

# Code of Practice

Revision Adopted 3 May 2018

<b>Index</b>	<b>Clause</b>	<b>Page</b>
<b>Part I Introduction</b>		<b>4</b>
Background, objectives and obligations	1	4-5
Scope	2	5
Exemptions	3	5
Citation	4	5
Interpretations and Glossary of Terminology	5	6-7
<b>Part II Conduct for the Protection of Consumers</b>		<b>8</b>
Conduct towards consumers (Sales methods and hours)	6	8
Customer Contact	7	8
⇒ Identification	7	8
⇒ Explanation and Demonstration	7	9
⇒ Marketing Claims or literature	7	9
Order Forms	8	9
Inducements or Referral Selling	9	9
Pyramid Sales	10	10
Delivery	11	10
Right of Cancellation, cooling off and return of goods	12	10
Cost of Returning Goods	13	10
Substitute goods or services	14	10
Consumer Guarantees and After Sales Service	15	11
<b>Part III Privacy and Information Protection</b>		<b>12</b>
Limited definition of Consumer	16	12
Collection and Use of Personal Information	17	12
Access to information and right of correction	18	12
Maintenance of Lists	19	12
Use of Lists	20	12
Information Collected on Direct Sellers	21	12
<b>Part IV Complaint and Dispute Handling Procedures</b>		<b>13</b>
Internal Complaint handling procedures	22	13
Referral to external dispute resolution processes	23	13
Data Collection	24	14
Staff Training	25	14
<b>Part V Direct Selling Companies Requirements</b>		<b>15</b>
Interaction	26	15
Delivery of Product to Direct Sellers	27	15
Enticement	28	15
Identification	29	15
Denigration	30	15
Guarantees and After Sales Service	31	15
Extraterritorial Coverage	32	15

<b>Index Continued</b>	<b>Clause</b>	<b>Page</b>
<b>Part VI Recruitment and Company Relationships to Direct Sellers</b>		<b>16</b>
Respect of Privacy	33	16
Code of Conduct Compliance	34	16
Relationship	35	16
Inventory Loading and Repurchase	36	16
Earnings and Accounts	37	16
Earnings Claims	38	17
Fees	39	17
Other Materials	40	17
Direct Seller Training	41	17
<b>Part VII Code Enforcement</b>		<b>18</b>
Code Administrator	42	18
Code Administrator Appointment and Term	43	18
Monitoring	44	18
Systemic or recurring contraventions	45	19
Complaint Handling	46	19
Company's Responsibilities	47	19
Annual Report	48	19
Reviews of the Code	49	19
Amendment	50	19
Education	51	20
Direct Selling Association of New Zealand	52	20
Meetings of the DSANZ	53	20
Funding	54	20

## Part 1. Introduction

### 1. Background, objectives and obligations

#### 1.1 Definition of Direct Selling

The marketing of consumer products directly to consumers generally in their homes or the homes of others, at their workplace and other places away from permanent retail locations, usually through explanation or demonstration of the products by a Direct Seller.

1.2 **The Association**, recognising that companies engaged in direct selling assume special responsibilities towards consumers arising out of the person-to-person method of distributing product and services in locations other than fixed retail premises, hereby sets forth the Code of Practice with which its member companies shall comply in the conduct of their businesses.

1.3 It is a condition of membership of the DSANZ that this Code is strictly observed.

1.4 **Companies** of the DSANZ pledge to adopt and enforce a code of conduct that incorporates at minimum provisions of this Code as a condition of admission and continuing membership in the DSANZ. Companies also pledge to publicize this Code, its general terms as they apply to Consumers and Direct Sellers, and information about where Consumers and Direct Sellers may obtain a copy of this Code.

1.5 **This document** incorporates all of the World Direct Selling Code of Conduct guidance principles adopted in October 2017 covering the activities of companies and individuals engaged in Direct Selling.

1.6 **The Objectives** of this Code are to achieve the following outcomes

- Advertising and Promotion which is not misleading or deceptive
- Sales conduct that respects the rights and privileges of the individual customer in the privacy of his or her own home
- Product demonstrations that give full explanation and cease on request
- Disclosure of the Direct Salespersons full identity and address details and why they are approaching the consumer
- Apply a minimum 10 days or 5 working days (whichever is the longer) cooling off period
- Advise fully the terms of payment at the time the product is ordered
- Provision of comprehensive complaints and disputes procedures
- Mechanisms to ensure that the Code is administered ongoing and reviewed periodically.

1.7 **Direct Sellers** are not bound directly by this Code, but as a condition of membership in the Company's distribution system, shall be required to by the Company with whom they are affiliated to adhere to rules of conduct of this Code.

