

## IN INDIA MULTI-LEVEL MARKETING (MLM) IS LEGAL

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**Clement Gidion Mathew\***

### INTRODUCTION

Multi-level marketing is referred to as MLM and it deals with Network marketing. This is also called recommendation marketing, and pyramid selling schemes. According to the Federation of Indian Chambers of Commerce and Industry (FICCI) study put together by KPMG, India's direct selling market worth is INR 7500crore in 2015 and the latest survey by FICCI says that the direct selling market of India's worth has been increased in huge number the worth is around INR 27,650crore in 2021. A legitimate Industry that generates substantial tax revenue and offers chances for independent work across the nation is direct selling. Multi-Level Marketing (MLM) is a sales technique primarily employed by pyramid-structured businesses. In MLM, employees serve as both buyers and salespeople, and the company's income is generated from this non-salaried workforce. This is done to help MLM businesses, whether they are based in India or elsewhere, keep a consistent level of sales while spreading the workload of marketing and distributing the goods and services among a larger group of people.

### IS MULTI-LEVEL MARKETING (MLM) COMPANIES LEGAL IN INDIA

In India, it is legal for businesses to engage in multi-level network marketing to offer specific goods or services. Despite the fact that the idea of Ponzi schemes has been declared illegal, some businesses use their products to trick consumers into making investments that eventually further the objectives of such a scheme. Yes, network marketing is legitimate until such a network is established in order to create a chain of customers buying real goods. Laws prohibit money-making scams that solicit contributions from individuals. As a result, if a business earns more money from expanding its network of distributors or employees than it does from selling its goods or services, it is more profitable. Amway, Avon, MaryKay, Forever Living, and other top MLM businesses floated on the Indian market in an effort to boost direct sales and offer employment chances to housewives, retirees, and unemployed people in India.

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\*BA LLB, THIRD YEAR, PRR LAW COLLEGE AFFILIATED TO OSMANIA UNIVERSITY HYDERABAD.

## IS MULTI-LEVEL MARKETING (MLM) LEGAL IN INDIA

According to the most recent regulations and laws, says that Multi-level marketing is legal in India unless it qualifies as a Ponzi scam or an unlicensed pyramid scheme business in India. It is permissible to join a pyramid scheme through a network as long as you are not required to pay a fee to do so. The provisions that will take effect if the situation changes and the employment or company is no longer legal are listed below.

- Cheating is prohibited by IPC Section 420 when another person induces a person into doing or not doing something he might otherwise choose to do. In India, illegal pyramid schemes frequently entice people with exaggerated advantages.
- Competition Act, 2002 - Multilevel marketing businesses operating in India as pyramid schemes occasionally tag their goods at exorbitant prices, causing the real value to rise exponentially without cause. In these situations, the authorities enter the picture and control the cost of such goods.
- Consumer Protection (Direct Selling) Rules - These establish the guidelines for legislation governing multilevel marketing in India and outlaw the operation of direct selling businesses there. For the protection of consumers, such businesses may pay a price for breaking the rules.

## THE FRAUDS OF MULTI-LEVEL MARKETING (MLM) IN INDIA<sup>1</sup>

The best way to stay safe is not to look up a list of illegal MLM businesses operating in India. If you are contacted by seemingly illegal direct marketing businesses in India, you can use the following guidelines to determine their legality.

- There should be a clear profit strategy or structure, and profit distribution should be ongoing rather than one-time.
- The emphasis should be on the goods rather than networking.
- Target groups include more than just low-income, jobless individuals like housewives.
- Promises of becoming billionaires quickly are a trap.
- Analyze the validity of any suggested benefits.

