

**LAW 1700 of DEC 27th 2013**

**"WHEREBY NETWORK MARKETING OR MULTI-LEVEL MARKETING ACTIVITIES IN COLOMBIA ARE REGULATED"**

**THE CONGRESS OF COLOMBIA**

**ENACTS:**

**CHAPTER I**

**Purpose and definitions**

**Article 1. Purpose.** The purpose of this law is to regulate the development and exercise of the marketing activities named as multi-level activities including, among others, network marketing in any form, according to the article below.

In exercising its regulatory powers with respect to this law, the Government will seek to preserve the following objectives: transparency in multi-level activities, good faith the defense of the rights of the persons involved in the sale and distribution of goods or services sold under this method and of consumers who purchase them, the protection of public savings and, in general, the defense of public interest.

**Article 2. Definition.** A multi-level activity shall be considered as any organized activity of marketing, promotion, or sales in which the following elements converge:

1. The engagement or recruitment of natural persons, so that they in turn recruit other natural persons, with the ultimate goal of selling certain goods or services.
2. The payment, or obtaining of compensation or other benefits of any kind from the sale of goods and services through the persons recruited, and / or profits through discounts on the retail price.
3. The coordination, within a commercial network of the persons recruited for the respective multi-level activity.

**Paragraph 1.** Companies that offer goods or services in Colombia through multi-level marketing shall be established meeting the legal requirements under the applicable law and must have at

least one office permanently open to the public. For the cases in which this activity is carried out through a trade representative, the latter must also have at least one office permanently open to the public and will be responsible for the compliance with the norms established in the Colombian legislation for the activities, products and services offered.

## CHAPTER II

### Multi-level sales network

**Article 3. Offers in multi-level systems.** Companies exercising multi-level activities shall be required to comply with all legal requirements, obligations and penalties of the existing legislation, and in particular those arising from the provisions of Law 1480 of 2011 "Consumer Protection" and its regulations.

**Article 4. Independent Vendor.** An independent seller shall be considered as the natural retailer person or legal person that exercises commercial activities and that only has commercial relations with the companies described in the second article of this law.

**Article 5. Rights of Independent Sellers.** In addition to the rights conferred on them by their contracts and the law, independent sellers are entitled to:

1. Ask questions, make inquiries and requests for clarification to multi-level companies, which must answer accurately, before, during and after their association with the respective independent seller. These shall be about the products or services sold, or about the content, scope and meaning of any clause of the binding contracts, including all relevant information concerning compensation or other benefits or rewards of any kind under the contracts, and about the achievement of the objectives that shall entitle them to the payments. Also, about the deadlines and dates of payment or delivery, in the case of compensation in kind.

The answers to the questions, inquiries, or requests for clarification in the preceding paragraph of this Section, shall be forwarded to the address, email or other means provided by independent sellers that raise them, within the periods specified in the current norms for responding to requests for information.

2. Receive timely and unambiguously compensation or benefits from the multi-level companies to which the independent sellers are entitled by reason of their activity, including any that remain unpaid after the contract between the parties ends.

3. Know before its affiliation the terms of the contract which shall govern the relationship with the respective multi-level company, regardless of the name that it has.
4. To be accurately informed by the multi-level company of the characteristics of the goods and services promoted, and the scope of the warranties that apply to such goods or services.
5. Terminate unilaterally and at any time the contractual relationship through writing addressed to the multi-level company.
6. Subscribe as an independent seller of one or more multi-level companies.
7. Receive a clear and precise explanation of the benefits they are entitled to for joining a multi-level company in order to avoid misunderstandings.
8. Receive from the respective multi-level company sufficient and satisfactory information on the conditions and the legal nature of the business to which the company binds to with them as independent sellers, and the obligations that the independent seller undertakes by joining the business, as well as information on how the business operates, offices and support offices to which the independent seller can have access to in the business development, in similar terms to those in the first Section of this article.
9. Receive in quantity and quality the goods and services offered by the multi-level company in a timely and comprehensive manner.

**Paragraph 1.** Any clause in the contract between an independent seller with a multi-level company, in which the waiving of any of these or other rights established in this law is expected or that prevents its exercise, will be deemed non-existent.

**Paragraph 2.** Within the initial cost of participation, multi-level companies must include training materials, as well as references and information guides regarding how to do business on a nonprofit basis.

**Article 6. Compensation plans.** For purposes of this Law, the provisions relating to payment, and generally rewards that are offered to independent sellers by multi-level companies, shall be referred to as compensation plans. Likewise, it shall be understood that the provisions governing the ranges or any other change of status of the independent sellers within the respective commercial network, will be part of these compensation plans.

The percentage of reward or payment offered in compensation plans; the events or accomplishments that will lead to economic rewards or bonuses that are offered to independent sellers, and the names, icons or physical objects and privileges to win by the independent sellers within the promotions scheme under the plan shall be expressed clearly; as well as the requirements for volume, product or money, the recruitment of new independent sellers and downline achievements, considering the chain through which a new distributor links another one, the latter another one and so on, to have access to the ranks, awards and recognitions.

**Paragraph 1.** No compensation plan may consist in the enjoyment of credit points, or reconsumption rights of the products or services promoted in more than fifty percent (50%) of its scope or coverage, and when the compensations provided in the respective plan consist in whole or in part in these, the independent seller is free to reject them.