- 1.8 **Self – Regulation** – This Code is not law, but its obligations require a level of ethical behaviour from Companies and Direct Sellers which conforms with or exceeds applicable legal requirements. Non-observance of this Code does not create any civil law responsibility or liability. With termination of its membership in DSANZ, a Company is no longer bound by this Code. However, the provisions of this Code remain applicable to events or transactions that occurred during the time a Company was a member of DSANZ.
- 1.9 **Local Regulations** – Companies and Direct Sellers must comply with all requirements of law in any country in which they do business. Therefore, this Code does not restate all legal obligations; compliance by Companies and Direct Sellers with laws that pertain to Direct Selling is a condition of acceptance by or continuing membership of the DSANZ.
- 1.10 **Extraterritorial Effect** – Every national DSA pledges that it will require each member as a condition to admission and continuing membership in the DSA to comply with the WFDSA World Code of Conduct for Direct Selling with regard to direct selling activities outside of its home country, unless those activities are under the jurisdiction of Codes of Conduct of another Country’s WFDSA affiliated DSA to which the member also belongs.

Should a company be subject of a Code Complaint in a country in which it is not a member, the company must accept jurisdiction of the Code Administrator in its home country (or if the company is not a member in its home country, any country in which it is a DSA member), and shall bear reasonable costs incurred by the home country Code Administrator associated with resolution of the complaint. Moreover, the Code Administrator of the home country may coordinate with the Code Administrator (if one exists) of the complainant’s country and, in evaluating the alleged Code complaint, apply, in order of priority,

- i. the standards of the Code of Ethics in the country which the complaint is filed, or
- ii. the standards of the Code of Ethics in the subject company’s home country, or,
- iii. at a minimum, the standards set forth in the WFDSA Code of Ethics.

## 2. Scope

- a) The Code contains sections entitled “Conduct for the Protection of Consumers,” “Conduct Between Companies and Direct Sellers” and “Conduct Between Companies.” These three sections address the varying interactions across the spectrum of direct sales.
- b) The Code is designed to assist in the satisfaction and protection of Consumers, promote fair competition within the framework of free enterprise and enhance the public image of Direct Selling
- c) This Code covers all Direct Selling Association of New Zealand (DSANZ) members, their staff, contractors, distributors, agents and salespersons, including full and associate members while engaged in Direct Selling, for the sale of either products or services.
- d) A member of the DSANZ may terminate their membership and their obligation to adhere to the Code by resigning formally from the DSANZ giving fourteen days notice. This however does not negate the obligation by the member to fulfil obligations incurred while a member under the code.

- e) Obligations to comply with the Code shall not cease until the last obligation to do anything required by the Code has been performed.

### **3. Exemptions**

The following sales or goods and services are exempt from the Code.

- a) Commercial sales of products or services bought exclusively for use in a commercial operation for which recourse may be achieved under the Contract and Commercial Law Act 2017 or the Fair Trading Act 1986.
- b) Sales of foodstuffs shall be exempt from the cooling off period where the use by date will have expired within that period, and:
  - i. the product is delivered to the customer at the time of sale; and
  - ii. the customer's attention is specifically drawn to the expiry before becoming committed to the sale; and
  - iii. the value is below \$100 New Zealand
- c) Non-DSANZ member's sales.

### **4. Citation**

This Code may be cited as the Direct Selling Code of Practice.

## 5. Interpretations and Glossary of Terminology

<b>Direct Selling</b>	The marketing of consumer products directly to consumers generally in their homes or the homes of others, at their workplace and other places away from permanent retail locations, usually through explanation or demonstration of the products by a Direct Seller
<b>DSA</b>	Direct Selling Association being a national association of Direct Selling
<b>DSANZ</b>	Direct Selling Association of New Zealand Inc.
<b>WFDSA</b>	World Federation of Direct Selling Associations
<b>Company</b>	A Direct Selling company is a business entity that utilises (i) utilises a Direct Selling distribution system to market its Products and (ii) is a member of the DSANZ
<b>Direct Seller</b>	A person or entity that is entitled to buy and/or sell the Products/Services of a Company and that may be entitled to recruit other Direct Sellers. Direct Sellers predominately market consumer products directly to Consumers away from a permanent, fixed retail location, usually through the explanation or demonstration of products and services. A Direct Seller may be an independent Commercial Agent, independent Contractor, independent dealer or distributor, employed or self employed representative, or any other similar sales representative of a Company
<b>Product</b>	Tangible and intangible consumer goods and services
<b>Selling</b>	Selling includes contacting potential customers, presenting and demonstrating products, taking of orders, delivery of goods and the collection of payment.
<b>Network Marketing/MLM</b>	Selling by products and services by more than one level of Direct Sellers with elements of the sale reward being given upward to the originator(s) of the Direct Seller and not being a Pyramid Scheme as defined by the Fair Trading Act 1986
<b>Party Selling</b>	Selling, through explanation and demonstration products to a group of prospective customers by a direct seller usually in the home of a hostess who invites other persons for this purpose.
<b>Order Form</b>	A printed or written document confirming details of a Consumer order and providing a sales receipt to the Consumer. In the case of Internet purchases, a form containing all terms of the offer and purchase provided in a printable or downloadable format.
<b>Recruiting</b>	Any activity conducted for the purpose of assisting a person to become a direct seller
<b>Code</b>	This document in its entirety
<b>Code Administrator</b>	An independent person appointed by the DSANZ to monitor a company's observance of the DSA's Code and to resolve complaints under the Code
<b>Member</b>	As per Company but may also include an associate or supplier member.
<b>Salesperson</b>	As per Direct Seller description
<b>Inventory</b>	Any products, sales materials, aids and kits required by Direct Sellers for the purposes of their business.
<b>Consumer</b>	Any person who purchases and consumes products or services from a Direct Seller or a Company.

