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FICCI

Direct selling: Karnataka

A global industry, empowering millions



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[Foreword]

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FICCI

With economic development and growing consumerism, various store and non-store retail formats have evolved to cater to the growing retail sector in India. The Indian direct selling market at INR75 billion (2013-14) is one of the fastest growing non-store retail formats, recording double digit growth of more than 16 per cent over the past four years. The growing Indian market has attracted a large number of Indian and foreign direct selling companies.

While direct selling is a relatively new industry, it has provided self-employment opportunities to more than 250,000 people in Karnataka, out of which nearly 58 per cent are women. Besides providing additional income opportunities to direct sellers, the industry also generates significant direct employment. A majority of the direct selling companies outsource the production, packaging and distribution of their products, thus generating indirect employment across the value chain while enabling the development of the Small & Medium Enterprises (SME) sector. The industry also contributes to the exchequer and generates taxes, and has the potential solution to several socio-economic challenges being faced by the country. Many direct selling companies have been actively contributing to social activities.

However, there has been a lack of clarity on the legislations governing this industry. We strongly believe that regulations should help differentiate clearly between fraudulent companies and legitimate businesses.

We, at the direct selling sub-committee, give insights into the issues pertaining to this labour intensive industry. The sub-committee within itself has an advisory board of judgment neutral and intellectual people.

FICCI is confident that this report will provide insights and actionable recommendations for creating a conducive legal environment for the industry.



Dr. A. Didar Singh
Secretary General, FICCI

KPMG in India

Direct selling is one of the oldest, most-traditional forms of selling globally, involving direct interaction between the seller and the buyer. It is a successful industry operating in over 100 countries globally with a market size of USD183 billion in 2015[1].

The direct selling industry in India is estimated at INR75 billion (2013-14), and forms only around 0.4 per cent of the total retail sales. This is far lower than the industry's market share in other comparable economies (one-half of China and one-tenth of Malaysia)[1]. With the growth in consumer markets and an increase in its penetration to globally comparable levels, the industry has the potential to reach a size of INR645 billion by 2025 in India.

With a high rate of economic development, the fast moving consumer goods market is well developed in Karnataka, especially in urban areas like Bengaluru, Mysuru and Mangalore.

The direct selling industry has contributed significantly to women empowerment, skill development, technology percolation and growth of the SME sector, besides contributing to the exchequer. In addition, the industry also provides a viable means of alternative income, which promotes self-employment. Over 250,000 people are already associated with the industry as direct sellers in Karnataka[1].

The industry extensively relies on individuals to accomplish sales, a number of fraudulent businesses have also tried to emulate the form. The industry recognises this as one of the biggest challenges to its growth. There is a need to revisit the existing laws and bring about regulatory clarity to build an environment of trust in order to reap the multiple benefits the industry has to offer.

The need of the hour is to sensitise the consumers and the stakeholders, as well as constantly lobby for appropriate legislation that would represent the interests of the industry.

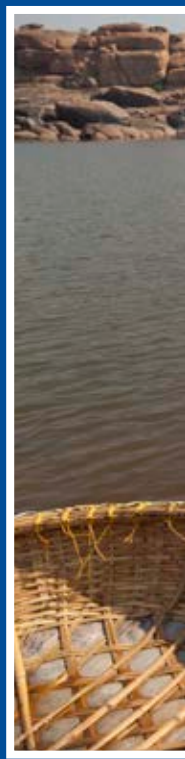


Rajat Wahi
Partner and Head,
Consumer Markets, KPMG in India

1. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Executive summary



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What is direct selling

Direct selling refers to the selling of goods and services to the consumers away from a fixed retail outlet, generally in their homes, workplace, etc., through explanation and demonstration of the product by direct sellers. It is one of the oldest modes of sales, and is similar to the traditional consumer goods retail model.

Evolution of direct selling market in India

Modern direct selling can be considered to have been started in India with the establishment of Eureka Forbes in 1982[1]. The industry witnessed significant growth post-liberalisation with many global players entering the Indian market. Amway was one of the first major global direct selling companies to enter India in the year 1995, which was followed by companies like Avon, Oriflame and Tupperware in 1996. Around the same time Modicare was one of the first few Indian companies to adopt this channel of distribution[1].



1. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Direct selling in Karnataka

In 2014, the direct selling industry in Karnataka was estimated in the range of INR3.5-4 billion[2]. Our interaction with industry stakeholders suggests that the industry has created a positive impact on several other social and economic parameters.

a. **Additional income opportunities:** Direct selling provides additional income opportunities to a large number of people and promotes micro-entrepreneurship. In FY14, nearly 240,000-260,000 direct sellers were estimated to be engaged with the industry in Karnataka, and this number is projected to increase further with the growth of the industry[2]. In addition to providing income opportunities, direct selling also imparts transferable skills in sales and management, which can be used outside the direct selling industry as well.

b. **Women empowerment:** Direct selling offers self-employment opportunities to a large number of people, especially women. Direct selling gives women the flexibility to manage their time and balance their work and personal lives. The industry in FY14 provided self-employment to nearly 140,000-160,000 female direct sellers (58 per cent of the total direct seller workforce in the state)[2]. Many companies work towards the empowerment of women. For example, Hindustan Unilever (HUL) created project Shakti in 2001 to not only increase the rural sales of its health and beauty care products but to also provide income-generation avenues to rural women (called 'Shakti Ammas') in the process[2].

c. **Development of the SME sector:** Many direct selling companies rely on SMEs for manufacturing their products. They also rely on ancillary support services such as packaging, labelling, logistics and material supply. In many cases, the direct selling companies impart the manufacturing know-how, technology and processes to enable the SMEs to produce quality products. The direct selling companies also invest in providing the right equipment and machines to the SMEs for production. Driven by these initiatives, many SMEs have now developed capabilities to cater to the needs of other Multi National Companies (MNCs) and have commenced supplies to them, promoting India as a manufacturing destination.

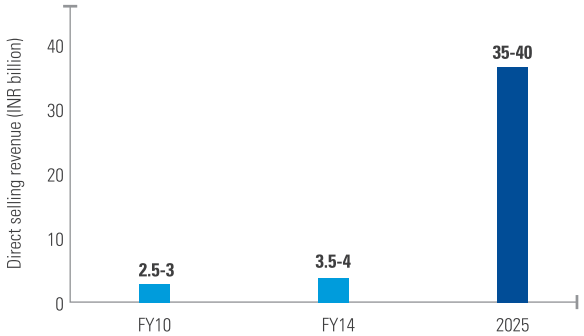
d. **Employment generation:** Besides providing additional income opportunities to direct sellers, the industry generates significant direct employment opportunities. A majority of the direct selling companies outsource the production, packaging and distribution of their products, thus generating indirect employment across the value chain.

e. **Social initiatives:** In terms of responsibilities towards society, direct selling companies have several contributions to their credit in Karnataka. Casa Herbalife India initiative and Avon Breast Cancer Crusade are well known for their social impact[3].

f. **Contribution to the government exchequer:** The operating model for direct selling generates tax contributions to the government across its value chain. Total indirect tax contribution by the direct selling industry to the government in FY14 alone is estimated to be in the range of INR350-400 million[2].

Going forward, the industry has the potential to create a significant social and economic impact in Karnataka. Our estimates suggest that the industry has the potential to reach a size of INR35-40 billion by 2025, driven by growth in consumer markets and increase in the penetration of direct selling to globally comparable levels. This could, however, be contingent on creating an enabling environment for the industry and mitigating some of the challenges it faces today.

Market potential of INR35-40 billion by 2025

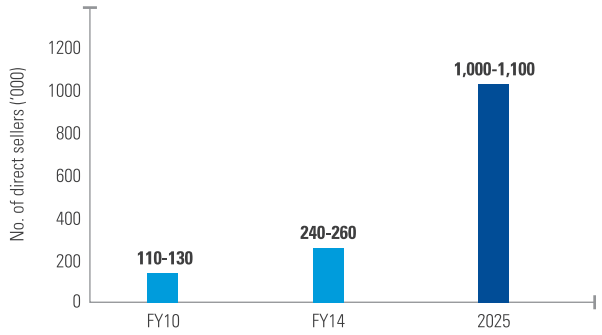


Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

2. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15
3. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

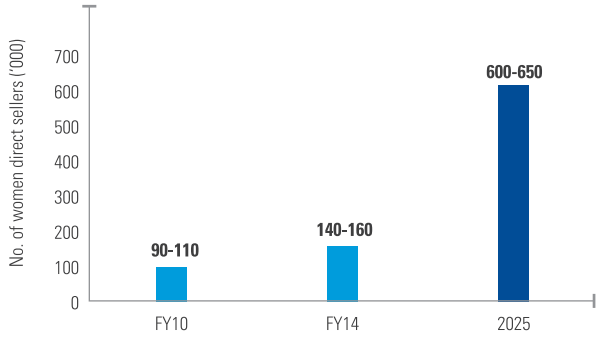
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Self-employment opportunities to 1.0-1.1 million people by 2025



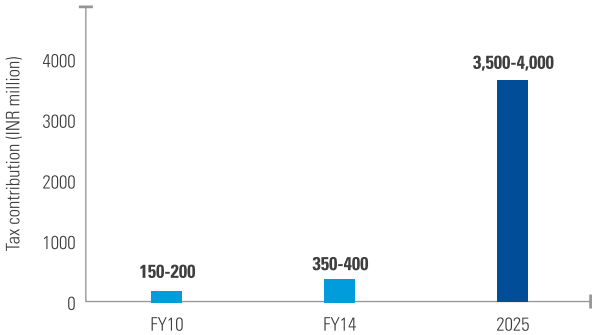
Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

Potential to economically empower 600,000-650,000 women



Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

Ability to contribute INR3,500-4,000 million to the exchequer



Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15
Note: Impact of GST has not been considered for the opportunity assessment of the industry and its contribution to the exchequer.

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Challenges: Direct selling in Karnataka

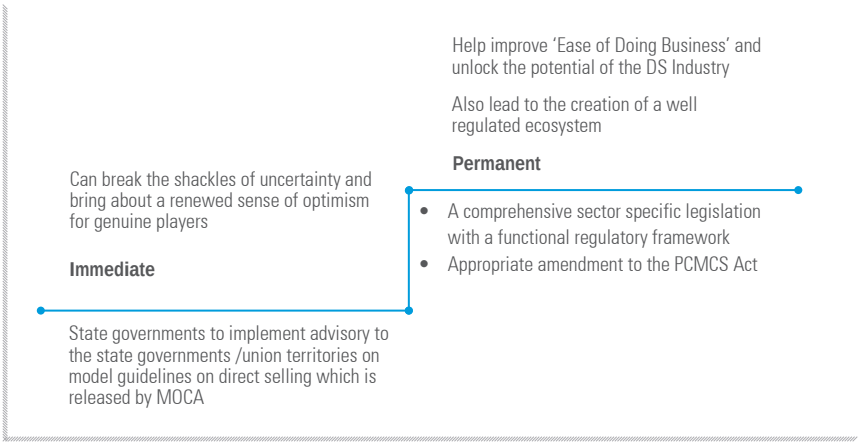
Similar to the traditional consumer industries, the direct selling industry faces challenges in terms of setting up manufacturing facilities, dealing with import duties, etc. However, one of the most daunting concerns for the direct selling industry is the lack of regulatory clarity. Due to this, direct selling companies are often mistaken for fraudulent Pyramid/Ponzi schemes.

To provide a conducive and sustainable operating environment in India for the companies operating in the direct selling industry, a series of reforms are required ranging from immediate short-term reforms in the form of certain amendments in the existing Acts/policies to long-term measures of enacting a specific governing legislation for the sector.

A separate policy framework for the direct selling industry could clear the blurred lines between ethical industry players and impersonators, and go a long way in regaining consumer confidence.

We recommend the following road map which can be considered by the government/regulators to help benefit this industry in the future.

Road map to help benefit direct selling



Source: FICCI Direct Selling taskforce, Industry discussions and KPMG in India analysis 2014-15

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1

Amendment in the PCMCS Act

Since the PCMCS Act does not explicitly address schemes which involve genuine sale of products or services, some jurisdictions have attempted to read into these clauses of the Act. An amendment in the PCMCS Act is therefore needed to make the distinction clear between direct selling, including Multi-Level Marketing (MLM) plans involving the genuine sale of products and fraudulent pyramid, money circulation schemes.

2

Formulation of standard operating procedures

In order to do away with the prevailing operational uncertainty, an immediate action needs to be taken at the state level. The need of the hour is the development of a standard operating procedure for the law enforcement authorities, to be followed in cases where a complaint is filed against fraudulent MLM schemes. This ground level initiative can help avoid undue harassment of genuine players of the industry and restore public confidence.

3

Formulation of state-specific guidelines

While the Centre evaluates the amendment of the PCMCS Act, the need of the hour is that the state government(s) formulate specific guidelines governing direct selling activities in the state. Such guidelines should address the underlying problems of information asymmetry between businesses and potential customers, lack of consumer awareness and absence of certainty.

4

Need for a clear definition

There is need for a proper definition of the 'direct selling model' under a specific legislation in India. Moreover, given the numerous social as well as economic benefits of this specialised channel of distribution, direct selling should be given a separate 'industry' status.

5

Need for a nodal ministry and legislation

The direct selling industry is currently being regulated under several laws which are administered by various ministries/departments at the centre, state and local levels. The multiplicity of regulatory bodies has resulted in multiple regulations governing this sector. These should be streamlined for the smooth performance of this sector in the long run. One ministry should be nominated as a nodal ministry to govern direct selling companies, that could also provide for the underlying regulations.

Source: KPMG Analysis, Press Trust of India, 18 March 2011 issue, Industry Discussions, FICCI Direct Selling Task Force

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Global direct selling market



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Direct selling is essentially the marketing of products and services directly to consumers in a person-to-person manner, away from permanent retail locations[1]

Direct selling is a dynamic and rapidly-expanding channel of distribution for the marketing of products and services. While there is no universal definition of direct selling, different countries, associations and individuals have defined the sector differently. It can be broadly understood as 'selling of goods and services to consumers away from a fixed retail outlet, generally in their homes, workplace, etc., through explanation and demonstration of the product by the direct sellers.[1] Direct sales generally benefit from the explanation and demonstration of products made by an independent direct sales person to the consumer. Being a specialised channel of distribution, which is neither wholesale nor retail, it covers both business-to-business and business-to-consumer aspects.

Despite its differences, in many ways, direct selling is similar to traditional consumer goods retail. In both cases:

- the distributors/direct sellers can earn a commission, when the sale of the product takes place.
- earning of sales commission may be based on one's own sales as well as on the cumulative sales of the group built by the seller, similar to commissions in traditional sales environment.



1. Discussions with National Law School, Industry discussions, WFDSA annual report 2015, WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015, FICCI Direct Selling taskforce, KPMG report- Direct selling: A global industry empowering millions in India, 2014

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Direct selling is different from chit funds and Ponzi schemes

Various forms of networking schemes

Globally, the direct selling industry has undergone substantial changes since the 1970s. Around that time, there was a proliferation of multiple new direct selling companies and one-to-one marketing became a common marketing technique. Unfortunately, the rise in legitimate MLM compensation plans was accompanied by a surge in pyramid schemes that played off the popularity of MLM plans or network sales and paid more attention to recruiting people than selling of actual goods.

What is striking about these schemes is that while they are very old forms of fraud, modern technology has vastly multiplied their potential to harm citizens across the globe. The internet in particular offers pyramid builders a multi-lane highway to worldwide recruits in virtually no time. Further, globalisation coupled with the newly emerging market economies has provided a new outlet for pyramiding.

In this section, we have outlined the primary definitions of various forms of prevalent unfair trade practices and laid down certain parameters to distinguish between 'fly by night operators' and 'legitimate businesses'.

