi-level structure used to define reward of, or status for distributors
Price Point	This is the comparison between a product sold via direct selling and another form of selling such as retail

Product Mix	The mixture of product types sold by the direct selling company
Direct Customer	This is a customer who is not a distributor or on seller of the product but who is able to order directly from the company having been recruited as a customer by a distributor. In some instances these customers may also have come through internet sales and may not necessarily be tied to a distributor of the company.
Compliance	Normally this is associated with regulatory requirements such as compliance with the laws or regulations that govern the industry, specific products or selling. In a broad sense it also applies to the direct selling company meeting the requirements set down in the Code of Practice which is sometimes known as voluntary industry compliance
Multi-National	A company who operates across borders of more than one country. It can also refer in direct selling terms to the ability of distributors to build their recruitment across more than one country which is also known as international recruitment.
Logistics	The movement, handling and storage of products (goods)
Fulfilment	A service offered by contract warehouses to fill orders and deliver them to distributors or customers using their own staff and systems
Prohibition	A banned practice or action
Recruitment	The process of recruiting new sales people or independent contractors to the company. This may be known as building downlines but is not restricted to Network marketing companies.

Appendix 2 – TEMPLATE CONSULTANT/DISTRIBUTOR AGREEMENT TERMS

You and YXZ Co Ltd agree the following:

1. GENERAL

- 1.1 In this agreement:
- (1) The "Company" means XYZ Co Limited
 - (2) "You" means the Consultant.
 - (3) "The Sales and Marketing Plan" means the Company's Sales and Marketing
 - (4) Plan as amended from time to time, a copy of the current edition of which you have received.
 - (5) References to Consultancy include the rank title awarded under the Sales and Marketing Plan.
 - (6) All other capitalised terms have the meanings given in the Sales and Marketing Plan.
- 1.2 You will receive payments and be awarded rank titles on the terms of the Sales and Marketing Plan.
- 1.3 This agreement may be terminated by either you or the Company at any time on fourteen days written notice but will otherwise last for one year. At this time, if you wish to renew the contract, you will be required to pay the current renewal fee.
- 1.4 Your Consultancy covers books and products available from the Company.
- 1.5 This contract is governed by the law of New Zealand and the parties submit to the jurisdiction of the courts of New Zealand.

2. TERMINATION

- 2.1 Either party may terminate this agreement at any time without penalty by giving fourteen days' written notice to the other party at the other party's address given overleaf.
- 2.2 Where notice of termination is given under clause 2.1 by you or the Company not more than fourteen days after the date of your appointment as a Consultant the Company will repay you within fourteen days any monies you have paid to the Company under this agreement, less;
- (1) any amount due from or paid by you in respect of products which you have sold
 - (2) an amount equal to the value of any other product which has been delivered to you and which you have no re-delivered or despatched to the Company or to a person nominated by the Company to receive it;
 - (3) where any product so re-delivered or despatched has deteriorated and its deterioration was occasioned by an act or default on your part, an amount equal to the diminution of its value resulting from such deterioration.
- 2.3 Where notice to terminate is given by you, or by the Company for cause (in accordance with clause 2.5) in each case more than fourteen days after your appointment as a Consultant the Company will take back the products or sales materials under 12 (twelve) months old which you have procured for sale or use in your business:
- (1) for an amount which is not less than 90 per cent of the order value of the products less, in the case of any products the condition of which has deteriorated or which otherwise cannot be re-sold by the Company at the usual price for such products due to an act or default on your part, an amount equal to the diminution of their value;

- (2) on terms whereby the order price is payable upon delivery of the products or, if the products are already held by the Company forthwith;
 - (3) for delivery within twenty-one days of the giving of notice at any place which you may reasonably nominate.
- 2.4 If the Company terminates this agreement other than for cause in accordance with clause 2.5, you have the right to require the Company to take back any products which you have procured for sale;
- (1) for an amount equal to the order value of the products, in the case of any products the condition of which has deteriorated due to an act or default on your part, an amount equal to the diminution in its value resulting from such deterioration;
 - (2) on terms whereby the order price is payable upon delivery of the product, or, if the product is already held by the Company forthwith;
 - (3) for delivery within twenty one days of termination at the expense of the Company at any place which the Company may reasonably nominate.
- 2.5 Notwithstanding clauses 1.3 and 2.1 the Company may terminate this agreement immediately by notification to you in writing:
- (1) if you commit any breach of this agreement or the Rules of Conduct; or
 - (2) if you enter bankruptcy proceedings, and on such termination, the Company may elect to take back any products which you have procured for sale on the terms set out in clause 2.3(1), (2) and (3).
- 2.6 You will be discharged upon the termination of this agreement from all contractual liabilities towards the Company in connection with your position as a Consultant except;
- (1) liabilities relating to payments made to you under contracts which you have made as an agent for the Company (pursuant to clause 4 below):
 - (2) in a case where termination does not give rise to the right described in clause 2.2, any liability to pay the price of goods already sold to you or at your request to your customer by the Company
- 2.7 Your rights under this clause 2, are subject to the Company's right to require repayment of all sums paid or credited to you as a bonus or commission in respect of any product returned to the Company

