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## FRANCHISING LEGISLATION SHOULD NOT COVER DIRECT SELLERS

## **Background**

Legislation proposing to regulate franchise relationships is sometimes written too broadly and could be applied to direct selling. A direct selling business is not a franchise. Typically, franchise legislation requires registration or disclosure requirements prior to the sale of the franchise and covers the business relationship between the franchisor and the franchisee including the transfer, non-renewal, non-encroachment and termination provisions.

## **Position**

Engaging in a direct selling opportunity is far different from starting a franchise. Direct selling companies should not be subject to legislation regulating the franchise relationship. One of the many benefits of direct selling is the accessibility and low start-up costs. The issues intended to be alleviated by franchise legislation, such as a large initial investment, are simply not applicable to the direct selling industry. The average cost of entry for a direct seller is \$106.40, compared to an estimated \$100,000 or more for many franchises.

## **Policy Alternatives**

Language in franchising legislation should clearly distinguish direct selling from franchising.

- DSA supports a \$500 threshold, linked to inflation, to be included in the definition of "franchise fee." This will largely prevent inadvertent coverage of direct sellers. DSA also supports additional amendments to exempt the following from the definition of "franchise fee" as follows:
  - The purchase or agreement to purchase promotional or demonstration supplies, materials, or equipment furnished at bona fide wholesale price and not intended for resale; and
  - The purchase or agreement to purchase, at a bona fide wholesale price, any fixtures, equipment, leasehold improvements, supplies, or other materials reasonably necessary to enter into or continue a business.