Pyramid selling, chit fund or Ponzi schemes



Pyramid schemes

Pyramid schemes, prevalent in multiple forms, promise consumers/investors large profits based primarily on recruiting others to join their programme, not based on profits from any real investment or real sale of goods. Two major signs that a product is being used to disguise pyramid schemes are:

- Large payments required to join; and
- Compensation paid for recruiting without regard to end sales ('headhunting fees').



Ponzi schemes

Popularly known as 'Peter-to-Paul' schemes, a Ponzi scheme is centred around continuous recruitment and the promoter generally has no product to sell and pays no commission to investors who recruit new 'members'. Instead, the promoter collects payments from a stream of people, promising all the same high rate of return on a short-term investment with no real investment opportunity.



Chit fund schemes

With no underlying product and based on more or less along similar lines like a Ponzi scheme, a chit fund is a kind of savings scheme. Under this scheme, a person enters into an agreement with a specified group of persons, everyone of them commits to contributing a certain sum of money by way of periodical instalments over a definite period. Each subscriber shall, in his/her turn, as determined by lot or by auction or by tender or in such a manner as may be specified in a chit agreement, be entitled to the prize amount.

Though often misused by promoters, chit fund schemes are not always fraudulent and may be conducted by organised financial institutions within the letter of the law.

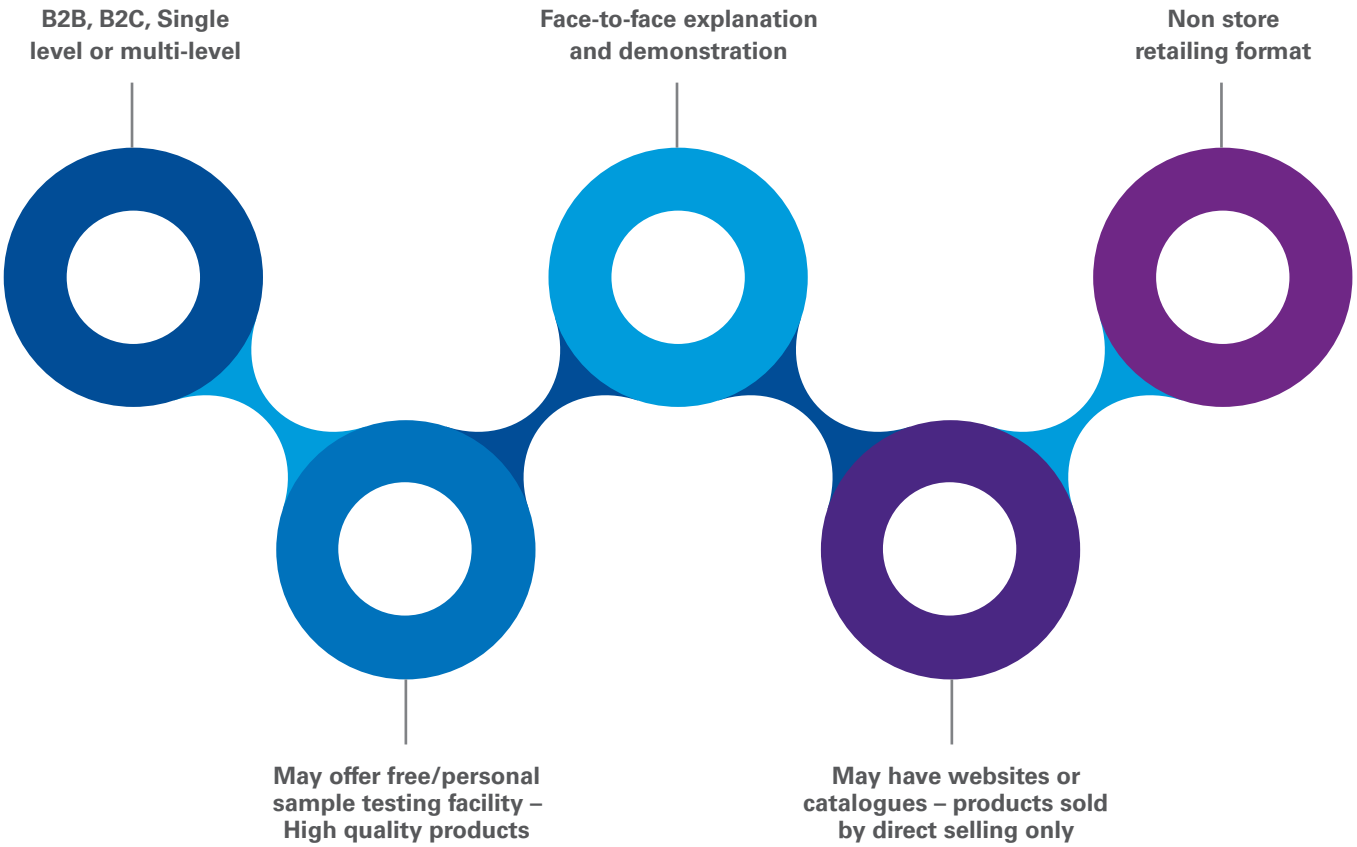
Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Though definitions vary, there are certain commonalities such as:



Key factors differentiating genuine direct selling schemes from fraudulent ones



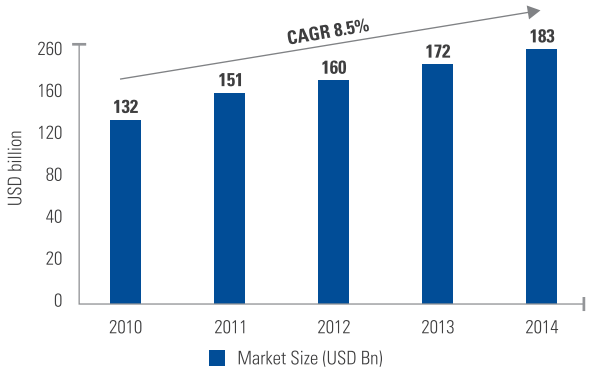
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Global direct selling market in 2014-15 was worth USD183 billion and employed around 100 million people worldwide

Global direct selling market

Market size

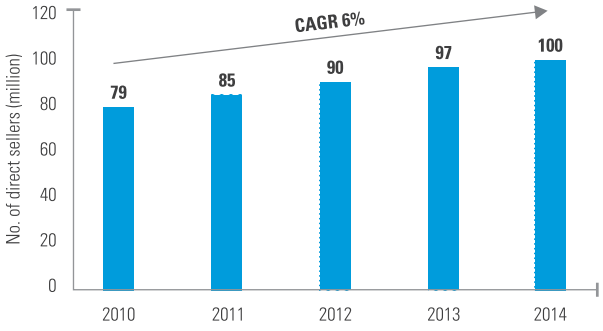
The global direct selling industry is a USD183 billion industry. The industry has witnessed an overall growth of 8.5 per cent over the past five years. The industry saw a robust growth of 19 per cent in 2011 over 2010, post which the industry grew at a lower rate of 5 per cent in subsequent years due to the global economic slowdown. However, the long-term growth prospects of the industry remain robust.



Source: WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, accessed on 22 September,2015

Number of direct sellers

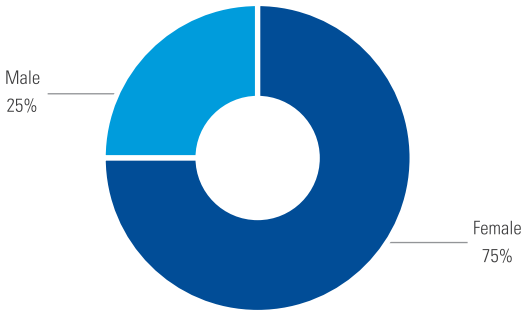
The direct selling industry benefits from in-person contact for the demonstration and sale of products and therefore provides entrepreneurship opportunities to a large number of people. The opportunities in the industry has grown by a CAGR of 6 per cent in the last five years and the number of direct sellers have increased to 100 million direct sellers in 2014 from 79 million direct sellers in 2010.



Source: WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, accessed on 22 September,2015

Gender-wise participation in the industry

As of 2014, 75 per cent of the direct sellers were women. Direct selling has given women, who find it difficult to work away from home, an alternative earning opportunity in their homes. Thus enabling them to maintain a work-life balance.

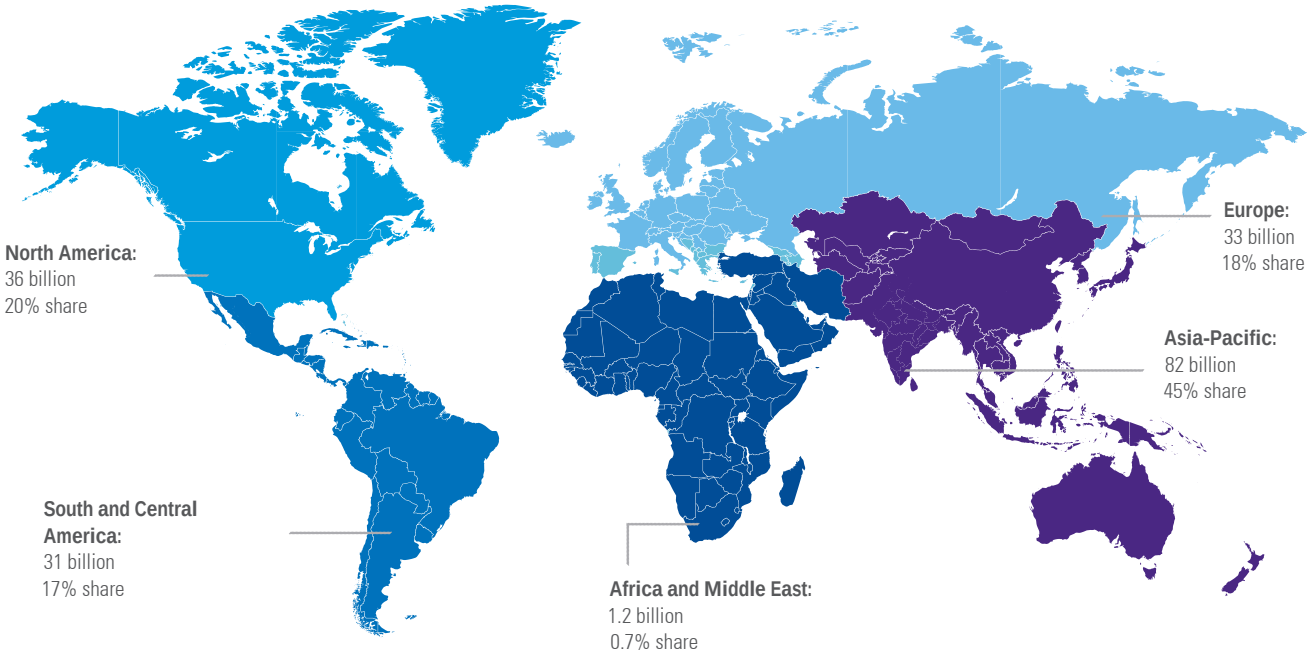


Source: WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, accessed on 22 September,2015

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Asia-Pacific is the largest direct selling region in the world, followed by North America and Europe

Major regions, 2014





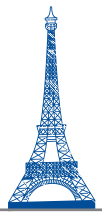
Asia-Pacific

- Asia-Pacific is the largest market for direct selling with a 45 per cent share in the global direct selling market. Asia-Pacific has also been the fastest growing region in the world, growing at a CAGR of 8.4 per cent to reach USD82 billion in 2014 from USD64 billion in 2011.
- The direct selling industry in the region engages ~51 million people as direct sellers in 2014.
- Japan, China, Korea, Malaysia, Taiwan, Thailand, Australia, Philippines, Indonesia and India have billion dollar markets in this region.



Americas

- The Americas account for 37 per cent share in the global market and engages ~33 million people as direct sellers.
- The U.S. and Canada are billion dollar markets in North America engaging nearly 19 million people as direct sellers.
- South and Central America have been growing at a CAGR of 7.8 per cent between 2011 and 2014. Brazil is the largest market in South and Central America accounting for a 42 per cent share followed by Mexico, Colombia, Peru and Argentina which are also billion dollar markets.



Europe, Middle East, Africa

- Europe accounts for an 18 per cent share in the global direct selling market and has grown at a CAGR of 3.4 per cent from 2011 to 2014. It engages ~14 million people as direct sellers.
- Western Europe accounts for nearly 75 per cent of the total market in Europe. France, Germany, Italy and the U.K. in Western Europe and Russia are billion dollar markets.
- The Middle East and Africa are a small market for direct selling, accounting less than 1 per cent share of the global market.

Source: WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015, KPMG in India analysis 2014-15

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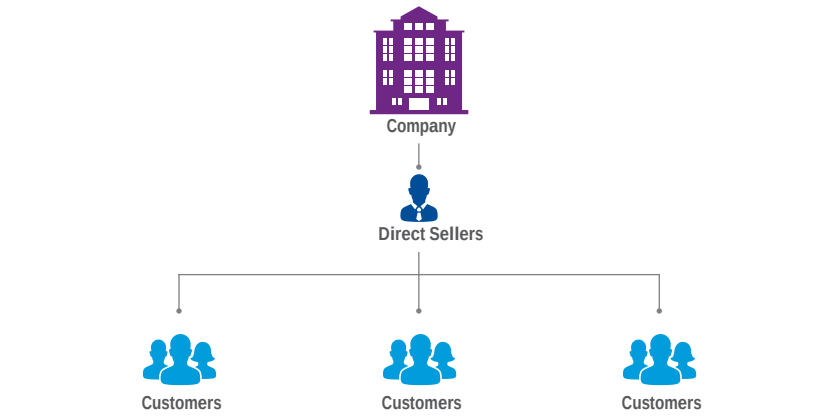
Single-level and multi-level marketing are the prevalent models in the direct selling industry

Operating model

Single-Level Marketing (SLM)

Single-level marketing rewards the sellers for their personal sales activity. They cannot sponsor any other distributorship or sales personnel.[2] Income comes only in the form of a commission, or bonus, or retail markup, i.e., they receive payments through the sales they make.

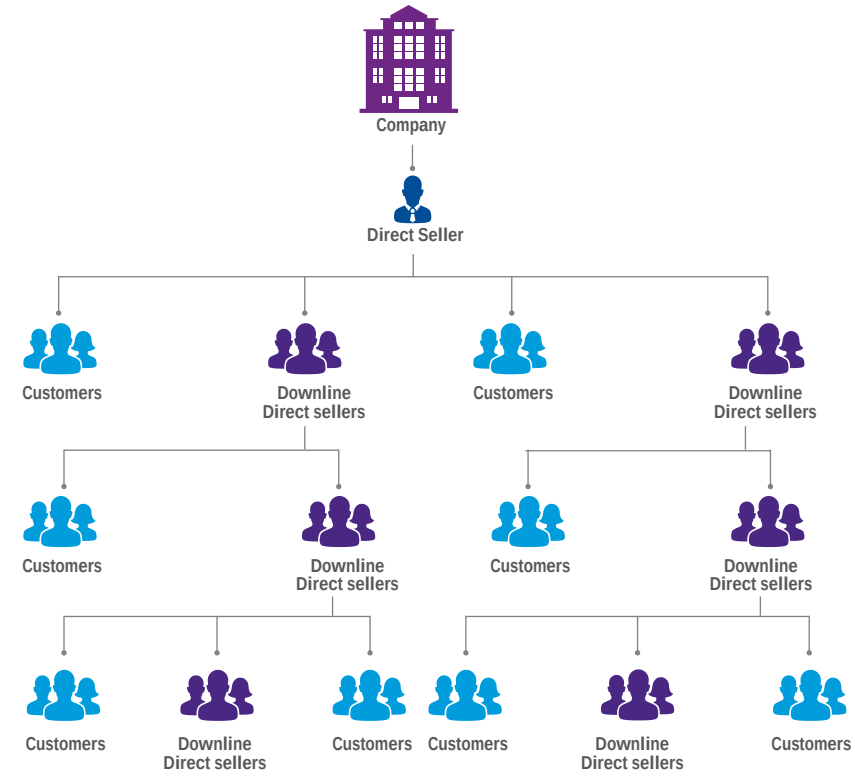
A direct seller buys products from the parent company and sells them directly to his/her customers. Home-based business people have been pursuing single level marketing for years. Single-level marketing is most suited for those sales people whose focus lies on the product and service.