## Part II - CONDUCT FOR THE PROTECTION OF CONSUMERS

### 6. Conduct toward Consumers

- a) Direct sellers shall conduct their business in a manner respectful of the rights and privileges of the individual in the privacy of his/her own home.
- b) No Direct Seller shall use physical force, harassment or coercion in connection with the supply or possible supply of goods or services or the payment for goods or services.
- c) Direct sellers shall not use misleading, deceptive or unfair sales practices. Ref: Fair Trading Act 1986 Sections 9, 10, 11, 12A, 13, 14, or 17 (Other sections may also apply in some circumstances)
- d) Direct Sellers shall comply with sections 36K-36R of the Fair Trading Act 1986 when making uninvited direct sales
- e) A Direct Seller shall discontinue a demonstration, or sales presentation or telephone call immediately upon the request of the Consumer.
- f) Direct Sellers shall make personal or telephone contact with Consumers only in a reasonable manner and during reasonable hours to avoid intrusiveness. Direct Sellers and Companies shall take appropriate steps to ensure the protection of all private information provided by a Consumer, a potential Consumer, or a Direct Seller. Ref Part III of this Code
- g) Direct Sellers shall not abuse the trust of individual consumers and shall respect the lack of commercial experience of consumers. Direct Sellers shall not abuse the trust of individual consumers, to exploit a consumer's age, disability, illness, lack of understanding, literacy or unfamiliarity with a language.

### 7. Customer Contact

#### Identification

- a) At the initiation of a sales presentation, Direct Sellers shall, without request, truthfully and clearly identify themselves; the identity of their Company; the nature of their Products; and the purpose of their solicitation to the prospective Consumer.
- b) On request Direct Sellers shall give their own contact address and/or the name, address and telephone number and/or email address of the company represented.

#### Explanation and Demonstration

All direct sellers shall offer Consumers;

- a) Accurate and complete Product explanations and demonstration regarding price, and if applicable, credit terms; terms of payment; quality; performance characteristics; quantity and availability of their products or services.
- b) To the extent claims are made with respect to product efficacy, Direct Sellers shall make only those verbal or written product claims that are authorised by the Company.
- c) Full details of the DSANZ or legal cooling off period, whichever is the longer, return rights and policy, term of guarantee, after sales service and delivery dates as provided in clauses, 10, 12 and 13 in this document.
- d) Answer all questions with accurate and understandable answers to all questions from Consumers.

### Marketing Claims or Literature

All Companies or direct sellers representing member companies of the DSANZ shall not directly or through literature:

- a) Make false or misleading comparisons about price or quality
- b) Quote scientific or technical data in support of a claim unless the data can be readily substantiated
- c) Use any testimonials or endorsement that is unauthorised, untrue, obsolete or otherwise inapplicable, unrelated to the offer or used in any way to mislead the Consumer.
- d) Promise outcomes where those outcomes have no safe scientific, medical or performance basis.
- e) Overstate security or health risks associated with the use or non-use of any product
- f) Describe goods or samples as “free” unless the goods or samples are supplied at no cost or no extra cost to the consumer other than actual postage/carriage when specified.
- g) Companies and Direct Sellers shall not use comparisons which are misleading. Points of comparison shall be based on facts which can be substantiated. Companies and Direct Sellers shall not unfairly denigrate any Company, business or Product, directly or by implication. Companies and Direct Sellers shall not take unfair advantage of the goodwill attached to the trade name and symbol of another Company, business or Product.
- h) Use photos or illustrations that are deceptive

Promotional literature shall contain the name and address or telephone number of the Company and may include the telephone number of the Direct Seller.

