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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

**GOVERNMENT OF WEST BENGAL**  
**CONSUMER AFFAIRS DEPARTMENT**

NOTIFICATION

No. 2287-CA/ESTT/O/1B-34/16.—5th July, 2018.—In Pursuance of the Guidelines issued by the Government of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Consumer Affairs vide G.S.R 1013 (E), New Delhi, dated 26<sup>th</sup> October, 2016, the State Government, hereby, issues the following Guidelines for regulating the business of Direct Selling & Multi-Level Marketing (MLM) & strengthen the existing regulatory mechanism on Direct Selling & Multi-Level Marketing (MLM), for preventing for & protecting the legitimate rights and interests of consumers, namely:-

**West Bengal Direct Selling Guidelines, 2018**

—Short Title, extent & commencement- These guidelines may be called “West Bengal Direct Selling Guidelines 2018”. It extends to the whole of state of West Bengal.

It shall come into force from the date of publication in the official Gazette.

**Clause 1. Definitions:**

In these Guidelines unless and otherwise required:

1. “Act” means the Consumer Protection Act, 1986 (68 of 1986);
2. “Consumer” shall have the same meaning as provided under the Consumer Protection Act, 1986;
3. “Prospect” means a person to whom an offer or a proposal is made by the Direct Seller to join a Direct Selling opportunity;
4. “Agreement” means agreement as per Contract Act.
5. “Direct Seller” means a person appointed or authorized, directly or indirectly, by a Direct Selling Entity through a legally enforceable written contract to undertake direct selling business on principal to principal basis.
6. “Network of Direct Selling” means a network of direct sellers at different levels of distribution, who may recruit or introduce or sponsor further levels of direct sellers, who they then support;  
Explanation: “network of direct selling” shall mean any system of distribution or marketing adopted by a direct selling entity to undertake direct selling business and shall include the multi-level marketing method of distribution.
7. “Direct Selling” means marketing, distribution and sale of goods or providing of services as a part of network of Direct Selling other than under a pyramid scheme,  
Provided that such sale of goods or services occurs otherwise than through a “permanent retail location” to the consumers, generally in their houses or at their workspace or through explanation and demonstration of such goods and services at a particular place.

8. "Direct Selling Entity", means a registered entity, not being engaged in a pyramid scheme, which sells or offers to sell goods or services through a Direct Seller.  
Provided that "Direct Selling Entity" does not include any entity or business notified otherwise by the Government for the said purpose from time to time.
9. "Goods" means goods as defined in the Sale of Goods Act, 1930 and "Service" means service as defined in the Consumer Protection Act, 1986;
10. "Saleable" shall mean, with respect to goods and / or services, unused and marketable, which has not expired, and which is not seasonal, discontinued or special promotion goods and / or services;
11. "Cooling-off Period" means the duration of time counted from the date when the direct seller and the direct selling entity enter into an agreement under Clause 4 and ending with date on which the contract is to be performed and within which the direct seller may repudiate the agreement without being subject to penalty for breach of contract;
12. "Pyramid Scheme" means, a multi-layered network of subscribers to a scheme formed by subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, as a result of enrolment, action or performance of additional subscribers to the scheme. The subscribers enrolling further subscriber(s) occupy higher position and the enrolled subscriber(s) lower position, thus, with successive enrolments, they form multi-layered network of subscribers.  
Provided that the above definition of a "Pyramid Scheme" shall not apply to a multi-layered network of direct sellers to a scheme formed by a Direct Selling Entity, which consists of subscribers enrolling one or more subscribers in order to receive any benefit, directly or indirectly, where the benefit is as a result of sale of goods or services by subscribers and the scheme / financial arrangement complies with all of the following:
- a) It has no provision that a Direct Seller will receive remuneration or incentives for the recruitment / enrolment of new participants.
  - b) It does not require a participant to purchase goods or services:
    - i. for an amount that exceeds an amount for which such goods or services can be expected to be sold or resold to consumers;
    - ii. for a quantity of goods or services that exceeds an amount that can be expected to be consumed by, or sold or resold to consumers;
  - c) It does not require a participant to pay any entry / registration fee, cost of sales demonstration equipment and materials or other fees relating to participation;
  - d) It provides a participant with a written contract describing the "material terms" of participation;
  - e) It allows or provides for a participant a reasonable cooling-off period to participate or cancel participation in the scheme and receive a refund of any consideration given to participate in the operation;
  - f) It allows or provides for a buy-back or repurchase policy for "currently marketable" goods or services sold to the participant at the request of the participant at reasonable terms;
  - g) It establishes a grievance redressal mechanism for consumers, more particularly described in Clause 7 herein.
- Explanation 1* – For the purposes of this proviso the term "material terms" shall mean buy-back or repurchase policy, cooling-off period, warranty and refund policy.
13. "Portal" means portal of Direct Selling dealing with registration of direct sellers, maintaining their database, dealing with grievances related to direct sellers and direct selling entities on one hand and consumers on the other. It would include database of direct selling entities also.
14. "Money Circulation Scheme" has the same meaning as defined under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978.
15. "Mediation Centre" means mediation centers of the State as well as the mediation centers within the districts, as operative under the Department of Consumer Affairs.
16. "Remuneration System" means the system followed by the direct selling entity to compensate the direct seller which illustrates the mode of sharing of incentives, profits and commission, including financial and non-financial benefits, paid by the direct selling entity to the direct sellers, on a monthly or periodic or yearly basis or both, as the case may be. This system, for every Direct Selling entity, shall:
- a) Have no provision that a direct seller will receive remuneration from the recruitment to participate in such direct selling;
  - b) ensure that direct sellers shall receive remuneration derived from the sale of goods or services only.
  - c) clearly disclose the method of calculation of remuneration.