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<sup>1</sup> Abhimanyu Shandilya Is Multi-Level Marketing Legal In India pg 2,3 <https://www.vidhikarya.com/legal-blog/is-multilevel-marketing-legal-india#:~:text=easiest%20way%20possible.,Are%20Multi%2DLevel%20Marketing%20Companies%20Legal%20in%20India%3F,levels%2Care%20legal%20in%20India>. Accessed on Jan 9 2023

- Avoid being duped by fictitious financial plans.
- Verify if the business has a physical location.
- Learn about the company's ethos, philosophy, and employees and know if there is a teaching approach used in Schemes.
- The goods and services are reliable and honest.
- Be aware of whether you are being compensated for product sales or network development.
- In this case, it is preferable to be safe than sorry, particularly in light of recent revelations about multilevel marketing frauds in India. Consult a corporate lawyer if you believe that your direct marketing business is one of those prohibited in India.

### **DIFFERENCE BETWEEN LEGAL AND ILLEGAL MLM IN INDIA**

Every other day, a brand-new multi-level marketing strategy is introduced while some MLM is legitimate, employing genuine businessmen, others are MLM frauds, employing artists who entice a gullible audience and steal their money.

It might become challenging to tell whether a multi-level marketing company in India is real or phony. However, there are some methods to determine whether network marketing in India is legitimate or not, including such as.

- There is a promise of a very high rate of return, but there are typically no underlying products or services that have any value, according to the general characteristics of MLM schemes that are illegal in India.
- However, a legitimate multi-level marketing business like Amway and Tupperware in India is developed through the real sale of goods.
- As opposed to a legitimate MLM, an illegal affiliate marketing scam typically operates on the premise that it is a way to earn money quickly and easily.
- In shady network marketing scams, agents receive commissions just for recruiting new investors or agents. In contrast, in a legitimate scheme, distributors are compensated as a percentage of the real product sales made by the agents they have recruited.
- In illegal MLM schemes, there is frequently an unjustifiably high rate of return for which there is no logical justification. On the other hand, an MLM plan is one that compensates its agents and distributors on the basis of science.

## LEGITIMACY OF MLM IN INDIA

In India, network selling is permitted. The same goes for multi-level marketing schemes, with the exception of some companies that are considered to engage in illegal MLM because they are designed to capture unsuspecting consumers into investing in them and there is no real direct exchange of goods and services between the investors and the promoters. Instead, the investor is only given the assurance that they will receive profits. But these guarantees never come true, leaving investors with substantial losses. As a result, the Indian government has declared some network marketing fraud tactics illegal in India in order to safeguard customers according to the direct selling guidelines 2016 Prize Chits & Money Circulation Plans (Banning) Act 1978, these network marketing plans are illegal in India.

The following schemes of MLM India are considered illegal.

### PYRAMID SCHEME

- According to Indian law, a pyramid scheme is one in which the organizer creates a pyramidal structure, beginning with one individual who serves as the pyramid's tip.
- A person hires a subordinate to labor for them and in order to invest, this individual must pay a certain sum (Amount) to the initial recruiter.
- The new member must find additional investors who each invest a set amount of money in order to earn returns on his or her investment, creating a chain of pyramids.
- The Reserve Bank of India (RBI) recently issued a warning to investors about the dangers of pyramid schemes, which guarantee high returns and are funded by hefty member subscription fees.
- According to the RBI, MLM, chain marketing, and pyramid-structured schemes, all guarantee easy or quick money in exchange for member enrollment. The RBI cautioned the general public against falling for the high returns that multi-level marketing firms, which operate network marketing, chain marketing, or pyramid structure schemes in India, often claim.

### MONEY TRANSFER SCHEMES

- The Prize Chits and Money Circulation Schemes (Banning) Act, 1978 defines a money circulation scheme in Section 2(c).

- "As any scheme which assures quick and easy earning money through money chain or if someone demands money from another in order to invest it into a "money circulation scheme" means any scheme for making quick or easy money or for receiving any money or valuable thing as consideration for a promise to pay money," the document reads.
- Whether or not the money or item is generated from the entrance money of the members of the scheme or periodical subscriptions, it must be used "on any event or contingency relative or applicable to the enrolment of members into the scheme."
- In India, money circulation schemes and money chain businesses are illegal.