Source: WFDSA annual report 2015, WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015, ICRIER, Direct Selling News, Industry Discussions, FICCI Direct Selling Task Force, KPMG in India Analysis, 2015.

Multi-Level Marketing (MLM)

In the MLM compensation plan, each recruited direct seller can potentially recruit new distributors and create a down line of direct and indirect distributors/sellers. Distributors purchase products to sell to the consumers. They receive commissions and bonuses on the sales made by them and the sales made by their down line direct sellers and retail markups.



Source: WFDSA annual report 2015, WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, accessed on 22 September,2015, ICRIER, Direct Selling News, Industry Discussions, FICCI Direct Selling Task Force, KPMG in India Analysis, 2015.

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Person-to-person selling is the dominant form of selling witnessed in the direct selling market

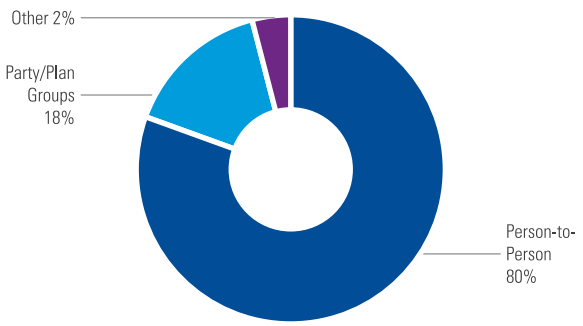
Selling methodology

While some direct sellers may be employees of a direct sales company, authorised to act for the company in business matters, most direct sellers are independent business operators or self-employed – they enjoy the advantage of deciding when and how much time will be devoted to selling products.

Traditional direct selling methods include:

- Person-to-person marketing
- Party Plan Groups

Person-to-person is the most popular method amongst direct selling companies followed by Party Plan Groups.



Source: WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015



Person-to-person (P2P)

A majority of the direct sales around the globe takes place through person-to-person contact. This method is most widely used by direct selling companies.

Person-to-person direct selling can be defined as a one-on-one interaction between the sales person and the customer in which a product is promoted for sale by the former to the latter. This method of direct selling can use both single-level and multi-level marketing.



Party Plan Groups

The party plan is a method of direct selling in which social events are organised where products and services are promoted and offered for sale.

Direct selling through party plan mostly uses multi-level marketing. Sales people approach other people to host events during which the products are demonstrated. In return, the host is given a part of the revenue from the goods sold. The sales person is paid a commission on the sales or on the sales made by the sales people recruited by him/her.

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Amway, Avon and Herbalife are the top three direct selling companies accounting for 20 per cent of the global direct selling market

Top 20 direct selling players in the world

Rank	Company name	Country	Year founded	Revenue 2013 (USD billion)	Markets	Distributors (million)	Employees ('000s)	Sales method	Compensation structure
1	Alticor (Amway)	U.S.	1959	11.80	100	3	21	P2P	MLM
2	Avon Products Inc.	U.S.	1886	9.95	100	6	36	P2P	MLM
3	Herbalife Ltd	U.S.	1980	4.80	91	3	7.5	P2P	MLM
4	Vorwerk & Co. KG	Germany	1883	3.70	76	0.6	12	P2P and Party Plan	MLM
5	Mary Kay Inc.	U.S.	1963	3.60	35	3	5	P2P and Party Plan	SLM
6	Natura Cosmetics SA	Brazil	1969	3.20	7	1.6	7	P2P	MLM
7	Nu Skin Enterprises Inc.	U.S.	1984	3.18	53	1.3	1.2	P2P	MLM
8	Tupperware Brands Corp	U.S.	1946	2.67	100	2.6	13.5	P2P and Party Plan	SLM and MLM
9	Belcorp Ltd.	Peru	1968	1.96	16	0.9	9	P2P and Party Plan	SLM and MLM
10	Oriflame Cosmetics SA	Luxembourg	1967	1.95	66	3.5	7	P2P	MLM
11	Primerica Inc.	U.S.	1977	1.27	2	0.1	2	P2P	MLM
12	Ambit Energy	U.S.	2006	1.20	1	0.25	0.6	P2P	MLM
13	Telcom Plus	U.K.	1996	1.10	1	0.05	0.7	P2P	MLM
14	Stream Energy (Ignite Inc.)	U.S.	2004	0.87	1	0.26	0.2	P2P	MLM
15	Yanbal International	Peru	1967	0.85	10	0.4	6	P2P	MLM
16	Miki Corp.	Japan	1966	0.78	3	NA	0.3	NA	NA
17	Thirty-One Gifts	U.S.	2003	0.76	2	0.12	1.7	Party Plan and Group Sales	MLM
18	Blyth Direct Sales Group	U.S.	1973	0.75	21	0.1	1.2	Party Plan and Group Sales	MLM
19	USANA Health Sciences	U.S.	1992	0.72	19	0.27	1.4	P2P	MLM
20	CAN Inc.	U.S.	1993	0.70	23	0.2	1.5	P2P	MLM

Source: Direct Selling News Website, 12 August 2015, KPMG in India Analysis, 2015.

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Direct selling market in India



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The direct selling market in India took off in 1990s with the influx of the large global direct selling companies looking to tap the opportunities in India

Direct selling market in India

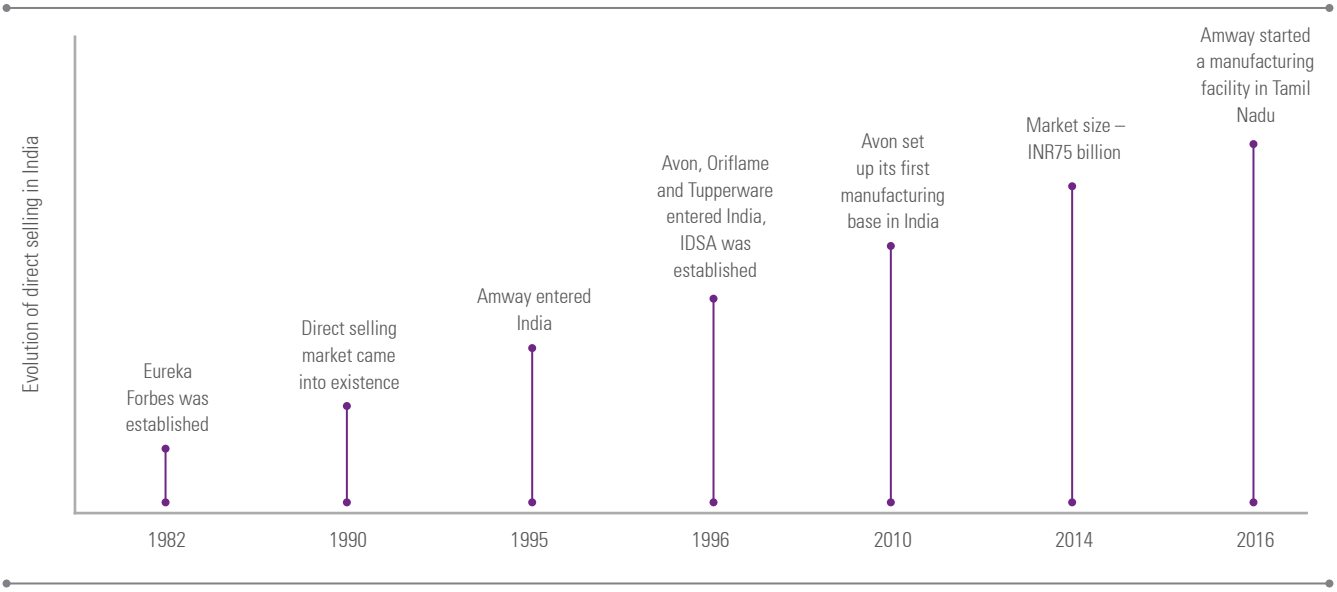
In India, the direct selling industry commenced in 1982 when Eureka Forbes was established as a result of a joint venture between Shapoorji Pallonji Group's Forbes & Company Ltd. of Mumbai and Electrolux of Sweden.[1] The industry came into existence in the early 1990s soon after the country opened up to the global market.

The industry witnessed major growth post liberalisation with many global players entering the Indian market. Amway was one of the first major global direct selling companies to enter India in the year 1995, which was followed by companies such as Avon, Oriflame and Tupperware in 1996. Around the same time, Modicare was one of the first few Indian companies to adopt this channel of distribution.[1]



1. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

Though several direct selling companies initially started in South India, today many of them have pan India operations. In terms of revenue generated, Maharashtra, Tamil Nadu and Andhra Pradesh have the highest shares.[3] Recently, the industry witnessed greater growth in the Eastern part of the country and in many tier II and III cities with direct selling companies trying to reach out to customers in markets which have remained untapped so far.

The direct selling industry in India is a INR75 billion market today and is dominated by the organised players contributing ~95 per cent to the market.[2] The market has grown to become a key channel for distribution of goods and services in the country, specially for health and wellness products, cosmetics, consumer durables, water purifiers and vacuum cleaners. However, it is still undeveloped as compared to global peers and the variety of brands and products available in the country are lower than those in other economies.

Going forward, the growth of the industry is likely to be majorly driven by expanding markets and a strong consumer base increasingly looking for quality products that add value, and are willing to pay a premium.

However, currently the industry is facing many challenges in India. As India lacks a systematic policy that clearly defines the regulatory framework of the industry. There is no clear definition of legitimate direct selling to differentiate it from Ponzi/ Pyramid schemes attempting to disguise themselves as direct selling structures. As a result of the lack of clarity, the number of fraudulent activities in the industry has increased and legitimate direct selling is being confused with Ponzi/Pyramid schemes.[3]

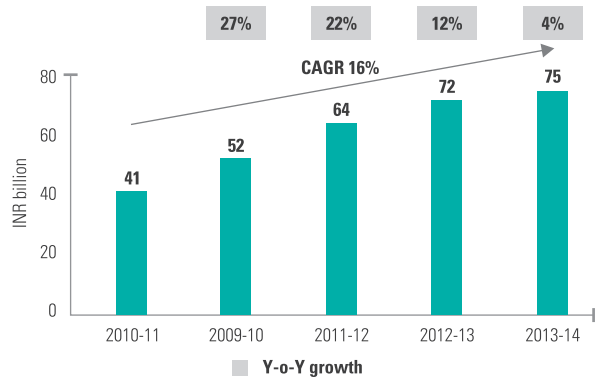
2. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15
3. Industry discussions, FICCI direct selling taskforce



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The direct selling market in India has grown at a CAGR of 16 per cent over the last five years from INR41 billion in 2009-10 to INR75 billion in 2013-14

Direct selling market size in India



Source: IDSA Reports on Direct Selling 2009-2014, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, PHD Chamber, Direct Selling News, Industry Discussions, FICCI Direct Selling Task Force

The direct selling market in India has grown at a CAGR of 16 per cent over the past five years to reach INR75 billion in 2014. The market grew at a lower rate of 4 per cent in 2013-14 due to a slowdown in the industry. Lack of clarity on state regulatory issues and unclear laws pertaining to the industry have significantly impacted the working environment of major industry players.

The Indian direct selling industry is well poised to occupy an important position in the international and domestic markets. However, there are many issues and challenges which act as bottlenecks for the growth of Indian direct selling industry.

In states such as Andhra Pradesh, Telangana and Kerala, the direct selling business has been impacted due to a lack of regulatory clarity. There is a need for the central as well as the respective state governments to announce a comprehensive policy for the industry, which could enable the industry to grow multifold over the next few years, and also create direct and indirect employment.

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North India is the largest market for direct selling followed by the South

Region-wise direct selling market

North

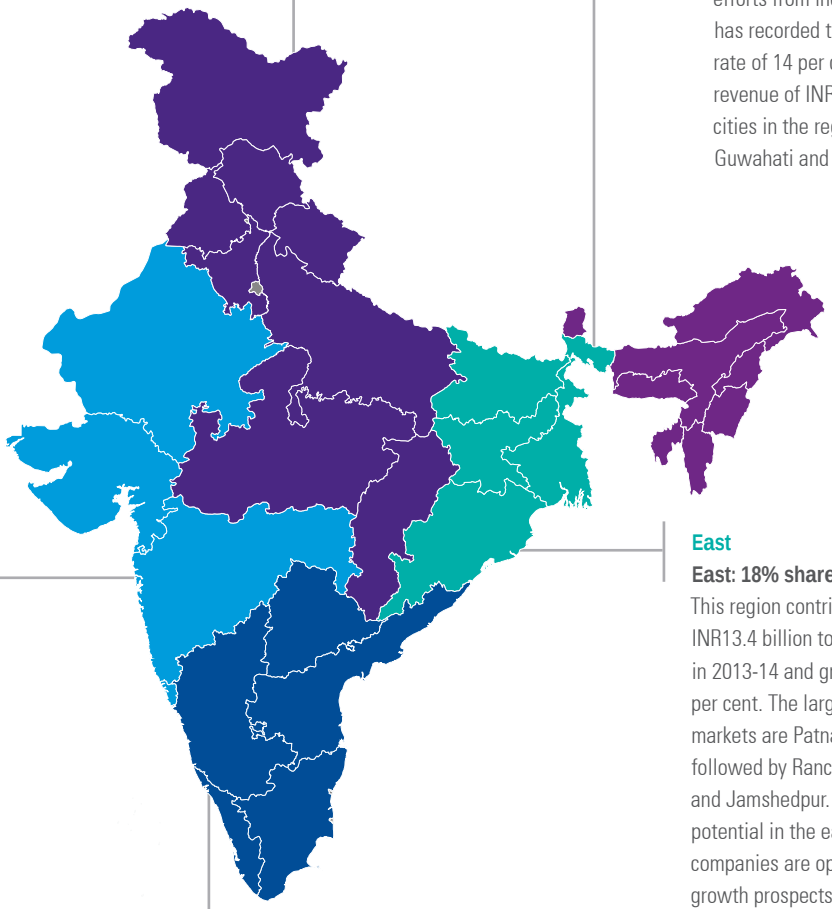
North: 29% share; 12% growth

North India is the largest region by market size and accounted for INR22 billion in 2013-14. Lucknow, Ludhiana and Delhi generate the maximum sales in the region. Other key cities include Bhopal, Chandigarh and Allahabad.

North East

North East: 12% share; 14% growth

North East is currently the smallest market for direct selling. However, over the past few years, growth has picked up in the region with efforts from industry players. It has recorded the highest growth rate of 14 per cent in India with revenue of INR9 billion in 2014. Key cities in the region include Itanagar, Guwahati and Shillong.



West

West: 16% share; 11% growth

West India is a relatively smaller market compared to the Northern and Southern regions. Direct selling sales in this region are driven by Mumbai and Jaipur followed by other key cities such as Ahmedabad, Surat and Pune. Collectively, the region recorded revenues for INR12 billion in the year 2013-14.

East

East: 18% share; 10% growth

This region contributed around INR13.4 billion to the gross revenue in 2013-14 and grew at around 10 per cent. The largest direct selling markets are Patna and Kolkata followed by Ranchi, Bhubaneshwar and Jamshedpur. With unexploited potential in the eastern region, companies are optimistic about growth prospects in the future.

South

South: 25% share; 13% decline

South holds the second highest share for the direct selling industry and accounts for INR19 billion in revenue in 2013-14. However, its share has fallen along with a negative growth rate in recent times given the unfavourable business environment (lack of regulatory clarity leading to litigation on direct selling companies). Bengaluru, Chennai and Hyderabad are the largest direct selling markets in the South.

Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Direct selling market in Karnataka



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Direct selling market in Karnataka was worth INR3.5-4 billion in 2013-14

State overview

Karnataka direct selling particulars	
State	Karnataka
Capital	Bengaluru
Population (2011 census)	61.1 million
NSDP per capita (FY14)	INR84,709
Direct selling market (FY14)	~ INR3.5-4.0 billion
No. of direct sellers (FY14)	~ 240,000-260,000
Market growth potential (2025)	INR35-40 billion

Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15, 22 September 2015

Karnataka has been an important market for the direct selling industry, with leading multinational companies like Herbalife and AMC India having their India headquarters in the state. Bengaluru featured as the most attractive market for direct selling in the country as per IDSA annual survey 2013-14. With strong growth in industrialisation, growing GDP in the state, high rate of urbanisation and a consumption-oriented population, the direct selling market in the state had reached its peak size of INR4.8-5.3 billion in FY12 and single handedly contributed around 8 per cent to the overall direct selling market in India. The direct selling industry provided self-employment opportunities to around 180,000-200,000 people in FY12 and added about INR450-500 million to the exchequer. The industry has contributed significantly towards women empowerment by providing employment to around 110,000-130,000 women in FY12. The industry is also engaged in social activities in areas like child education, health awareness, etc.

However, despite the fact that the direct selling market is sizeable and contributes substantially to employment creation and taxes, it has faced many challenges in Karnataka over the past few years. As a result, the industry declined post FY12. The ambiguity in the PCMCS Act and other regulatory issues including a lack of definition and separate provisions for the industry are affecting the direct selling industry in the state adversely.

Despite the regulatory challenges, the direct selling industry has strong long-term potential for growth in Karnataka and is expected to reach a size of INR35-40 billion by 2025. The high rate of economic development in the state, the rising demand for consumer goods especially in urban markets like Bengaluru, Mysuru and Mangalore and the increasing penetration of direct selling in the state are expected to drive the growth of the direct selling industry in Karnataka.[1]



Key players

The major direct selling players operating in Karnataka are Amway, Herbalife, AMC India, etc. The direct selling industry spans across a diverse range of products. However, specialised products requiring one-on-one interaction with the customers and demonstration, such as health and wellness products, cosmetics and personal care products dominate the direct selling market in Karnataka.

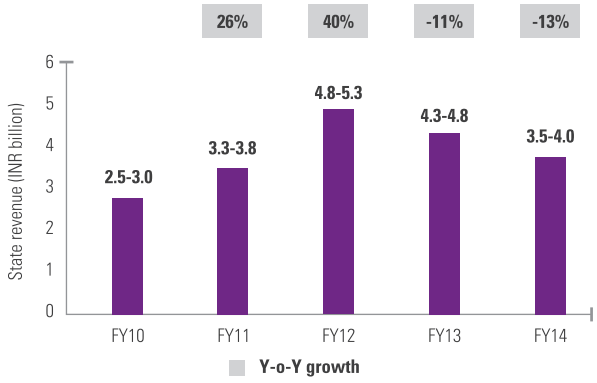
1. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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The direct selling market has generated a large number of self employment opportunities in Karnataka with around 58 per cent of the total workforce dominated by women

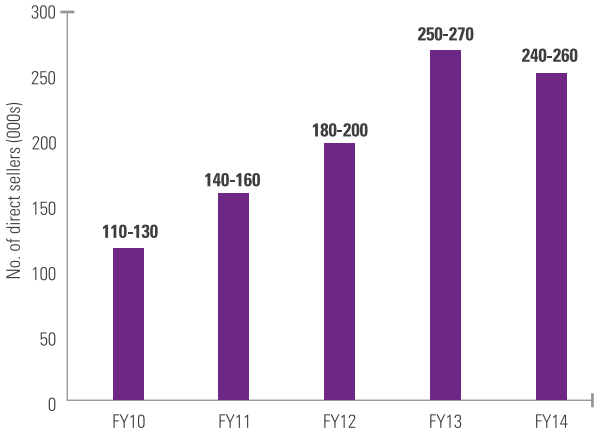
The direct selling industry provided self employment opportunities to around 250,000-270,000 people in FY13 which contributed significantly to the total workforce in Karnataka. However, the size of the direct selling community has declined in FY14. Currently, it provides employment opportunities to around 240,000-260,000 people. As per IDSA and direct selling firms, the drop has been attributed to regulatory concerns and actions taken against the direct selling firms.

Direct selling market size in Karnataka



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

Self employment opportunities



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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The industry employs a large number of women

The direct selling industry in Karnataka has contributed significantly towards the social and economic empowerment of women by providing self-employment opportunities to 140,000-160,000 women or about 58 per cent of the total direct sellers in FY14. The engagement in direct selling not only offers financial independence to women direct sellers, but also provides flexibility in their work schedule and allows them to strike a work-life balance. The women direct sellers also develop skills in sales and marketing while working with the industry, which can be utilised across multiple industries.

Gender-wise break up of direct sellers (per cent)



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15



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Direct selling companies have also contributed towards the development of direct sellers by building training infrastructure

Contributions to training and infrastructure development[2]

Modicare

Modicare has set up multiple training centres called 'Modicare Success Centers' in Karnataka. These centres conduct regular training programmes to educate new joinees about the products and their usage. Regular training is also conducted for all employees to help them learn and improve upon their communication, leadership and selling skills. The company has appointed a special team of trainers who conduct trainings from time to time to make it convenient for all direct sellers to attend. In addition to these trainings, Success Centers double up as touch points with the company and provide a venue for the customers to get introduced to the entire range of products the company has to offer.

Amway

Amway has established Pick Up Centres (PUCs) in Karnataka. The PUC model developed by Amway is dynamic in nature, which not only provides infrastructure for storing the company's products but also the opportunity for customers to touch and feel them. These PUCs serve as the main centre of Amway's activities in the state. The direct sellers collect Amway products from the PUCs and also monitor their performance. These centres provide in-depth information on new products thus developing the direct seller's understanding of new introductions. These PUCs also provide unlimited free access to training material on skill development which is crucial for any direct seller.

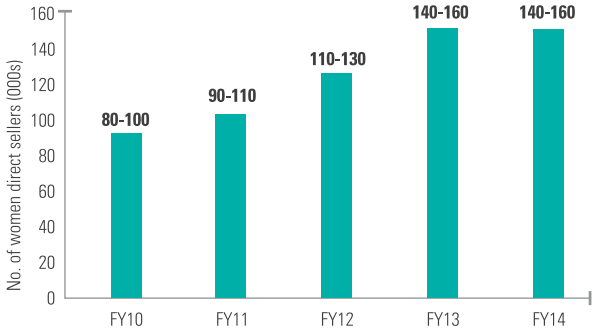


2. FICCI direct selling taskforce and KPMG in India analysis 2014-15, Industry discussions

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Potential benefits - Socio-economic impact of the industry

Self-employment opportunities and women empowerment



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15

As mentioned earlier, the industry offers self-employment opportunities to a large number of people, especially women. Direct selling gives women the flexibility to manage their time and balance their work and personal lives. The industry also offers financial independence to women and enables them to take better care of their families. The industry in FY14 employed nearly 140,000-160,000 women or about 58 per cent of the total direct sellers in Karnataka. Direct selling companies have also championed social programmes aimed at benefiting local communities in the state. For instance, in 2008, Avon India in association with Avon Foundation started the Breast Cancer Crusade to promote education and awareness about breast health in the country, including Karnataka. Avon's mission is to provide more women, particularly those who are medically under-served, with information about breast cancer, and with direct access to early detection services. The Avon Foundation, which is responsible for the company's charity activities, also awards grants globally to educate women about breast cancer, and refers them to clinical breast exams.[3]

Increase in product reach to tier II, III cities and rural areas

Direct selling companies are increasing their reach to tier II and III cities and rural areas of Karnataka to increase both the awareness and adoption of their products. Some direct selling companies are also foregoing their premium tag and adopting value positioning in order to make their products affordable to the 'bottom of the pyramid' customers. This includes selling smaller pack sizes, affordable variants of flagship brands, as well as single serve sachets. For instance, Amway has introduced sachets of shampoos and conditioners to bring high quality hair care products to customers in low income group.[3]



3. Industry discussions, FICCI direct selling taskforce

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Geographical expansion to reach tier II, III cities and rural areas

Many companies including Modicare and Amway are expanding into tier II, III cities and rural areas. The strategy adopted by the direct selling companies in India to increase rural focus involves the direct selling companies foregoing their premium tags and targeting mass segments by producing product sachets. This marketing method has effectively enabled companies to build trust in smaller towns and villages.

Modicare

Modicare doubled its salesforce to 250,000 direct sellers in 2011 and invested INR500 million to develop products and open more centres across the country, for penetrating the tier II, III cities and rural markets.

It launched a new range of products under the brand names 'Smooth' and 'Velocity'. These brands included products such as shaving lotion, after shave, body sprays, among others and were offered by the company at a lower price range compared to similar products sold by other companies.

Amway

With an aim to provide its clientele with products with a lower price tag, Amway launched sachets of its Satinique shampoos and conditioners priced INR5. They have planned to launch two-in-one products such as shampoos and conditioners to further their reach in the market.

Source: Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

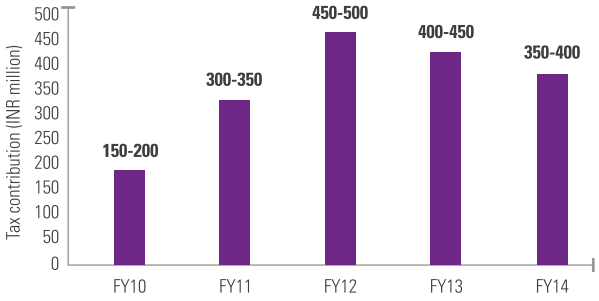
Sourcing from SMEs leading to growth and technology percolation

Many direct selling companies in India outsource their manufacturing process to contract manufacturers which are generally Micro, Small and Medium Enterprises (MSME) to produce products domestically.

As of 2011, two-thirds of the products sold by direct selling companies were sourced through MSMEs[4].

In many cases, the direct selling companies impart the manufacturing know-how, technology and processes to enable the SMEs to produce quality products. Direct selling companies also invest in providing the right equipment and machines to SMEs for production. Driven by these initiatives, many SMEs have now developed capabilities to cater to the needs of other MNCs and have commenced supplies to them, promoting India as a manufacturing destination.

Contribution to the exchequer



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

The direct selling industry generates tax contributions to the government across its value chain. The industry contributed significantly to the exchequer during FY12-13. However, due to regulatory concerns and negative market sentiments, the industry's revenues declined in the recent past, leading to a decline in tax contributions. The total tax contribution by the direct selling industry to the Karnataka government in FY14 is estimated to be in the range of INR350-400 million.[4]

4. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Contributions to social causes

The direct selling industry has made a notable contribution to social causes across the country. In FY13, approximately four out of every five direct selling companies in the organised sector were involved in CSR activities.[5]

Contributions from direct selling companies are targeted at social causes such as health and human services, environmental protection, women empowerment, children's protection and education rights. Karnataka has also benefitted from such CSR initiatives by the direct selling companies.

Child development: Herbalife

The Herbalife Family Foundation (HFF) is a global non-profit organisation committed to improving children's lives by helping NGOs and charities that cater to malnourished children. In 2009, HFF launched its Casa Herbalife India initiative in association with the SOS Children's Villages in Bengaluru. Under this initiative, HFF provided an initial grant to support education, basic health, vocational training and nutritional requirements of children living in the SOS Children's Villages orphanage. Post the initial grant, the local Herbalife direct sellers and Herbalife India employees carried the initiative forward by supporting the children through volunteer work and fund raising activities.

In 2015, Herbalife also collaborated with the Magic Bus India Foundation to support the development of about 3,000 children in Bengaluru, Chennai and Pune. The organisation will work to improve the lives of poor children from four slums in Bengaluru through sports and education. The programme which is jointly created focusses on educating the children on sports, gender equality, personal and community healthcare. It also aims to help children move out of poverty and get better livelihoods. The partnership will also support 150 children and 25 youths to train and excel at football under the foundation's Sports for Excellence programme.

Avon Breast Cancer Crusade: Avon India

In 2008, Avon India launched the Avon Breast Cancer Crusade in association with the Avon Foundation. This was followed by 'don't turn a blind eye to breast cancer' campaign in 2009. Through various mediums breast cancer awareness was disseminated to reach over 1 million women. Avon India is also engaged in sale of pink-ribbon products to support the fight against breast cancer. Avon India raised more than USD80,000 from 2008 to 2010 through the sale of pink-ribbon products, and donated the raised funds to the Cancer Patients Aid Association, a charitable non-governmental organisation (NGO) working towards the Total Management of Cancer in India.

Child care through CSR: Amway

The Amway Opportunity Foundation (AOF), the Corporate Social Responsibility (CSR) arm of Amway, has been working towards the enablement of under privileged children with a special focus on the blind. It launched the national project for the blind in 1998. Under this project AOF, in collaboration with NGOs and other agencies like National Association for the Blind (NAB), distributed Braille textbooks to children across the country including Karnataka. This has benefited 85,000 children in India.

AOF has also organised other social activities including blood donation camps in cities like Mangalore, Belgaum, Gulbarga, etc.

Source: Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

5. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Direct selling opportunities in Karnataka: 2025



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Driven by the potential for increasing penetration, growth in consumer markets, rise in disposable income and increasing urbanisation, the direct selling market in the state has immense growth potential

The direct selling industry has huge potential to increase its penetration in India, which can significantly drive the size of the industry.

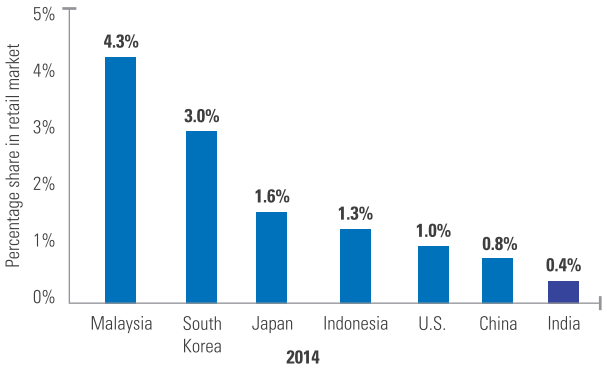
Direct selling penetration: Global comparison

In China, the direct selling industry has flourished since 2006 and has grown significantly over the past years. In 2014, China's industry penetration stood at twice that of India's at 0.8 per cent.

Other Asian markets such as Indonesia, Japan and South Korea have much higher direct selling penetration levels. Malaysia had the maximum direct selling penetration in Asia with 4.3 per cent.

India's direct selling penetration is the lowest among comparable economies at 0.4 per cent of the retail sales which further reduces at the state level.

Given its under-penetration in India, the direct selling industry in Karnataka has a significant potential to grow going forward.



Source: Euromonitor database, 26 August 2015



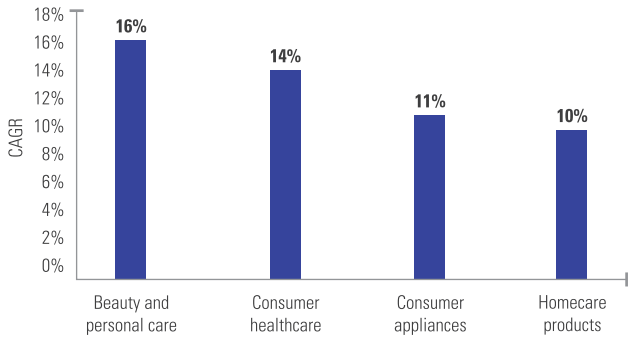
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Growth in consumer markets

The overall industry growth in key categories of direct selling such as health and wellness, cosmetics and personal care, household goods, and others is likely to fuel direct selling growth.

