The "70% Rule"

CONTACT:
Amy Robinson
(202) 452-8866
arobinson@dsa.org

www.dsa.org
www.directselling411.com
@dsa411

As the primary regulator of the industry, the Federal Trade Commission (FTC) examines a number of factors to determine if an MLM is a legitimate business. One of the factors considered by the FTC has come to be known as the "70% rule."

The genesis of the so-called "70% rule" (which is not a rule, law or regulation at all) is a decision rendered by the FTC in 1979 when it evaluated the business structure of Amway, a large multi-level marketing company in business since 1949. Ultimately, the FTC determined Amway was not operating as an illegal pyramid scheme based on a number of policies Amway had in place as part of its business model.[1]

One of Amway's policies provided that every distributor was required to sell at wholesale and/or retail at least 70% of the total amount of products he bought during the month in order to receive a performance bonus on all products that were bought.

The purpose of this requirement was to encourage the sale of products and to prevent distributors from accumulating unreasonably excessive product in order to increase the bonus to be earned in a month. This practice is known as inventory loading.

While termed the "70% rule" by the FTC in the *Amway* decision, it is important to note, it is not a regulation or rule promulgated by the FTC or enacted into federal law. It is merely one factor taken into consideration by the FTC and courts when evaluating the structure of MLMs.[1]

Today, the distributor agreements or policies and procedures of some MLMs set forth that the distributor must sell or consume a certain percentage of his or her inventory in order to earn a bonus or commission or to buy additional inventory. The inventory can be sold to a third party or consumed by the distributor himself or herself.

Policies similar to these have become a common approach for MLMs to prohibit inventory loading and encourage the retail sale of products and services.

[1] *In the Matter of Amway Corp., Inc., et. al.*, 93 F.T.C. 618 (1979).
[1] *See Whole Living, Inc. v. Tolman*, 344 F. Supp. 2d 739 (2004); *Webster v. Omnitrition Int'l, Inc.*, 79 F.3d 776 (1996).