### CHIT FUNDS

- According to the Chit Funds Act, 1982(1), a chit fund is a transaction, whether called a chit, chit fund, chitty, Kuri, or by any other name by which a person enters into an agreement with a specified number of people that each of them shall subscribe a certain sum of money (or a certain quantity of grain in place of money) by way of periodical installments over a specified period.
- Each of these chit-fund subscribers will be entitled to the prize amount in turn, as decided by lot, by auction, by tender, or in any other way permitted by the chit agreement.
- It operates by having a number of individuals put a set amount of money into a pool.
- After that, any participant can win a one-time payment via a fortunate draw or an auction. (eg: If there is a group of 25 people and the contribution paid by each person is Rs. 2000 a month, then the pool is Rs. 50,000.)
- Any individual may withdraw money from the chit fund as needed.

Case laws: Margadarsi Chit Fund Pvt Ltd. Vs Government Of Andhra Pradesh on 28 September 1999 the allegation on margadarsi chit fund by the Govt of Andhra Pradesh is collecting the excess amount after the chit payment has been done The collection of any amounts in excess of what is provided in Section 13(1)(b) is obviously against the terms of the preceding Act, and the foreman of the chit company is unable to collect any amounts in excess of what is provided in the banning Act based on clauses (16) and (17) according to the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 it is illegal to collect the excess amount and finally honorable court gave the order to repay the excess amount to the customers

## PONZI PLANS

- A Ponzi scheme is a type of MLM fraud that guarantees its investors a high rate of return on their investment.
- By using the new investors' monetary inflow, the returns are given to the original investors. As a result, the scheme depends on a continuous inflow of new investments and collapses when that flow ceases.
- Understanding the distinctions between a Ponzi scam and other multi-level marketing schemes, such as pyramid schemes, is crucial.
- In a Ponzi scheme, there is just one individual in charge of the money, and they don't do anything with it other than transfer it from one person to another.
- The fraudster vanishes with all of the investments once the investor gets confidence and other investors begin to invest money.
- On the other hand, a pyramid scheme is set up so that the individual who initiates it will find a few investors, and it is the responsibility of those investors to find additional investors.

## HOW TO TROUBLESHOOT THE FRAUD MLM IN INDIA

Many multi-level marketing businesses have been discovered to be illegal as a result of people who fall victim to MLM fraud and MLM scams bringing the businesses' illegal activities to the attention of authorities. One of these was Qnet, a notorious Multi-Level Marketing (MLM) business that was accused of deception in India.

If such multi-level marketing scams have also defrauded you in India, you can always seek legal assistance to troubleshoot the fraud in MLM the following aspects have to be followed they are.

- First, if an MLM business has taken your money and is not returning it, you can send a notice to that company that has been prepared by a lawyer.
- Additionally, you can report the fraudulent MLM Company to the authorities in order for them to open a case against them.
- If a business is operating illegally and breaking the law, a complaint can be made to the Registrar of Companies.

## CONCLUSION

In this entire article, it makes sense why multilevel selling or marketing is permitted in India. The laws that govern pyramid scheme businesses in India serve as a barrier to protecting the rights of consumers and regular residents. Network marketing, multilevel marketing, and pyramid schemes are all legitimate as long as the emphasis is on expanding the customer base rather than on promoting the actual goods or services. Multi-level marketing is generally acknowledged to be legal in India. If it crosses the line and it may end up on the list of MLM businesses that are blacklisted. However, the soft targets are because the goal audience is the weaker segment of society that is influenced to become "financially independent." Little money can be stolen in the name of investment, which people mistakenly believe to be a necessary part of doing business, under the disguise of a legitimate multi-level marketing firm. Therefore, it is important to warn those people about potential fish traps. Contact corporate lawyers in India if you're trapped in any illegal pyramid scam.