### 8. Order Forms

A written Order Form shall be delivered or made available to the Consumer at or prior to the time of the initial sale. In the case of a sale made via mail, telephone, the Internet, or similar non face to face means, a copy of the Order Form shall have been previously provided, or shall be included in the initial order, or shall be provided in printable or downloadable form via the Internet.

For clarity, Direct Sellers undertaking an uninvited direct sale must provide to the consumer a copy of the agreement within 5 working days from which the agreement was entered into. Ref Section 36L Fair Trading Act 1986.

The Order Form shall:

- a) Clearly identify the company and the direct seller/salesperson.
- b) Contain the full name, permanent address and telephone number of the direct seller and/or the member company.

The Order form or accompanying literature provided with the product (except where the sale is governed by legislation such as the Fair Trading Act 1986 where this right must be expressed in terms of the prescribed method in the legislation.)

- Show all material terms of the sale in a clearly legible form such as:
- Total price including GST and delivery costs forming any part of the sale
- Terms of sale
- Delivery timing
- Terms of guarantee or warranty/Additional guarantees (Ref section 15)
- Return rights (Company and/or DSANZ rights)
- Cooling off period
- Details and Limitations of after sales service
- Remedial action available to the Consumer
- Information on complaints and dispute handling
- Terms of Payment

## **9. Inducements or Referral Selling**

Companies and Direct Sellers shall not induce a person to purchase goods or services based upon the representation that a Consumer can reduce or recover the purchase price by referring prospective customers to the Direct Sellers for similar purchases, if such reductions or recovery are contingent upon some uncertain future event. Also Ref: Section 20 Fair Trading Act 1986

## **10. Pyramid Sales**

No Direct Seller or member company of the DSANZ shall promote, operate or be involved in any kind of **'pyramid selling scheme'**.

### **A 'pyramid selling scheme' being defined as;**

- a) That which provides for the supply of goods or services or both for reward; and
- b) That, to many participants in the scheme, constitutes primarily an opportunity to sell an investment opportunity rather than an opportunity to supply goods or services and
- c) That is or is likely to be unfair to many of the participants in the scheme in that:
  - The financial rewards of many of those participants are dependent on the recruitment of additional participants (whether or not at successively lower levels) and
  - The number of additional participants in the scheme that must be recruited to produce reasonable financial rewards to participants in the scheme is not attainable or is not likely to be attainable by many of the participants in the scheme:

Also Ref: Section 24 Fair Trading Act 1986

## **11. Delivery**

Direct Sellers will deliver the customer's order in a timely fashion and will advise the customer accurately of normal delivery times prior to the order being placed.

If the delivery cannot be achieved in a timely fashion, the customer will be offered the opportunity to cancel the order.

## **12. Right of Cancellation, Cooling-off and Return of Goods**

- a) Companies and Direct Sellers shall offer Consumers a minimum 'cooling off' period of 10 days or 5 working days (whichever is the longer) during which they may cancel an order irrespective of whether a deposit or payment in full has been paid or delivery of goods has taken place, provided that subject to fair wear and tear any goods are returned in the same condition as when delivered. This period shall apply from the date of delivery of the goods or from after the date on which the consumer receives a copy of the direct selling agreement, whichever is the later. The 'cooling-off' period shall be clearly stated and shall apply equally to direct sales and distance sales (i.e. telephone, mail or online orders).
- b) Any deposit and/or initial payment paid prior to delivery shall be refundable upon the cancellation of the order or, in the case of credit transactions, in accordance with any statutory requirements.
- c) Companies and direct sellers offering an unconditional right of return shall provide it in writing.
- d) When direct sales are made on credit, direct sellers shall comply with legal obligations under the Credit Contracts and Consumer Finance Act 2003. This include meeting all lender responsibilities and supporting the lender to comply with these.

## **13. Cost of Returned Goods**

- a) Goods returned under clause 12 are to be uplifted by the direct seller for return to the member company at the direct sellers cost. However should the customer return the goods directly to the company at their own cost the company may reimburse this cost at their discretion.
- b) Where free-post or similar arrangements are offered by members this will be included in the sales documentation.

## **14. Substitute Goods or Services**

- a) When direct sellers cannot supply exactly the same goods or service as specified by a consumer then they may supply substitute goods or services of similar kind, quality and price subject to the consumer's acceptance under the Guarantee provisions of the member company.
- b) In all such situations the consumer shall have the right of refund in full at their discretion.

**15. Consumer Guarantees and After Sales Service**

- a) Every member company of the DSANZ shall have a written guarantee relating to all its products or services. Such guarantees shall be directed towards consumer satisfaction and shall clearly set out the guarantee term and the remedial action available to consumers.
- b) Information provided with member company's products or services shall include full instructions for proper use and adequate warnings relating to safety whenever necessary
- c) All products will comply with all relevant information and labelling requirements and other Standards requirements under New Zealand law.