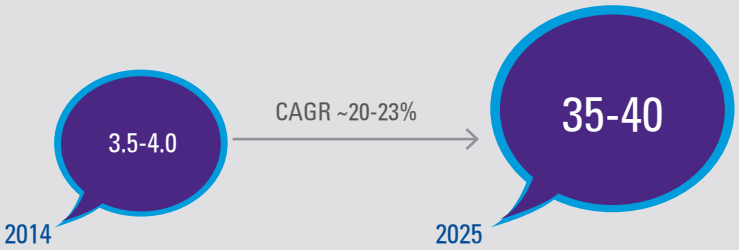
Most of these categories, which are key contributors to the direct selling industry, are projected to grow at 10-16 per cent.

Projected market growth rate (2014-2025)



Source: Euromonitor database 26 August 2015, BCG Report 'The Tiger Roars, Capturing India's Explosive Growth in Consumer Spending', 2012, KPMG in India analysis 2014-15

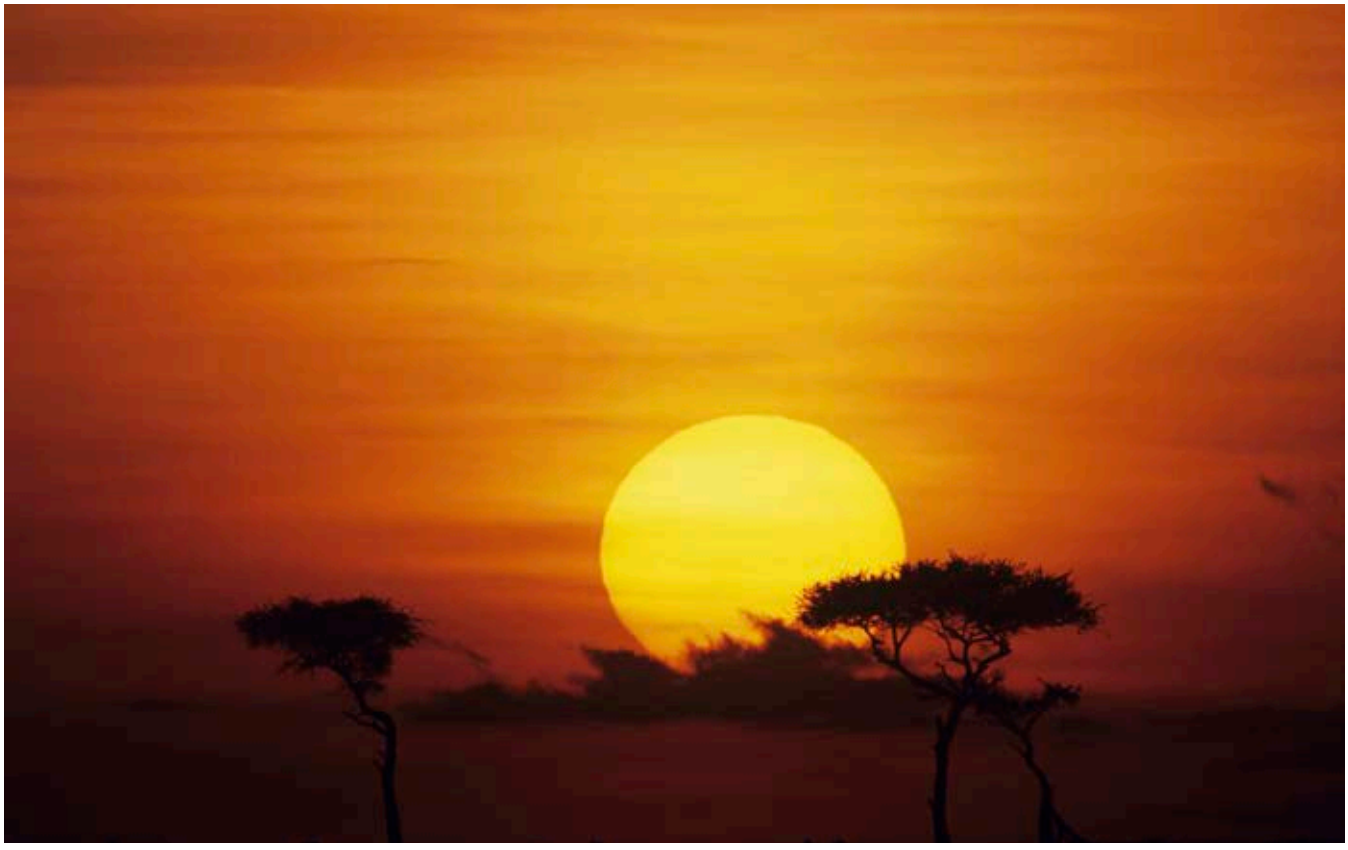
Direct selling market potential in Karnataka (INR billion)



With the projected growth in consumer markets and increase in the penetration of the direct selling channel, the direct selling market in Karnataka has the potential to reach

INR35-40 billion by 2025.

Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, FICCI direct selling taskforce and KPMG in India analysis 2014-15



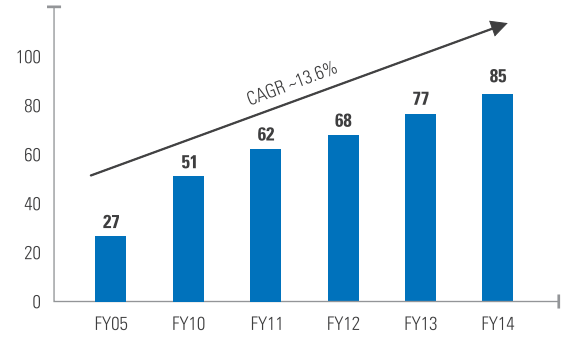
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Growth drivers/key trends

Increasing per capita income

The robust GDP growth in the state has given a boost to the per capita income in the state. The state has registered a CAGR of around 13.6 per cent in the past decade and is likely to witness strong growth in the future. The resulting rise in disposable income levels is likely to provide a boost to the direct selling industry in Karnataka.

Per capita income in Karnataka (INR '000)

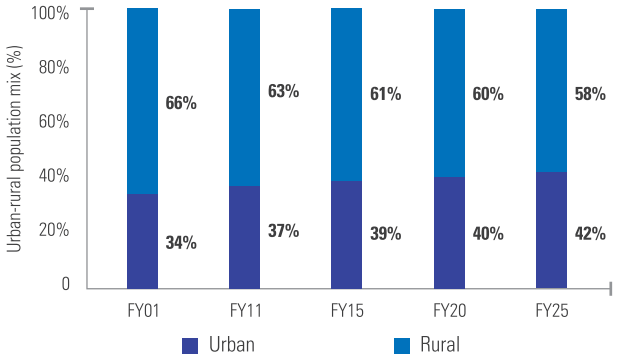


Source: Economic Survey of India 2014-15 (GoI), 26 September 2015

Urbanisation and lifestyle changes in the state

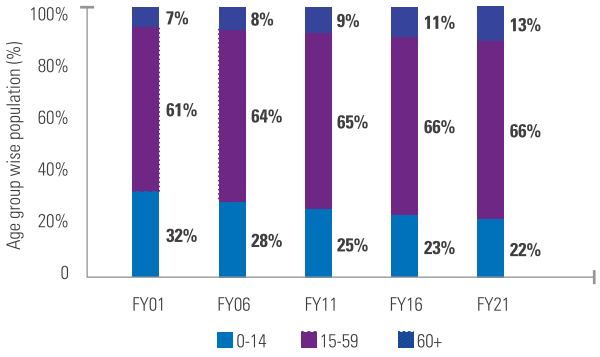
- In 2011, about 37 per cent of Karnataka's population resided in urban areas which has grown to about 39 per cent currently and is expected to reach to about 42 per cent in 2025.
- Urbanisation is likely to have a positive impact on the lifestyle of the people as they are expected to have greater exposure to better quality products and services.
- Along with rapid urbanisation, by 2025 a higher share of the population is expected to be in the workable age group. The need for convenience, lifestyle improvement and heightened aspirations are likely to trigger a higher demand for direct selling products specially packaged food, cosmetics and household appliances.

Urbanisation



Source: Census data, Population projections for India and states 2001-2021 - 7 September 2015

Increasing working population



Source: Population projections for India and states 2001-2021 (Census)- 7 September 2015

Increasing reach of the direct selling industry

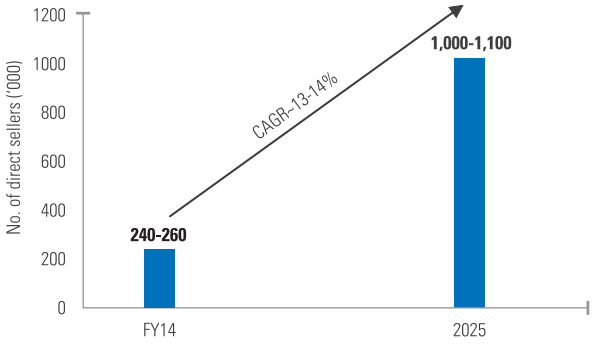
The direct selling industry is expanding its reach across states. The companies are trying to enter tier II, III cities and rural areas, providing consumers with knowledge about different products and services. The companies have adopted measures such as foregoing their premium tags and introducing smaller Stock Keeping Units (SKUs) to make the products more affordable.

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2025: The direct selling industry's opportunity and socio-economic projections in Karnataka

Self employment opportunities

The growth of the direct selling industry is likely to lead to an increase in the on-ground direct sellers. The direct selling industry has the potential to provide self employment opportunities to 1.0-1.1 million individuals while growing at a CAGR of 13-14 per cent by 2025.

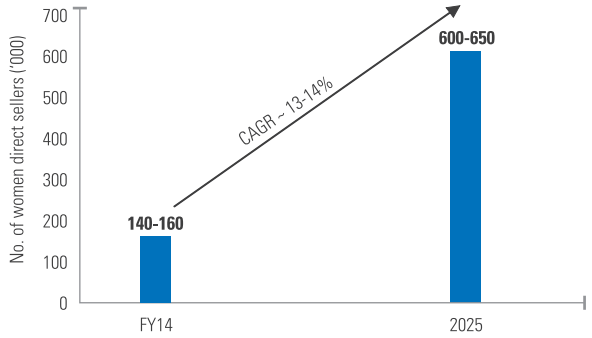


Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI Direct Selling Task Force and KPMG in India analysis 2014-15

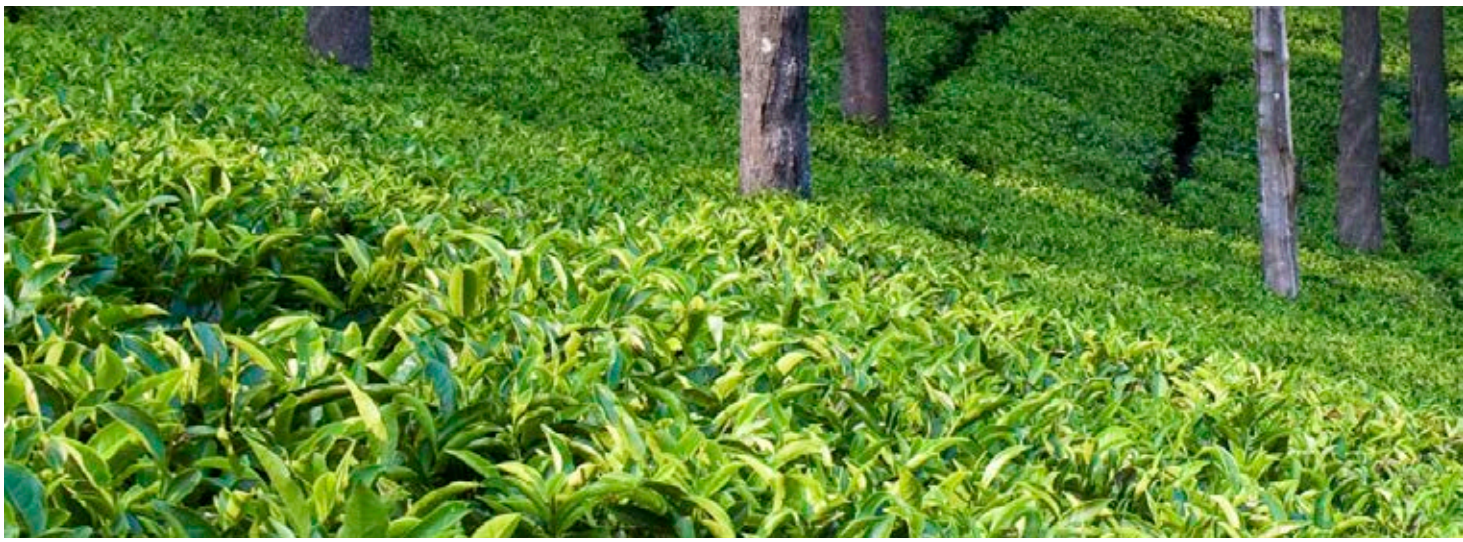
Increase in self-employment opportunities for women

The direct selling industry has traditionally had a higher participation from women. Considering the prevailing trends, by 2025, the industry in Karnataka can potentially engage about 600,000-650,000 women as direct sellers providing additional income opportunities to their households.

Growth in the number of women direct sellers



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI Direct Selling Task Force and KPMG in India analysis 2014-15



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The industry has the potential to contribute INR3,500-4,000 million to the exchequer in the form of taxes

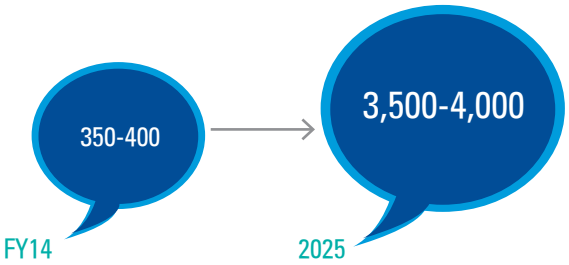
2025: The industry's projected contribution to corporate social responsibility

- In August 2013, the Indian parliament passed the Indian Companies Act, 2013 (the 'New Act'), which replaced the Companies Act of 1956. The New Act has imposed compulsory corporate social responsibility obligations (CSR) upon Indian companies and foreign companies operating in India. Companies with a turnover of INR10 billion or net profit of INR50 million or more have to spend 2 per cent of their net profit for the preceding three years on CSR. With the New Act in place, the direct selling industry's contribution towards CSR is expected to magnify significantly.
- The industry is expected to annually contribute huge sums towards CSR activities by 2025 annually (considering that 50 per cent of the revenues will be generated by companies falling under the requirements of the Act). Besides the mandatory requirement, many other direct selling companies contribute significantly towards CSR.

