



DIRECT SELLING ASSOCIATION

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## **BUSINESS OPPORTUNITY LAWS AND REGULATIONS SHOULD TARGET POTENTIAL FRAUDS - NOT LEGITIMATE DIRECT SELLERS**

### **Background**

The Federal Trade Commission (FTC) and many states have laws requiring disclosure and registration requirements before individuals invest in a business opportunity. In 2011, the FTC finalized the federal Business Opportunity Rule, which specifically did not cover direct sellers. Many states also have threshold dollar amounts for initial investments, and exemptions for sales kits and other materials that would apply to most direct sellers.

### **Position**

DSA supports the FTC's Business Opportunity Rule and similar state statutes that do not apply to direct sellers. Clear distinctions exist between direct selling and the business opportunities covered under specific state business opportunity laws. The primary difference is the investment required to participate in direct selling is very low compared to other "business opportunities" covered under state or federal law. The average cost of entry for a direct seller is \$106.40, compared to an estimated \$100,000 for a franchise.

### **Policy Alternatives**

Due to the minimal investment required and the part-time nature of the business, DSA supports state business opportunity laws that contain:

- A \$500 threshold, linked to inflation, to avoid application to transactions involving a de minimis payment by the purchaser.
- A \$500 or fewer thresholds for not-for-profit or at-cost sale of required demonstration kits, equipment and materials related to the operation of the business.
- A clarification that any threshold amount does not include money paid for optional purchases of product or materials.

DSA also supports exempting direct sellers— as defined by 26 USC § 3508—the direct sellers exemption under the IRS Code or under a similar state definition—from the requirements of the business opportunity rule.