### **Part III - Privacy and Information Protection**

#### **16. Limited Definition of Consumer**

In this Part, 'consumer' refers only to an individual.

#### **17. Collection and Use of Personal Information**

- a) At or before the time personal information is collected from a consumer, the member company or their representative must disclose the primary purpose for collecting the personal information if that purpose is not obvious.

An example of primary purpose would be the fulfilment of customer orders.

- b) Member companies or their representatives will disclose any other secondary purpose in collecting the information and where necessary obtain written approval by the consumer for use of the information outside of the primary purpose of collection.
- c) Contact details capture will conform to the Unsolicited Electronic Messages Act 2007 where appropriate
- d) Use of email, texting or any other form of electronic communication to consumers shall comply with the Unsolicited Electronic Messages Act 2007 with the prescribed opt out being offered to the Consumer.

#### **18. Access to Information and Right of Correction**

- a) Consumers may request a member company provide details of all of his or her personal information that is held by the company.
- b) Where the consumer's information is held exclusively by the company's independent contractors, the company will direct such requests to the independent contractors.
- c) All requests for details shall be actioned within 5 working days.

#### **19. Maintenance of Lists**

On notification by the consumer, member companies and their representatives will:

- a. Amend incorrect records to the correct records as stated by the consumer;
- b. Remove or mark the consumer's record for no further contact if requested;

#### **20. Use of Lists**

Member companies or their direct sellers will not use, sell or pass on the information gathered for any purpose other than normal Direct Selling Activities as undertaken by and for the respective company for which that information list was compiled.

## **21. Information Collected on Direct Sellers**

Information gathered by the Company on representatives, distributors, agents and salespeople as independent contractors shall be treated as information held on sole traders and businesses and not subject to the Privacy Act 1993 in accordance with exceptions granted in that Act.

All information gathered on representatives, distributors, agents and salespeople as independent contractors shall be only used for member company's normal direct selling activities.

## Part IV - Complaint and Dispute Handling Procedures

### 22. Internal Complaint Handling Procedures

- a) Any consumer complaint directed against a member company of the DSANZ shall be dealt with promptly, fully, and fairly by that company with the objective of ensuring consumer satisfaction.
- b) Each member company shall have in place procedures for dealing with complaints from consumers with a designated complaints person (s) having a full understanding of the complaint handling procedure.
- c) Each member company shall produce information material in plain language explaining:
  - how a customer can gain access to the procedure
  - how the procedure works
  - the timeframes within which the procedure will be carried out
  - the customer's right to access the Code Administrator or the legal system if dissatisfied with the Company's decision or the way it has been reached
- d) Each member company shall provide for resolution of complaints in a timely fashion.
- e) The procedures required under clause 35.b shall be available to all consumers whose custom has been solicited by direct selling either directly from the company or its representatives.
- f) If in the event that the complaint is not resolved to the customer's satisfaction, the member company will inform the customer of their right to have their complaint referred to the external dispute resolution process or to have their complaint resolved in the Disputes Tribunal.

### 23. Referral to External Dispute Resolution Processes

Any consumer complaint directed against a member company of the DSANZ shall be dealt with promptly, fully, and fairly by that company with the objective of ensuring consumer satisfaction.

In the event that the complaint is not remedied to the satisfaction of the consumer by the member company, recourse is available through the Code Administrator, at no cost to the consumer or direct seller, whichever is applicable, using the following procedure.

- a) The DSANZ will acknowledge all complaints within 5 working days of receipt and pass the complaint to the company for action within 2 working days of receipt.
- b) Where the complaint is not resolved within 7 working days by the member company, then the DSANZ in consultation with the consumer shall refer the complaint to the Code Administrator unless resolution is deemed likely within a further 7 working days.

The complaint will be referred to the Code Administrator after this point unless specifically requested by the consumer not to proceed.

- c) Where complaints are to be heard by the Code Administrator all relevant material is to be supplied by the DSANZ to the Code Administrator within 5 working days of notification of the complaints failure to be resolved and in accordance with clause 37.b

- d) The Code Administrator shall make appropriate decisions as quickly as possible while giving full consideration to the complaint and the company's submission.

Information on how to make a complaint shall be contained in a Code brochure to be held at the Direct Selling Association of New Zealand and circulated to all Citizens Advice Bureaux and relevant Consumer Agencies.

A full copy of the Code shall be published at the Association's Internet Web site and a full copy made available on request to the Association.

There shall be no cost to the consumer in any complaint lodged under the Code of Practice complaints procedure.

#### **24. Data Collection**

All parties to the Code shall maintain appropriate data collection procedures and shall report to the DSANZ annually on the number, type and outcome of consumer complaints relating to the Code made to them.