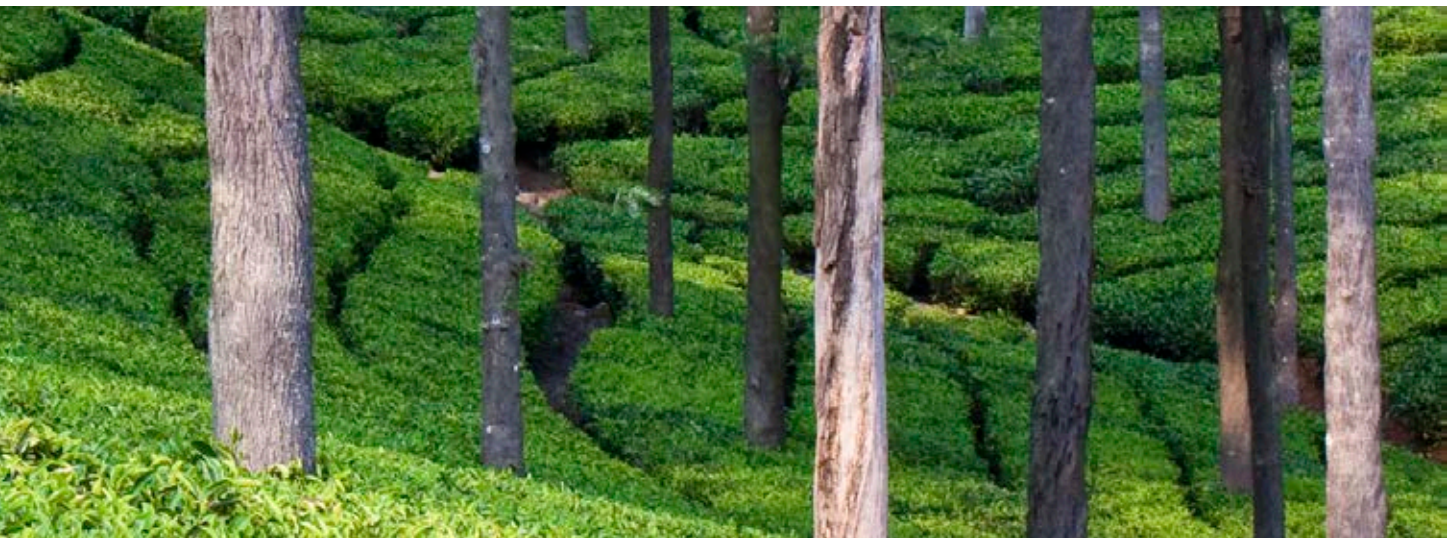
Contribution to government revenue

Considering the market's potential to grow to INR35-40 billion in 2025, the contribution to the government revenue in the form of indirect taxes is also expected to reach to INR3,500-4,000 million by 2025.

Tax contribution in Karnataka (INR million)



Source: IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, Industry discussions, FICCI Direct Selling Task Force and KPMG in India analysis 2014-15
Note: Impact of GST has not been considered for the opportunity assessment of the industry and its contribution to the exchequer.



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Challenges faced by the industry



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The direct selling industry, similar to the larger consumer industries faces issues of counterfeits and general difficulty in doing business in India. However, our interactions with the industry participants suggest that one of the biggest challenges that the industry faces today is that of regulatory uncertainty and lack of legislative support in recognition of the rightful industry.

The Indian direct selling industry is well poised to occupy an important position in the international and domestic markets. However, there are many issues and challenges which remain bottlenecks for the growth of the Indian direct selling industry.

Specific industry challenges

Regulatory uncertainty

While the direct selling industry in Assam has witnessed reasonable growth in the past few years, the industry faces certain regulatory challenges. There is no systematic and standard policy on direct selling that is based on the constitutional structure. In addition to this, there are other regulatory issues including a lack of definition and separate provisions for the industry, which can adversely affect the industry.

The regulatory challenge for the industry along with a potential solution road map has been discussed in detail in the next section.

Other industry challenges

Counterfeit products

Direct selling products should not be sold through retail stores. However, it has been seen that, many retailers become direct sellers and start off by selling the products to customers through retail outlets. This leakage of products through traditional retail channels is contradictory to the very nature of direct selling and needs to be adequately addressed. This channel also encourages the sale of counterfeit products which affects the brand.

Difficulty to set up manufacturing facilities

Several larger direct selling companies in Karnataka are renowned MNCs. However, due to rigid labour laws and poor infrastructure, many of these have found it difficult to set up their own manufacturing facilities in the state. All states have different regulations and there is no centralised federal system, making the process of getting clearances costly and time consuming.

High import duties

Many ingredients for the industry's products are imported. Higher import duties add to the prices of the products and as a result makes them more expensive for the final consumer adversely affecting the demand for such products as they are available at lower prices in international markets.

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Regulatory challenges, and the way forward



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Current regulatory environment in Karnataka

One of the biggest challenges that the industry faces today is that of regulatory uncertainty, both at the central and the state level, and lack of legislative support in recognition of the rightful industry. In Karnataka, there are no state-specific rules or guidelines governing direct selling activities.

However, in certain states direct selling companies have been allegedly tagged along with fraudulent schemes under The Prize and Chits Money Circulation (Banning) Act, 1978 ('PCMCS') by the law enforcement authorities of such state(s). The state judiciary and regulators have alleged that some of the companies engaged in direct selling, conduct the 'money laundering activities' by promoting or conducting a scheme for making quick and easy money. In the wake of these allegations, there have been instances of top managerial persons of a direct selling company being remanded to custody. Local authorities have stalled the operations of these direct selling companies and caused irreparable damage to their reputations. This regulatory challenge has lead to business uncertainty in India, with the added risk of harassment and business disruption.

The Prize and Chits Money Circulation (Banning) Act, 1978

The PCMCS Act was legislated in 1978 to regulate and ban fraudulent Pyramid and Ponzi schemes prevailing in the country which primarily benefit the promoters and do not serve any social purpose. The Section 2(c) of the PCMCS Act, which provides an inclusive definition of 'money laundering schemes', emits a clear mandate of this stringent law, that prize chits, money circulation schemes, by whatever name they may be called are to be banned.



It is imperative to note that PCMCS Act is an archaic legislation which was enacted around 40 years ago when the Indian markets had not even experienced any penetration by direct selling companies.

Having said the above, the provisions of the PCMCS Act do not explicitly exclude or deal with businesses which involve genuine sale of products or services via the direct selling mode. The primary intent of this statute is to interdict schemes having no public value and designed to lure a chain of innocent investors to loose their money.

However, during the last few years, some Indian government authorities have[1], on a mistaken understanding of the direct selling model, taken the view that models of direct selling companies are akin to pyramid-based financial and money circulation schemes banned under the PCMCS Act.

Applying the principles of legal interpretation and construction, read with the pragmatic legislative intent behind the enforcement of this statute, conflation of genuine direct selling companies with pyramid and Ponzi schemes is a clear case of confused identity. (Detailed analysis of the real legislative intent of the PCMCS Act, 1978 is enclosed as Annexure 1).

Therefore, the differences in interpretation regarding the applicability of the PCMCS Act has created formidable hardships for genuine players operating in this industry. The law enforcement authorities have also been oblivious of the fact that genuine direct selling companies have been investing significant amount in manufacturing and research and development, deal in high quality products- usually globally accepted brands, provide after sales services, redress distributor/ consumer grievances on a timely basis. In addition to significant capital investment, the distributors engaged in selling of their products are paid commission based on quantum of

1. KPMG in India analysis 2014-15

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sales and while the unsold inventory is bought back in case of no eventual sales.

It is due to this backdrop that the need to confer regulatory clarity and certainty on direct selling companies with legitimate businesses, arises so as to ensure that they are not conflated with fraudulent pyramid and Ponzi schemes.

Multiplicity of regulations

The direct selling sector in India has a quasi-federal governance structure. The Constitution of India has demarcated the areas of jurisdiction[2] for the central government (Union List), state governments (State List) and joint administration between central and state governments (concurrent list).

According to the Indian constitution, wholesale and retail trade fall under the purview of state governments. Since direct selling, as defined in NIC 2008 classification[3], is a part of non-store retail format, it falls under state legislation. However, this sector is also closely monitored by different ministries/departments of the central government.

As on date, multiple statutes relating to consumer protection, labelling of products, food safety and standards, administrative laws both at the central and state level regulate the direct selling sector in India in a piecemeal fashion. This complex maze of multitude of regulations is further complicated by the misapplication of the PCMCS Act.

Therefore, one of the major challenges faced by direct selling companies in India is that they have to abide by and ensure compliance with over 30 odd regulations with no nodal government department so far. This involves significant time, effort and cost, thereby adding to the difficulties of this promising sector in India.

Definitional issues

The lack of definitional clarity is another major issue impacting the growth of the direct selling industry.

Contending that the absence of a precise definition of direct selling is a primary reason for confusion, experts have often drawn inferences from three different perspectives - (1) legislative; (2) operational; and (3) statistical:

Legislative definition

Given that there is no legislative definition of direct selling in India, on certain occasions meaning of a direct selling scheme has been adopted from statutes prevalent in other countries across the globe viz. Malaysia, the U.S., the U.K., Singapore, etc. However, apart from persuasive value such definition(s) have no relevance in the Indian context.

Operational definitions by various associations

The second category of definitions include definitions provided by the associations such as Indian Direct Selling Association, World Federation of Direct Selling Associations, etc. (already discussed earlier) are also not sufficient to define the scope of the direct selling industry in India. These definitions do not tantamount to law and policy.

Statistical definitions

Among the statistical definitions, one may refer to the classification of products provided under the United Nations Central Product Classification (UNCPC) - and National Industrial Classification (NIC).[4]

UNCPC and NIC are the standard classification systems followed for classifying various economic activities. Such classification systems help ensure comparability of statistics from various systems, on different aspects of the economy, and usability of such data for economic analysis. In the current version 2 of UNCPC, the two digit code:

- 62 - stands for 'Retail trade services'; and the further classifications:
  - 621 and 622 - stands for retail trade services through specialised and non-specialised stores
  - 623, 624 and 625 - is a residual category and can be interpreted as direct selling
  - 623 is explained as, 'This group includes:- mail, catalogue or Internet sales services by stores that accept orders of new goods by mail, telephone, e-mail, etc., and ship or deliver products to the customer's door.'
  - 624 is explained as, 'This group includes:- retail trade sales through vending machines; retail trade services of market stalls- retail trade services of door-to-door sales or direct sales, defined as a method of consumer product and services distribution via sales in a person-to-person manner/ away from a fixed retail location primarily through independent salespeople and distributors who are compensated for their sales and for their marketing and promotional services, based on the actual use or consumption of such products or services.'
  - Finally, 625 is explained as, 'This group includes: retail services of commission agents who negotiate retail commercial transactions for a fee or a commission; services of electronic retail auctions.'

The Indian statistical counterpart is the 2008 version of the NIC. At the 2-digit level, NIC 2008 defines:

- Division 47 - covers retail trade, with the exception of motor vehicles and motor cycle
  - 471 through 478 are sales through stores, stalls and marts.
  - 479 – Retail trade not in stores, stalls or marts'.

2. Constitution of India
3. NIC, MOSPI- 2008
4. http://unstats.un.org/unsd/CR/Registry/regcst.asp?Cl=9&Lg=1

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One can sub-divide a bit further, but that is at best artificial.

- 4791 - Retail sales via mail order houses or via the internet' and explained as: 'in retail sale activities in this class, the buyer makes his choice on the basis of advertisements, catalogues, information provided on a website, models or any other means of advertising. The customer places his order by mail, phone or over the Internet (usually through special means provided by a website). The products purchased can be either directly downloaded from the Internet or physically delivered to the customer'.
  - 47911 - Retail sales via mail order houses
  - 47912 – Retail sales via e-commerce.
- 4799 - This leaves a residual category of other retail sales not through stores, stalls or marts.
- 4799 is interpreted as retail sale of any kind of product in any way that is not included in previous classes (by direct sales or door-to-door salespersons, through vending machines, etc.), direct selling of fuel (heating oil, fire wood, etc.), delivered directly to the customer's premises, activities of non-store auctions (retail) and retail sale by (non-store) commission agents. This class excludes delivery of products by stores.
- 47990 – Other retail sales not in stores, stalls or markets.

The direct selling industry is evolving with rapid technological developments and many new non-store formats like e-tailing, catalogue selling, mail-order selling and telemarketing are developing. These are often linked to direct selling as it involves booking through phone calls and demonstrations through catalogues. In the wake of the existing regulatory uncertainty hovering over this sector and ever-growing forms of non-store retail, it is imperative to arrive at a precise definition and classification of direct selling business.

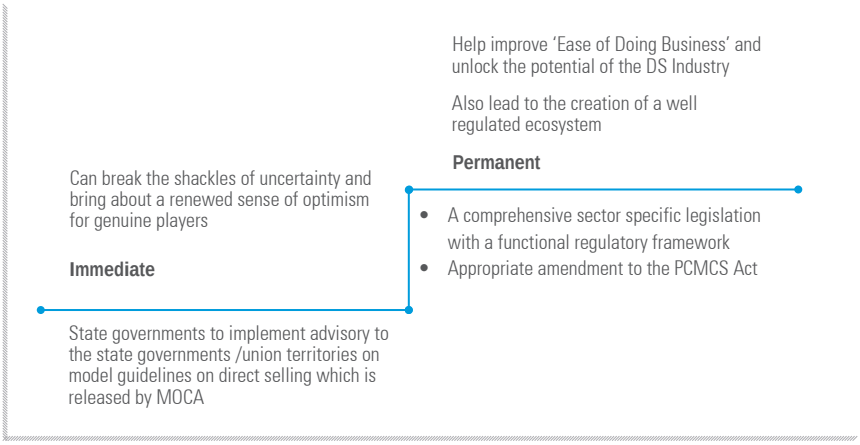
Potential solutions

To provide a conducive and sustainable operating environment in India for the companies operating in the direct selling industry, a series of reforms are required ranging from immediate short-term reforms in the nature of framing state level rules and/or standard operating procedures for law enforcement agencies to long-term measures of enacting a specific governing legislation for the sector or making amendments in the existing Acts/policies.

A separate policy framework for the direct selling industry can clear the blurred lines between ethical industry players and impersonators and go a long way in regaining consumer confidence. This change is imperative, especially when the industry is in double jeopardy at the moment – an erosion of faith and an identity crisis.

We have listed potential approaches below that can be considered by the state government/regulators in the coming future to benefit this industry.

A snapshot: Potential solutions



Source: IDSA annual survey 2013-14 and 2009-10, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015, PHD Chamber, ICREAR, Direct Selling News, Industry Discussions, FICCI Direct Selling Task Force

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Formulation of standard operating procedures in each state

While remedies in law are available in existing statutes, even today, they do not address the distinct problems of the direct selling industry. The Indian law provides only for post-facto remedies wherein the customer can seek remedy only after they have been wronged or cheated by a fly-by-night operator. As a consequence, owing to lack of legal and administrative guidance, the law enforcement agencies of the state(s) erroneously tag along the direct selling businesses with money circulation schemes banned as a criminal offence under the PCMCS Act.

In the above backdrop, in order to give the direct selling industry a chance to substantiate genuinity and prevent immediate criminal action on the receipt of complaint, the state along with its law enforcement agencies may develop standard operating procedures to be followed in case when a complaint is filed against fraudulent MLM schemes. This ground level initiative could help avoid undue harassment of genuine players of the industry and restore public confidence.

Specific standard operating procedures for law enforcement authorities can help ensure that timely and correct legal action is taken against fraudulent money circulation schemes and undue harassment of bonafide direct selling companies can be curtailed.

Formulation of state-specific guidelines

The need of the hour is that the Karnataka government formulates specific guidelines governing direct selling activities in the state. Such guidelines should address the underlying problems of information asymmetry between business and potential customer, lack of consumer awareness and absence of certainty. Formulation of state guidance could act as the first concrete step to address the direct selling conundrum and help ensure consumer protection.

In order to distinguish between direct selling businesses and Ponzi/pyramid schemes, as per our discussions with FICCI, the broad contours of a regulatory framework which may be adopted[5] for regulation of direct selling business in each state have been defined.

i. **Definition of direct selling**
The guidelines should provide a precise and clear definition of the direct selling activities viz. which specifically elaborate and specify the meaning and scope of the term 'direct selling' and excludes specified industries or markets from the scope of these regulations. Further, the definition may provide for the forms of business eligible to undertake direct selling activities viz. a company, a limited liability partnership, partnership firm, etc. duly incorporated and registered under the relevant statute.

ii. **Constitution of a direct selling regulatory authority**
The state government may constitute a 'direct selling' regulatory authority for the purposes of registration, control and supervision of the direct selling activities in the state.

iii. **Enforcement of mandatory business registration or a licensing requirement**
Every business intending to engage in direct selling activities should undertake business only after obtaining a prior registration as may be prescribed under the guidelines. The regulatory authority may require payment of a security deposit i.e. fixed percentage proportionate to the total expected turnover of the company, as a pre-condition to registration.
The state may adopt a licensing system instead of mandatory registration. It is pertinent to note that a licensing requirement would prohibit businesses from operating unless the regulator allows them to do business, and would require prior conditions to be complied with (minimum capital requirement, mandatory deposits, etc.). This would be a more stringent mode than the mandatory business registration.

iv. **Periodic inspections**
Registration may be accompanied by periodic filings by the direct selling companies, followed by annual inspection or at prescribed interval(s) as the regulatory authorities may deem necessary. This can help the regulatory authority to develop appropriate strategies to clampdown on unfair practices, allow businesses to correct defects in their operations and help increase consumer awareness.