3. CONSULTANTS OBLIGATIONS

- 3.1 You confirm that you have read and understood the Sales and Marketing Plan and the Rules of Conduct, and agree to be bound by them and by any amendments or additions thereto sent to you from time to time, as if they were set out and incorporated in this agreement.
- 3.2 In particular you will comply with the following obligations:
- (1) You will comply with all laws and the DSA Code of Practice relating to the conduct of your business as a Consultant for the Company and to the promotion and sale of products supplied by the Company
 - (2) You will conduct your business as a Consultant for the Company in an ethical and honest manner, and do nothing which may harm or damage the reputation of that business or the reputation or business of the Company, or otherwise bring the Company into disrepute.
 - (3) You will conduct and control and be personally responsible for all business as a Consultant for the Company yourself. You will not assign or transferor share in whole or in part such business or any right or obligation under this agreement (which is personal to you) to or with any other person, firm or company, without the Company's prior written consent.

- (4) You will adhere to the rules and policies for advertising the Company's products and business.
- (5) You will not make any claims for the Company's products or business which are set out in (or are contrary or inconsistent with) the Company's literature or directions.

3.3 All of the orders that customers place with you are subject to final confirmation and acceptance by the Company.

4. CONSULTANT/DISTRIBUTOR STATUS

- 4.1 You will be a self-employed independent agent and not an employee or representative of the Company.
- 4.2 The scope of your agency is as set out in this agreement. You may not make any contract on behalf of the Company not authorised by this agreement or without the Company's prior written consent.
- 4.3 You will be solely and personally responsible for all levies and taxes on income you earn as a Consultant for the Company.
- 4.4 Your business as a Consultant for the Company will be independent of the Company's business and of any other business, and you will conduct it as such.
- 4.5 Any payments received by the Consultant as agent for the Company will be remitted within 14 days of placing the order to which they relate. The Company will supply products only upon receipt of full payment.

5. PAYMENTS

- 5.1 All orders from the Company made by you under this agreement will be paid for in New Zealand dollars, notwithstanding the currency in which you are paid by customers.
- 5.2 All payments made to you by the Company under this agreement will be in New Zealand dollars.

6. SPONSORING

You may sponsor others as prospective consultants for the Company in accordance with the procedures set out in the Sales and Marketing Plans.

7. GEOGRAPHICAL RESTRICTIONS

You will conduct your business as a Consultant for the Company only within New Zealand (unless otherwise agreed with the Company in writing).

Appendix 3 - Consultant Order Form Template

DISTRIBUTOR ORDER FORM

**XYZ Company
Logo**

XYZ Company Limited
P O Box xxxx Suburb, City New Zealand
Order Ph: 0800-xxxxxx Fax: (0X) xxxxxxxx

Office Use Only – Order No.
Distributor No:

Delivery Name & Address

First Name:	Surname	Consultant Name
Address (include town/Suburb)		
City	Post Code	Order Date:
Daytime Telephone No. ()		Evening Tel No. ()

Special Promotions Orders – Section A

Product Description	Code	Qty	Individual Price	Total
Promotions Total Value				\$

Product Orders – Section B

Product Description	Code	Qty	Individual Price	Total
Total Non promotional Product Order				\$

Sales Aids – Section C

Product Description	Code	Qty	Individual Price	Total
Total Sales Aids Order				\$

Appendix 4 – Headings template for Sales and Marketing or Business Plan

The following headings should be covered off in this document however the exact descriptions and wording will vary widely with the product type and the actual remuneration structure. Hence this appendix is just a series of heading that should be completed.

Logo and XYZ Company

The normal logo & Name details

Background Statement

This is generally about the business opportunity and the focus of the business plan in growing the business for the consultant.

A key features summary.

This picks up the key elements in bullet point form from the document in little more than a series of one liner's.

Benefits and rewards

This covers off the base line commissions through to earnings opportunities from growing the business and includes the likes of Auto-Ship earnings in a series of sub headings such as:

- Commission/Retail Sales discount or similar
- Additional retail income/Auto-ship commissions etc
- Group development commissions/earnings/PV or other elements
- Leadership earnings by levels
- Bonuses paid on achievement of certain levels
- Maintenance of position (what they need to do just to retain a position)
- Payments (when and how needs to be stated)
- Summary statement – Push your philosophy on providing the opportunity in this.
- Definitions – what terms you use to describe everything in your company

Charts or visual display

Use small charts/Tables or other means of visual display to show how each element of earning can be achieved