The DSANZ will be responsible for requesting this information at the time other statistical information is gathered.

The DSANZ shall annually write a report on the number, type and outcome of consumer complaints relating to the Code made to them and make this information publicly available.

#### **25. Staff Training**

All parties to the Code shall ensure that their staff, representatives, agents, salespeople or independent contractors are aware of the Code and their obligations under it.

## **Part V - Direct Selling Companies Requirements (Conduct between Companies)**

### **26. Interaction**

Member companies of the DSANZ shall conduct their activities in the spirit of fair competition towards other members

### **27. Delivery of Product to Direct Sellers**

Member companies shall deliver products with all reasonable speed and with the exception of Force Majorie, advise of any delays in the normal delivery period.

### **28. Enticement**

Member Companies and Direct Sellers shall not systematically entice or solicit any Direct Sellers of another Company

### **29. Identification**

In approach to consumers, member companies shall, so far as is practicable, identify themselves as members of the Association.

Member company's shall ensure that any printed matter issued by a member company of the DSANZ to consumers shall contain its full name and geographical address of its head office or branch office, or other identification, enabling consumers to contact the company readily.

### **30. Denigration**

Companies shall not unfairly denigrate nor allow their Direct Sellers to unfairly denigrate another Company's Products, its sales and marketing plan or any other feature of another Company.

### **31. Guarantees and After Sales Service**

- a) Every member company of the DSANZ shall have a written guarantee relating to all its products or services. Such guarantees shall be directed towards consumer satisfaction and shall clearly set out the guarantee term and the remedial action available to consumers.
- b) Information provided with member company's products or services shall include full instructions for proper use and adequate warnings relating to safety whenever appropriate.
- c) All products will comply with all relevant information and labelling requirements and other Standards required under New Zealand law.

### **32. Extraterritorial Coverage**

Each member agrees as a condition to admission and continuing membership in the DSA will comply with the WFDSA World Code of Ethics for Direct Selling with regard to direct selling activities outside of New Zealand.

This applies unless those activities are under the jurisdiction of Codes of Conduct of another country's DSA to which the member also belongs.

The provisions set out under 1.10 of this code shall apply.

## **Part VI Recruitment and Company Relationships to Direct Sellers**

### **33. Respect of Privacy**

Companies and Direct Sellers shall contact Direct Sellers only in a reasonable manner and during reasonable hours to avoid intrusiveness. Direct Sellers and Companies shall take appropriate steps to ensure the protection of all private information provided by a Consumer, a potential Consumer, or a Direct Seller, in accordance with the Privacy Act as it applies to privacy and data protection.

### **34. Code of Conduct Compliance**

Member companies of the DSANZ shall require their direct sellers as a condition of membership in the company's distribution system, to comply with the standards of this Code.

### **35. Relationship**

Member companies shall provide to their direct sellers either a written agreement to be signed by both the Company and the Direct Seller or a downloadable electronic statement containing all essential details of the relationship between the direct seller and the company. Companies shall inform their direct sellers of their legal obligations under New Zealand law including tax obligation, relevant consumer protection, privacy and use of information legislation.

### **36. Inventory Loading and Repurchase**

Companies shall not require or encourage Direct Sellers to purchase Product inventory in unreasonably large amounts. Companies shall take clear and reasonable steps to ensure that Direct Sellers who are receiving compensation for downline sales volume are either consuming or reselling the Products they purchase in order to qualify to receive compensation.

If requested upon cessation of a Direct Seller's relationship with a Company, Companies shall buy back any unsold, re-saleable Product inventory, promotional material, sales aids and kits, purchased within the previous twelve months and refund the Direct Seller's original cost, less a handling charge to the Direct Seller of up to 10% of the net purchase price. The Company may also deduct the cost of any benefit received by the Direct Seller based on the original purchase of the returned goods. This inventory repurchase policy must be clearly communicated to Direct Sellers.

It shall be considered an unfair and deceptive recruiting practice for a company or salesperson to require or encourage an independent salesperson to purchase unreasonable amounts of inventory or sales aids.

The Code Administrator may employ any appropriate remedy to ensure any individual salesperson shall not incur significant financial loss as a result of such prohibited behaviour.

The Code Administrator, upon finding a member company has engaged in false, misleading or deceptive recruiting practices, may employ any appropriate remedy to ensure any complainant shall not incur significant financial loss as a result of such prohibited behaviour, including but not limited to requiring such member company to repurchase any and all inventory, promotional materials, sales aids and/or kits which a complainant has purchased.

### **37. Earnings and Accounts**

Companies shall provide direct sellers with periodic accounts concerning, as applicable, sales, purchases, details of earnings, commissions, bonuses, discounts, deliveries, cancellations and other relevant data in accordance with the company's arrangements with the direct seller.