5. FICCI direct selling taskforce

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v. **Provision for redressal of consumer grievances**
While the Consumer Protection Act provides adequate safeguards against misrepresentation and false claims about products, it might not be sufficient to hold individuals accountable in a 'direct selling' context since the claims are often made on the model of distribution instead of products or services. Hence, apart from the responsibility of the regulatory authority, the guidelines may provide for the preparation of an internal grievance redressal mechanism wherein information can be sought on claims being made, and where complaints against distributors are addressed and measures are taken to address malpractices that are brought to the notice of the company.

vi. **Specific Rules for conducting the business**
The guidelines may specifically prohibit or mandate certain specific practices for direct selling companies viz. mandatory provisions for the buyback of unsold inventory, prohibition of mandatory joining fees or a mandatory purchase of products in order to enter the distribution network, and requiring clear identification as proof of being genuine distributors, etc.

vii. **Recognition of a self regulatory body**
The guidelines may provide adherence to the 'code of conduct' of a recognised self regulatory body. If direct selling businesses claim to be compliant with an association and its code of conduct and are found to be non compliant or not members of that body at all, consumers and regulators should have the right to hold such businesses accountable. Since consumers may have been induced in the scheme by virtue of compliance with such rules, it is important to prevent such false claims being made.

viii. **Consumer awareness campaigns**
The guidelines may stipulate provisions to carry out advocacy, training and consumer awareness campaigns. Alternatively, a common pool or resource fund may be created that contributes to regular advocacy and consumer awareness campaigns. These campaigns can help consumers distinguish between genuine and illegal schemes making them aware of their rights under the law. The fund could also be utilised for regular and recurring training sessions for relevant law enforcement officials at the grassroot level.

ix. **Stringent penal provisions**
Specific and onerous penalties, together with prosecution, may be incorporated under the guidelines to safeguard the interests of the consumers at large and discourage any unethical practices.

x. **Establishment of appellate forums**
Efficient and time-effective mechanisms should be designed to help ensure relevant information is shared with the regulatory authorities and/or law enforcement agencies so that investigation and preventive action can be taken against cloaked schemes.

FICCI's recommended regulatory framework

- Clear and precise definition of direct selling and MLM activities
- Registration of such businesses as incorporated entities
- Constitution of a state-level department – A Single point of clearance
- Prescribed security deposits
- Periodic inspections and audits of companies
- Specific conditions may be imposed to regulate the conduct of such businesses
- Enabling clauses to extend incentives/benefits to genuine players
- Stringent but clear penal provisions
- Constitution of independent appellate forums.

Potential benefits

- Being viewed as investor-friendly can help provide states with a competitive edge
- Improve the 'Ease of Doing Business' ranking of the state
- Aid in the process of building 'Smart Cities'
- Protect the interests of both the direct sellers as well as consumers.

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Amending the PCMCS Act can help enhance regulatory clarity

- Over the years, many steps have been taken by the centre and various state governments to formulate an enabling policy for direct selling companies in India[6]. Various inter-ministerial committee(s) were formed under the aegis of the Ministry of Consumer Affairs and Ministry of Finance to formulate sector-specific regulations which are still under review by various government bodies. The Finance Minister, in the Budget Speech of 2014, proposed to bridge the regulatory gap under the PCMCS Act and bring about the long awaited legislative reform. However, no progress has been made in this regard so far.
- The PCMCS Act needs to be amended to make the distinction clear between direct selling and fraudulent pyramid money circulation schemes and exclude the direct selling industry from its scope. The said amendment should succinctly outline clear indicators of fraudulent schemes including:
  - **Payment for recruitment and/or redistribution of joining/periodic renewal fees**
    - » Payment for recruitment: When the scheme generates income based on recruiting alone, it is a pyramid scheme and thus, should be prohibited.
    - » Redistribution of joining or periodic renewal fees: When there are entry or renewal fees that are redistributed to other participants in the scheme, it is a pyramid scheme and thus, should be prohibited.
  - **Schemes where products are pushed on participants:** When participants, as a condition for joining or remaining in the scheme, are required to purchase a specified inventory of products which cannot, under normal circumstances, be resold or returned for a refund, a pyramid scheme may be presumed. Such a practice is often called 'inventory loading' and may also be used as a proxy for joining or renewal fees that gets redistributed to other participants. Thus, such practices should be prohibited.
  - **Schemes where products are not refundable and returnable:** Where customers and distributors are not offered a commercially reasonable opportunity in compliance with the mandatory provisions of the local legislation to return products with which they are not satisfied, or which they are not able to sell, as the case maybe, a pyramid scheme is presumed.
  - **Schemes which restrict the commission paid to the distributor:** The proportion of commissions on the sale of a product that may be shared with distributors should be restricted to a reasonable percentage of the total revenue from sales to distributors.

  In addition to these, the amendment of the Act could include the following:
  - **Approval authority given to the state governments:** It can be provided that only the schemes approved by the respective state governments would be considered as permissible activity.
  - **Mandatory 24x7 call** centres to address customer complaints.
  - **Compulsory accreditation of products** from government approved quality institutes (similar to how food products or related products require accreditation under FSSA Act) or adherence to certain pre-determined quality standards in India.

Filling in the gaps in the present PCMCS Act can help the direct selling sector to break the shackles of uncertainty and bring about a renewed sense of optimism among the genuine players.

6. KPMG in India analysis 2014-15

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Need for a clear definition of direct selling

- There is no clear and holistic definition of direct selling in India and as a result, the classification of direct selling is not clear. Absence of a precise definition has lead to conflation of genuine direct selling schemes with fraudulent quick and easy money making schemes.
- There is need for a proper definition of 'direct selling model' under a specific legislation in India. Moreover, given the numerous social as well as economic benefits of this specialised channel of distribution direct selling should be given a separate 'Industry status'.
- A facilitative and efficient regulatory framework can only flow from how direct selling is defined in law. In order to encourage innovation in business practices while broader social and economic public policies are met, the definition of direct selling may consist of two limbs: the first elaborates and specifies the meaning and scope of the term 'direct selling' while the second would specifically exclude specified industries or markets from the scope of legislation. This shall result into a business model neutral definition of direct selling mode of business.
- The first limb would be a carefully drafted exhaustive definition that addresses key aspects and characteristics of the business without specifying a business model. The second limb would cover and clearly demarcate the jurisdictional scope of the legislation by excluding specific types of schemes, arrangements or even industries from the scope of direct selling.
- The advantages of such a definition are direct:
  - it ensures that the ambit of the legislation is wide enough to determine that objectives of a regulator are sufficiently fulfilled;
  - while simultaneously also limiting the ambit of the legislation to these specific objectives alone.
- Such a definition must be supplemented by rules and regulations that incentivise voluntary compliance, access to market information, and still provide reasonable space for both regulators and businesses to take corrective measures.

Separate Industry status can help develop an inter-related and inter-connected ecosystem of direct selling companies, inducing benefits of economies of scale, helping ensure healthy competition and encouraging technological innovations, etc. This can also allow direct selling businesses to thrive in a well regulated and monitored environment.



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Need for a governing ministry and legislation

- The lacunae in the PCMCS Act necessitates that its diverse provisions are supplemented by a legislation that specifically addresses direct selling.
- At present, direct selling falls under the purview of state legislation and is also governed by various ministries/departments at the centre, state and local levels. The multiplicity of regulatory bodies has resulted in multiple regulations and regulators governing this sector. These should be streamlined for smooth performance and development of this promising sector.
- While it is important that an enabling definition of direct selling is developed, it cannot serve its full purpose unless it is accompanied with an appropriate legislative recognition and effective enforcement. Considering this, the government should nominate a specific ministry governing the 'direct selling industry'. Such ministry should provide for specific regulations with a precise and clear definition of 'direct selling activities' including legitimate MLM companies.
- The consumer protection laws also need some modifications in order to protect the interests of the consumers for products sold through direct selling. For example, the laws do not clearly specify the cooling-off period for purchases through the direct selling mode. Apart from this, legal cases in India take time and there is a need to speed up consumer court proceedings.
- In this context, the Indian government can leverage from the regulatory experiences and practices of other countries, viz. the U.S., the U.K., Malaysia, Singapore, etc. The industry, government and consumers suffer because of the activities of some of the fraudulent players. Therefore, the central government can collaborate with industry associations and independent legal experts to design an appropriate regulation.
- 'Trade and commerce' being the state subject, from a consistency perspective, the power to define direct selling activities and demarcation of pyramid schemes from bonafide direct selling businesses may be provided at the central level. While, the state government should be provided complete autonomy to implement the provisions of such central legislation by way of formulation of inter-alia specific consumer protection rules/guidelines governing the activities of direct sellers in each state.

Single point clearance and a specific legislation can help bring about clarity in the business dealings of direct selling companies and save on cost, time and effort.

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Myths surrounding the industry



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Most direct selling companies are pyramid schemes that are doomed to fail

The differentiating factors between direct selling and pyramid or Ponzi schemes clearly indicate that with a view to make quick money, their promoters typically make participants deposit large sums of money to join, and financial rewards depend on further recruitment of members. Some Pyramid/Ponzi schemes may purport to sell products to camouflage the financial fraud but the products usually have little value and there is little or no selling.

On the other hand, genuine direct selling involves marketing of quality products at competitive prices with associated product warranties and guarantees. Also, the exponential addition of distributors to the network is earned only by accomplishing actual sales on a consistent basis.

Of course, it is necessary to watch out for clear indicators of pyramid schemes, including high joining fees, emphasis on recruiting new members not selling, no buying back of products, etc., as elaborated upon earlier in the document.

The specific details such as IDSA code clause for 12 months, direct sellers kit provided, etc. need to be covered in detail. So this needs to be retained.

Majority of direct sellers lose money; a lot of the direct sellers drop out from the companies

- A large number of direct sellers say that direct selling meets or exceeds their expectations as a good way to supplement their income or as a way to make money for themselves[1].
- A large number of the direct sellers say that direct selling meets or exceeds their expectations as a business where the harder they work, the more money they can make.[2]
- In addition to providing income opportunities, direct selling also imparts transferable skills in sales and management, which can be used outside the direct selling industry, as well.
- The various direct selling associations' (IDSA, WFDSA, etc.) code of ethics, is designed to protect direct sellers and their customers. Inventory buybacks (which include sales aids) and other provisions allow sellers recourse if they wish to exit the industry.
- While the retail industry has attrition rates as high as 20 percent, the attrition rate for the direct selling industry is around 11 percent.[3]. Many direct sellers do not drop out due to failure but do so as they may not want to sell any more for the year.



1. ICRIER survey report titled 'socio-economic impact of direct selling: Need for a policy stimulus' published in 2010, retrieved on 25 August 2015
2. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15, 22 September 2015
3. IDSA annual survey 2013-14, ETRetail.com retrieved on 25 August 2015.

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Everyone who gets involved in direct selling wants an easy way to make money

People join direct selling firms with various intentions. As per ICRIER survey in 2011 (Report titled socio-economic impact of direct selling), 60 per cent of the respondents stated earning additional income as one of the key reasons for joining as a direct seller, 60 per cent of the surveyed people mentioned direct selling as a medium of becoming independent, while others take it up as it offers more flexibility or acts as a major source of income. In fact, direct selling offers significant employment opportunities to women in particular. About 64 per cent of women engaged in direct selling are self employed (full-time) direct sellers while only 36 per cent are part-time consultants[4]. Hence, there is a clear recognition of direct selling's potential to generate stable income in proportion to the efforts made.

The IDSA code of Ethics[4] requires that information provided by direct selling companies to prospective or existing direct sellers should be accurate and complete. Companies are required to present the advantages of the selling opportunity to any prospective recruit in an accurate and realistic manner.

Most companies require inventory purchases; direct sellers who drop out are stuck with the inventory they purchased

Direct selling companies typically do not require or encourage Direct Sellers to purchase product inventory in unreasonably large amounts. The IDSA code governs that companies shall buy back any unsold, re-saleable product inventory, purchased within the previous 12 months in case the seller opts to quit.[4]

Recruitment is the key to success in direct selling; sales to end-users of the products and services are minimal

Recruitment is certainly an important aspect of direct selling. This helps in the expansion plans of the company thus leading to its growth. However, recruitment is not a requirement for the growth of an individual direct seller, as the compensation is almost always based on actual sales of products or services. The direct selling industry in India was worth more than INR75 billion in 2014. Major firms such as Amway, Avon, Tupperware, Oriflame, etc. are all product companies[5]. The IDSA code specifies that companies shall take reasonable steps to ensure that direct sellers who are receiving compensation for down line sales volume are either consuming or reselling the products they purchase in order to qualify to receive compensation.

Direct selling companies have a clear focus on new product development. As per PHD Search Bureau and IDSA surveys as part of the Indian direct selling industry, annual survey 2013-14, on an average, each direct selling company introduced around three new products/variants during 2013-14 in India, while the number was seven in 2012-13. The companies have also invested about 2 per cent of their annual revenues in R&D activities in 2013-14 which reflects the strong product focus of these firms.

In addition, direct selling companies invest significantly towards the development of direct sellers. Direct selling companies have offered training to their sales representatives in the range of 200 man hours per quarter to around 22,000 man hours per quarter in 2013-14[4].

4. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015
5. IDSA annual survey 2013-14, Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15



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If a person attends a direct selling event/party, he/she is expected to purchase a product that is typically overpriced

There is no obligation to purchase any product during any direct selling events/parties. These events are usually conducted only to demonstrate company products by the direct selling consultants. The key purpose is to enhance the customer buying experience while interacting with knowledgeable and friendly consultants. They offer elaborate insights into the products which are not available with other retail formats. The IDSA code also mentions that a direct seller shall discontinue a demonstration or sales presentation immediately upon the request of the customer and should not force him/her to make any purchase.[6,7]

In this competitive age, the market is unlikely to be able to sustain overpriced products for longer periods of time. Nearly all the direct selling companies offer 100 per cent money back policy, in many cases even if the products are used. Direct selling has been found to be appealing to customers for its high quality of products and increased buying convenience.[7] Some of the products could be in the premium segment but the value-added incentive of the demonstration and personal service increase their acceptance.

Direct selling is an outdated method of buying and selling

Direct selling is practiced in more than 170 countries globally. The direct selling industry in India has shown a growth rate of 16 per cent over the period of FY11-14. Globally, the direct selling industry grew at a CAGR of 8.5 per cent over 2010 to 2014[6,8].

With rising income levels and demand for convenience, formats like direct selling and e-commerce are catching on in the country. These channels remove multiple intermediaries, thereby offering effective and economical ways of selling products and services. Direct selling in particular, allows companies to significantly cut down advertising costs.