### CHAPTER III

#### Inspection, Supervision and Control

**Article 7. Inspection, Supervision and control.** Without prejudice to the functions which correspond to other state agencies regarding multi-level companies, its activity as such will be supervised by the Superintendence of Corporations in order to prevent and, if appropriate, sanction, the irregular or improper exercise of such activity and ensure compliance with the requirements of this Law and the norms that amend, supplement or develop it.

The Superintendency of Corporations shall be competent to perform the supervision and control of multi-level companies and their activities, and shall exercise such duties in accordance with its existing legal powers and all other applicable provisions of this Law.

**Paragraph.** The Superintendency of Corporations may request technical concepts related to the goods and services marketed and / or promoted under the multi-level scheme, in order to establish whether they correspond to the goods or services for which it is prohibited to exercise multi-level activities, or to verify whether or not there is a real advertising campaign. The Financial Superintendence of Colombia, the Superintendency of Industry and Commerce, the Invima and the Vice-Ministry of Tourism preferably and as far as they are concerned according to the current norms, have jurisdiction to issue these concepts.

In any case, the determination of whether an activity or set specific business activities constitute multi-level activities, and the true nature of the different goods or services that are promoted through such activities, is the responsibility of the Superintendency of Corporations.

**Article 8. Powers of the Superintendency of Corporations.** By virtue of this law, the Superintendency of Corporations shall have the following powers, in addition to those it currently has:

1. Conduct, ex officio or upon request, inspection visits to multi-level companies and their stocking centers, warehouses and registered offices, exercising, if appropriate, the principle of administrative coordination with other authorities to this end.

2. Review the accounting records of multi-level companies and request clarification of its accounting information and accounting policy, including supporting documentation as necessary for the fulfillment of their duties.
3. Carry out the administrative and penalty procedures under this Law, and all other existing procedures specific to its course of action regarding multi-level companies and their activities.
4. Issue preventive suspension orders of all or some of the activities for a determined multi-level company, when it has evidence to reasonably assume that it is practicing multi-level activities in sectors or businesses without complying with the conditions or legal requirements, or against an express legal prohibition, or is not complying with any of the provisions and requirements set forth in this Law, or with the norms that amend, supplement or develop it.

## **CHAPTER IV**

### **Requirements and Prohibitions**

**Article 9. Minimum contractual requirements.** The multi-level companies shall restrict their business relationship with the independent sellers to a contract that shall be in writing and at least contain the following:

1. Purpose of the contract.
2. Rights and obligations of each party.
3. Type of compensation plan that will govern the relationship between the parties.
4. Payment requirements.
5. Method and frequency of payment.
6. General information of the parties.
7. Grounds and forms of termination.
8. Dispute resolution mechanisms.
9. Address of the office or offices open to the public of the multi-level company.

No web or virtual addresses or post office boxes will be accepted as single indications of correspondence or location of the multi-level company.

**Article 10. Contractual prohibitions.** The multi-level companies, may not include in their contracts the following types of clauses:

1. Clauses of permanence and / or exclusivity.
2. Unfair clauses that generate contractual inequality.

3. An obligation for independent sellers on the purchase or acquisition of a minimum inventory more than the one previously agreed and accepted.

**Article 11. Prohibitions.** It is prohibited to conduct commercial activities in the Multi-level modality with the following goods and / or services:

1. Services or products whose provision is the principal activity of any of the entities subject to the supervision of the Financial Superintendence.

2. Sale or placement of securities, including the ones listed in Law 964 of 2005, as well as all other securities by which public resources are raised, or the ones listed in the decrees issued based on the powers provided by the same law. In any case, it shall be understood that economic reality will prevail on the legal form to determine whether any instrument, contract, good or service offered through multi-level activities is or not a security of negotiable nature.

3. Services related with the promotion and trading of securities.

4. Highly perishable foods, or others that must be subjected to special care for its preservation due to public health reasons.

5. Goods or services that require for their use, application or consumption, a prescription by a health professional.

## **CHAPTER V**

### **Miscellaneous**

**Article 12. Transition.** Every multi-level company that currently performs these activities in the Republic of Colombia, shall state in its trade register that it exercises activities known as multi-level or network marketing activities in a period of no more than two (2) months after the enactment of this Law. This record will be mandatory for new multi-level companies from inception.

Multi-level companies that do not comply with this record shall be punished according to the provisions of Article 7 of this Law.

The same period shall be made available so that the existing contractual relations between the individual seller and the multi-level company adhere to the provisions of this Law.

**Article 13. Effectiveness and repeals.** This Law shall take effect from its publication in the Diario Oficial (Official Journal), and all the norms that contradict it remain repealed.

THE PRESIDENT OF THE HONORABLE SENATE OF THE REPUBLIC

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THE GENERAL SECRETARY OF THE HONORABLE SENATE OF THE REPUBLIC

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REPUBLIC OF COLOMBIA - NATIONAL GOVERNMENT

BE IT HEREBY PUBLISHED AND EXECUTED

Given in Bogota, DC, on December 27th 2013

MINISTER OF COMMERCE, INDUSTRY AND TOURISM

**SANTIAGO ROJAS ARROYO**