All monies due shall be paid and any withholdings made in a commercially reasonable manner. Earnings paid to Direct Sellers shall be derived from sales of products or services to consumers. Earnings of Direct Sellers may be based on the sales and personal consumption by the Direct Sellers and their downlines.

Direct Sellers shall not receive earnings for recruiting other Direct Sellers into a sales system; except that companies may provide Direct Sellers with minimal incentives which are in accordance with New Zealand law.

### **38. Earnings Claims**

- 1) Companies and Direct Sellers shall not misrepresent the actual or potential sales or earnings of their Direct Sellers.
- 2) Earnings representations and sales figures must be:
  - a) truthful, accurate, and presented in a manner that is not false, deceptive or misleading, and
  - b) based upon documented and substantiated facts in the relevant market.
- 3) Potential direct sellers must
  - a) be informed that actual earnings and sales will vary from person to person and will depend upon the skills of the seller, the time and effort put in and other factors and;
  - b) be provided with sufficient information to enable a reasonable evaluation of the opportunity to earn income.

### **39. Fees**

Companies and Direct Sellers shall not require Direct Sellers or prospective Direct Sellers to pay more than reasonable fees (according to local market) for any of the following: entrance fees, training fees, franchise fees, fees for promotional materials or other fees related solely to the right to become or remain a participant in the company's distribution system.

Any fees charged to become a Direct Seller shall relate directly to the value of materials, products or services provided in return.

No company shall require product purchases as part of the application process unless included in the starter kit. However, where not prohibited by law, mandatory purchase of a starter kit is permitted.

Any required fees charged to become or remain a Direct Seller including any required additional service offered by the company ( e.g. on-line training , e-commerce or other internet solutions, shipment costs ) shall be fully refundable (less any commission earned by the Direct Seller ) in the event the Direct Seller terminates his/her distributorship within 30 days of payment.

The refundable fees are limited to those paid by the Direct Seller in the 30 days prior to the distributor termination.”

Any commissions paid on fees charged to become or stay a Direct Seller, which are, in effect, remuneration for recruiting Direct Sellers into a sales system, shall be prohibited.

#### **40. Other Materials**

Companies shall prohibit Direct Sellers from marketing to other Direct Sellers any materials that are not approved by the Company and that are inconsistent with Company policies and procedures. Further Direct Sellers who sell company approved legally allowed promotional or training literature, whether in hard copy, electronic or any other form, shall;

- a) Offer only materials that comply with the same standards to which the Company adheres
- b) Refrain from making the purchase of such sales aids a requirement of other Direct Sellers
- c) Provide sales aids at a reasonable and fair cost, without any significant profit to the direct seller, equivalent to similar material available generally in the marketplace and
- d) Offer a written return policy that is no less favourable to the Direct Seller than the return policy of the Company the Direct Seller represents. Companies shall take diligent, reasonable steps to ensure that sales aids and similar materials produced by Direct Sellers comply with the provisions of this Code and are not misleading or deceptive.
- e) Compensation received by Direct Sellers for sales of training and promotional materials to become or stay a Direct Seller which is, in effect, remuneration for recruiting Direct Sellers into a sales system, shall be prohibited.

#### **41. Direct Seller Training**

Companies shall provide adequate training to enable Direct Sellers to operate ethically.

## Part VII Code Enforcement

### 42. Code Administrator

- a) The Code will be administrated by a Code Administrator appointed from within New Zealand.
- b) The Code Administrator is an independent person of recognised integrity appointed to determine whether a contravention of the Code has occurred and has the power to direct the member company to remedy any complaint and if applicable apply suitable actions and sanctions.
- c) The Code Administrator will ensure that in no circumstances will this Code provide for lower standards than set in legislation.
- d) All costs associated with the Code Administrator shall be borne by the DSANZ
- e) The functions of the Code Administrator include:
  - monitoring and reporting on the Code's operation;
  - investigating systematic and recurring problems
  - undertaking full investigation of any complaint referred by the DSANZ
  - directing a binding resolution to complaints heard
  - directing suitable action or sanctions for contraventions of the Code
  - Ensure the prompt resolution of all complaints
- f) **Remedies** – The Code Administrator may require the cancellation of orders, return of Products, purchased, refund of payments or other appropriate actions, including warnings to Direct Sellers or Companies, cancellation or Termination of Direct Sellers' contracts or other relationships with the Company, and warnings to Companies

### 43. Code Administrator Appointment and Term

- a) The appointment of the Code Administrator shall be made by a two thirds majority of the DSANZ Board for a term not exceeding three years.
- b) At the expiration of a three year term a Code Administrator may be appointed for a further three year term.
- c) By the same majority as clause 44.b, the DSANZ Board Members may reduce the term or rescind the appointment.
- d) The Code Administrator shall not be appointed from within the Direct Selling industry but shall be a person of recognised integrity, with good knowledge of legislation, normal commercial practice and a general understanding of direct selling.