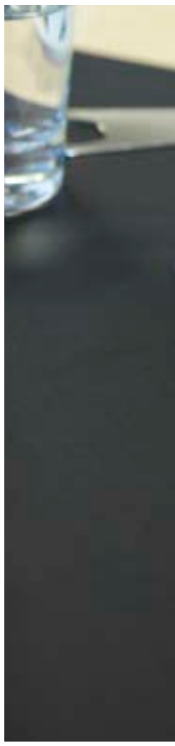
There are many examples where large companies have leveraged the direct selling model to increase customer outreach and sales in a cost-effective way. HUL's project 'Shakti', which increased the penetration of its products along with empowering women, or Eureka Forbes selling its high value products through direct selling are testimony to the relevance of the direct selling model in India.[7]

6. IDSA annual survey 2013-14, IDSA, http://www.idsa.co.in/IndustryReports.html, 22 September 2015
7. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15
8. WFDSA annual report 2015, WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015



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Annexures



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Annexure 1[1]

The Prize and Chits Money Circulation (Banning) Act, 1978

A consequence of the 'James Raj Committee'

The PCMCS Act is the direct outcome of the report of James S. Raj Committee constituted by the RBI in June 1974. In the opinion of the study, group activities, viz. prize chit/benefit/savings scheme, etc. primarily benefit promoters and do not serve any social purpose. They are prejudicial to the public interest and also adversely affect the efficacy of fiscal and monetary policy.

The central theme of the James Committee report was to safeguard the monetary and credit policies of the country and ensure a degree of protection to the interests of the depositors who place their savings with such companies. To achieve such a broader objective, the Committee suggested banning money laundering activities i.e. prize chit/benefit/savings schemes.

The legal edifice

With the overarching objective of protection of public interest, the PCMCS Act prohibits promotion, conduct of or participation in any 'prize chit' or 'money circulation scheme'. A 'money circulation scheme' is widely defined under the Section 2(c) of the PCMCS Act as:

'Any scheme for the making of quick or easy money or for the receipt of any money or valuable thing as the consideration for a promise to pay money, on any event or contingency relative or applicable to the enrolment of members into the scheme, whether or not such money or thing is derived from the entrance money of the members of such scheme or periodical subscriptions'.

Section 3 of the PCMCS Act bans the above activities stating that:

'No person shall promote or conduct any prize chit or money circulation scheme or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme'.

Anyone related to such banned activities under the Act or attempting to promote such activities are also liable to penalty and prosecution subject to the provisions of the PCMCS Act.

From the above discussion, it is amply clear that the application of the PCMCS Act to the direct selling industry is rather accidental by enforcers and was unintended by legislators, provided the direct selling scheme is genuine.



1. FICCI report on direct selling industry in India, 2013

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Misapplication of the PCMCS Act

There have been multiple instances where enforcement agencies have invoked the PCMCS Act to genuine direct selling companies. Undoubtedly, there are a considerable number of fraud companies, who in the name of direct selling dupe innocent customers. In fact, either without a product or without a token/sham product they run money circulation schemes. Justifiably, PCMCS is to be applied so that innocent customers are protected.

However, as indicated above, genuine direct sellers are booked under PCMCS and victimised because of distributor rewards which is another critical issue needing attention. A distributor with no personal active selling or personal nominal selling may earn enormous rewards (commission, reward, incentive etc.), if he/she trains his/her recruitments to sell well.

These high incentivising opportunities are highlighted in IEC materials published by the direct selling companies. This creates a mistaken impression that direct selling activity enables earning of 'easy money' amongst some regulators. Therefore, the genuine 'marketing bonus' payments to distributors should not be misinterpreted as payments for recruiting new members as they are 'based on the quantity of actual sales'.

Genuine direct selling schemes charged under the PCMCS Act are a case of confused identity

The PCMCS Act does not explicitly exclude or deal with businesses which involves genuine sale of products or services. Section 2(c) of the PCMCS Act is clear that prize chits or money circulation scheme which have no public value; and cause innocent investors to lose their money are to be banned.

The following extract of the report will bring out the exact intent of the Committee:

'….There has also been a public clamor for banning of such schemes (prize chit/benefit/savings scheme); this stems largely from the malpractices indulged in by the promoters and also the possible exploitation of such schemes by unscrupulous elements to their own advantage. We are, therefore, of the view that the conduct of prize chits or benefit schemes by whatever name called should be totally banned in the larger interests of the public and that suitable legislative measures should be taken for the purpose if the provisions of the existing enactments are considered inadequate. Companies conducting prize chits, benefit schemes, etc., may be allowed a period of three years which may be extended by one more year to wind up their business in respect of such schemes and/or switch over to any other type of business permissible under the law'.

Despite the fact that direct selling companies have appropriate approvals from the regulatory authorities in India, the detractors have drowned the definition of direct selling in line with the provisions of the Act which as discussed, are not intended for genuine direct selling schemes. Such activities are deemed to be akin to money circulation schemes and a few companies have also been prosecuted by the Indian state authorities under the PCMCS Act.

In the simplest terms, direct selling is person-to-person sale of a consumer product or service. The second most important distinguishing factor is the composition of the sales force. The real confusion arises when one talks of direct selling companies that deploy multilevel marketing compensation plans. To be precise, this is merely a technique used by direct selling companies to streamline and compensate the direct sales force or business owners. According to WFDSA[2], the correct way of representing MLM is to call it a direct selling compensation plan where sales people receive payment in a variety of ways.

2. WFDSA, http://www.wfdsa.org/library/index.cfm?fa=publications, 22 September 2015

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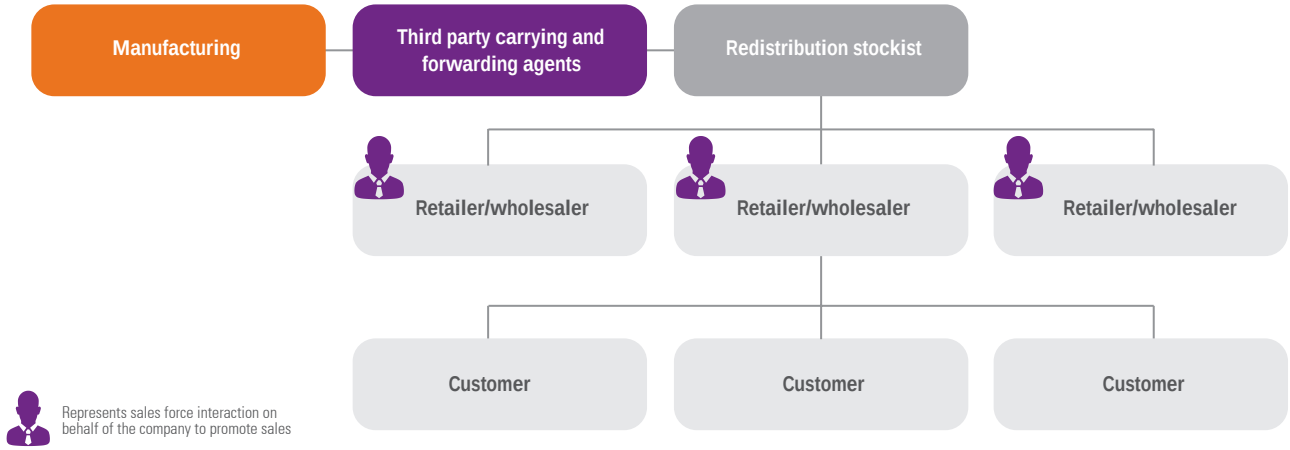
Annexure 2[3]

There are a lot of similarities between traditional consumer goods, retail and direct selling models:

- In both the formats, distributors/ direct sellers earn a commission when product sales takes place.
- Also, in both the cases earning of the sales commission is based on the sales volume of the individual (and the group).

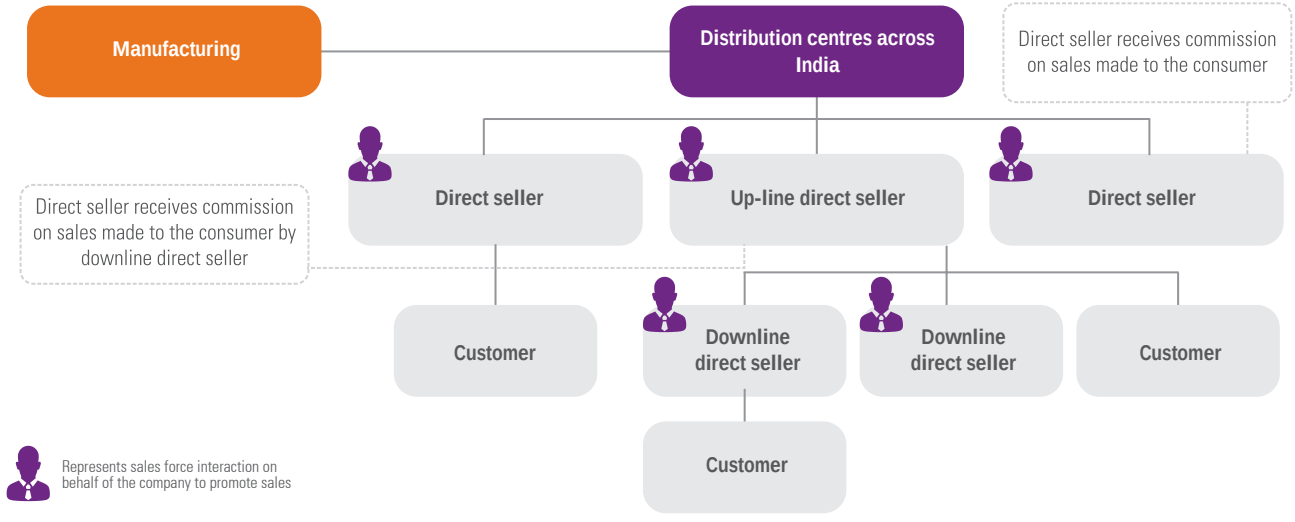
In the retail format, the CFA, redistribution stockist, and retail seller earn sales margins. In case of direct selling under an MLM plan, all different levels of direct sellers earn commissions on the sale of products.

Traditional consumer goods retail model



Source: Industry discussions, KPMG in India analysis 2014-15

Direct selling (multi-level marketing) model



Source: Industry discussions, KPMG in India analysis 2014-15

However, despite the similarities above, the traditional consumer goods retail and direct selling models, are essentially different formats with different investment requirements and sales philosophies.

3. Industry discussions, FICCI direct selling taskforce and KPMG in India analysis 2014-15

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Annexure 3

Forecast methodology

Direct selling market size estimation

Methodology adopted

1

Identification of industries that significantly employ direct selling methods

Based on industries currently forming a major part in direct selling both in India and abroad. For example: beauty and personal care

2

Determine the current market size of the identified industries and the penetration of direct selling in each of the identified industries

Based on secondary sources and KPMG in India analysis

3

Project the market size of the identified industries in 2025

Based on secondary sources and KPMG in India analysis

4

Project the penetration of direct selling in 2025 in each of the identified industries

Comparison with other economies which has exhibited a similar evolution cycle for direct selling industry

5

Aggregate the industry-wise numbers to arrive at the total projected market size for direct selling in 2025

Market size of the identified industry 1 X **Direct selling penetration in industry 1** + ---- + **Market size of the identified industry nth** X **Direct selling penetration in industry nth** = **Market size of the direct selling industry**

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Direct sellers' estimation

Methodology adopted

1. **Identification of country A whose current industry size is comparable to India's 2025 estimated market**
2. **Calculation of revenue per direct seller for the identified country A**
3. **Calculation of India's 2025 estimated market revenue equivalent in PPP terms for comparable estimation**
4. **Estimation of India's potential for generating self-employment using country A's equivalent**

Direct selling market size and direct sellers' estimation for states

Methodology adopted

1. **Projection of Indian middle-income households for 2025 using 2011 numbers**
2. **Distribution of the total Indian middle-income households by states based on estimated improvement in state welfare**
3. **Distribution of estimated direct selling market in 2025 by states using a proportion of middle income households as a proxy for the direct selling potential for that state**
4. **Distribution of estimated direct sellers in 2025 by states using a proportion of direct selling potential for that state**

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About FICCI

Established in 1927, FICCI is the largest and oldest apex business organisation in India. Its history is closely interwoven with India's struggle for independence, its industrialisation, and its emergence as one of the most rapidly growing global economies.

A non-government, not-for-profit organisation, FICCI is the voice of India's business and industry. From influencing policy to encouraging debate, engaging with policy makers and civil society, FICCI articulates the views and concerns of industry. It serves its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 2,50,000 companies.

FICCI provides a platform for networking and consensus building within and across sectors and is the first port of call for Indian industry, policy makers and the international business community.

FICCI Direct Selling Task Force

The FICCI FMCG division has been relentlessly working on various issues which are critical for the industry. We have been actively involved in the policy and strategy, capacity building and global recognition for the Indian FMCG industry. We have formed a Task Force on direct selling industry which works on the similar issues with the Government.

Direct selling is a very obvious distribution channel for FMCG industry and has gained huge importance at the time when demand is further driven by convenience at their door step. Direct selling, as we understand is a sales and distribution channel/system whereby, on the basis of certain well defined rules direct sellers can derive income not only from personal sales but also from ongoing sales and consumption by people whom they, directly or indirectly, have introduced to the direct selling company and for whom they provide ongoing motivation and training.

We at direct selling sub-committee give expert insight to the issues pertaining to this labour intensive direct selling industry. We interact with various ministries – to name a few – Ministry of Consumer Affairs, Ministry of Corporate Affairs, Ministry of Finance, etc., to bring legitimacy to direct selling sector. The sub-committee within itself has an advisory board of judgement neutral and intellectual people. In addition, the committee has coordinated the think tank which deliberates issues and concerns of the direct selling industry on regular basis. The committee has also undertaken several events and initiatives to clearly bring out distinction between scams and multi-level marketing.

About KPMG in India

KPMG in India, a professional services firm, is the Indian member firm of KPMG International and was established in September 1993. Our professionals leverage the global network of firms, providing detailed knowledge of local laws, regulations, markets and competition. KPMG in India, provides services to over 4,500 international and national clients in India. KPMG has offices across India in Delhi, Chandigarh, Ahmedabad, Mumbai, Pune, Chennai, Bengaluru, Kochi, Hyderabad and Kolkata. The Indian firm has access to more than 8,000 Indian and expatriate professionals, many of whom are internationally trained. We strive to provide rapid, performance-based, industry-focussed and technology-enabled services, which reflect a shared knowledge of global and local industries and our experience of the Indian business environment.

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KPMG's Disclaimer

KPMG in India has, to the best of its ability, taken care to accurately compile the information and material contained in this report. The report contains certain case studies, company profiles and country regulations which have been collected through primary interactions, media reports and company websites. We have indicated within our report the sources of the information presented. We have not sought to establish the reliability of these sources by reference to independent evidence.

In addition, the report contains certain prospective market projections. Such projections are based on secondary research and our analysis based on certain underlying assumptions. We must emphasise that the realisation of the projections is dependent on the continuing validity of the assumptions on which they are based. The assumptions will need to be reviewed and revised to reflect any such changes in the business structure and direction as they emerge.

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This paper shows a potential path the sector will follow in the run up to 2025; all our findings/forecasts are based on extensive research, analysis and discussions with industry players. However, they are subject to change due to the multiple unpredictable variables which could affect the industry.

The report shall be read in its entirety by those to whom it has been circulated for viewing, without removing any disclaimer. By reading this report, the reader/s of the report shall be deemed to have accepted the terms specified above.

Acknowledgements

This report could not have been written without valuable contributions from the following people.

Ms Leena Jaisani and her team at FICCI and Members of FICCI Taskforce on direct selling, who have guided and facilitated the making of this report.

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KPMG in India contacts:

Nitin Atroley
Partner and Head
Sales and Markets
T: +91 124 307 4887
E: nitinatroley@kpmg.com

Ambarish Dasgupta
Partner and Head
Management Consulting
T: +91 33 4403 4095
E: ambarish@kpmg.com

Rajat Wahi
Partner and Head
Consumer Markets
T: +91 124 307 5052
E: rajatwahi@kpmg.com

KPMG.com/in

FICCI contact:

Leena Jaisani
Senior Director & Head
Retail, FMCG, Direct Selling
E: leena.jaisani@ficci.com

ficci.com

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