- e) On the resignation or death of a Code Administrator, the President of the DSANZ will assume the interim role of Code Administrator until a permanent replacement is appointed.
- f) The DSANZ Board shall endeavour to appoint a suitable permanent replacement within 30 days of the resignations effect, death or termination of a Code Administrator.

#### **44. Monitoring**

- a) The DSANZ shall monitor compliance with the Code and shall advise the Board of potential breaches or non-compliance.
- b) The DSANZ Board may refer any agreed breaches to the Code Administrator or in minor cases direct compliance by the member to remove the breach.
- c) The DSANZ shall maintain and facilitate the operation of the independent dispute resolution mechanisms that handle complaints under this code.

#### **45. Systemic or Recurring Contravention's**

- a) The Code Administrator may investigate complaints indicating systemic or recurring contravention's of the Code. After such an investigation, the Code Administrator's directions are to be forwarded to the Board of the DSANZ for action.
- b) The Board may take such actions deemed necessary as prescribed in the Association's Constitution, and may make recommendations to government for further action to eliminate or minimise the problem.

#### **46. Complaint Handling**

The DSA and Code Administrator shall establish, publicize and implement complaint handling procedures to ensure prompt resolution of all complaints. Companies shall also establish, publicize and implement complaint handling procedures under their individual complaint handling processes to ensure prompt resolution of all complaints.

#### **47. Company's Responsibilities**

The primary responsibility for compliance of the Company and its Direct Sellers with the Code shall rest with each Company. In case of any breach of this Code, Companies shall make every reasonable effort to satisfy the complainant.

#### **48. Annual Report**

The DSANZ shall publish an annual report on the operation of the Code and present it to its Annual General Meeting and make copies of this report available publicly. The report shall include:

- performance of the Code against developed performance indicators
- the number, nature, and outcomes of complaints made under external dispute procedures
- a summary of the number, nature and outcomes of complaints as reported by parties to the Code
- details of any investigation undertaken Systemic or Recurring Contraventions, and the results of such investigation
- the names of all parties to the Code
- any other general issues the DSANZ wishes to comment on

#### **49. Reviews of the Code**

- a) The Code will be reviewed at periodic intervals which may be initiated by reviews of the World Code of Ethics, request by government, consumer organisations or by a majority of the DSANZ Board of Executives
- b) Reviews will be conducted by the DSANZ in consultation with relevant government, industry and consumer organisations.

#### **50. Amendment**

The Code can be amended at any time by the DSANZ Board with the Approval of the DSANZ at a general meeting and after consultation with relevant government, industry and consumer organisations.

#### **51. Education**

- a) The DSANZ shall undertake appropriate activities to ensure that consumers and industry are aware of the Code and understand its obligations.
- b) The DSANZ shall undertake appropriate activities to ensure members comply with the Code and shall make the Code available to non-members on request.
- c) The DSANZ shall undertake active promotion to non-members to join the DSANZ and adopt the Code.
- d) All Companies are required to publicize the DSANZ's Code of Ethics to their Direct Sellers and Consumers

## 52. The Direct Selling Association of New Zealand

The **Direct Selling Association of New Zealand Incorporated** (DSANZ) is an incorporated society in terms of the Incorporated Societies Act 1908 and was incorporated on 18 May 1987 in Wellington New Zealand.

A copy of the DSANZ Constitution is available on request from the DSANZ or through the Registrar of Incorporated Societies Wellington.

The annual accounts of the DSANZ are filed annually in accordance with the Incorporated Societies Act 1908 and may be viewed at the Registrar of Incorporated Societies in Wellington.

**The DSANZ is located at;**

Level 3, 145 Khyber Pass Road,  
Grafton, Auckland 1023  
Telephone: (09) 3670913  
Facsimile: (09) 3670914  
Email: [dsanz@dsanz.co.nz](mailto:dsanz@dsanz.co.nz)  
Website: <http://www.dsanz.co.nz>

**Correspondence should be addressed to;**

The Executive Director  
Direct Selling Association of New Zealand  
Private Bag 92066, Victoria Street West  
Auckland 1142

**The DSANZ Board comprises of:**

- President
- Vice President
- Immediate Past President
- Up to 8 Executive Committee Members

The Board is appointed annually at an Annual General Meeting of the DSANZ.

## 53. Meetings

The DSANZ shall determine appropriate requirements for meetings and inclusion of Code of Practice issues.

## 54. Funding

The DSANZ shall determine appropriate funding arrangements for the operation of the Code and the Code Administrator.

No consumer shall be required to meet any cost associated with the Code administration.

