

Amendments to DSA's Code of Practice 2018

Changes to the new Code are highlighted in blue

	Wording	Rationale for Change
	<p>Direct sellers are bound by the Code to the extent that complying with it is a condition of their role in distributing members' products. In supplying a product and regardless of the independent status of a direct seller it is the member who is ultimately responsible to a consumer for any obligation imposed under the Code.</p> <p>Members acknowledge that DSA is a member of the World Federation of Direct Selling Associations (WFDSA) and that compliance with WFDSA Code of Conduct is a condition of admission and continuing membership of DSA. If a member conducts business outside Australia, the member must comply with either: the code of ethics of the WFDSA-affiliated Association in that place, or the WFDSA Code of Conduct.</p> <p>Should a member be subject of a complaint in a country in which it is not a member, the member must accept the jurisdiction of the code administrator in its home country (or if the company is not a member in its home country, any country in which it is a DSA member) and shall bear reasonable costs incurred by the home country code administrator associated with resolution of the complaint. Moreover, the code administrator of the home country may coordinate</p>	<p>This change is a WFDSA requirement. The new WFDSA Code of Conduct was approved by the WFDSA Ethics Committee in October 2017</p>

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	<p>with the code administrator (if one exists) of the complainant's country and, in evaluating the alleged complaint, apply, in order of priority: (i) the standards of the code of ethics in the country in which the complaint is filed, or (ii) the standards of the code of ethics in the subject company's home country, or, (iii) at a minimum, the standards set forth in the WFDSA Code of Conduct.</p>	
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	<p><i>direct seller</i> is a person who is engaged by a member predominantly to market products directly to consumers and also to recruit persons to sell, its products;</p>	<p>The WFDSA changes introduce the emphasis on selling (by adding 'predominantly') as the primary activity of a direct seller (over recruitment).</p>
Clause 4	<p>Information A member and direct seller must:</p> <ul style="list-style-type: none"> a. ensure that a consumer is given accurate and complete information reasonably required to make an informed choice; b. ensure that any claims regarding product efficacy are only those that have been authorized by the member; c. take reasonable steps to be satisfied that a consumer understands any demonstration, explanation or other information about a product; and d. not use any testimonial or endorsement that is unauthorized untrue, obsolete or otherwise inapplicable, unrelated to the offer or used in any way likely to mislead the consumer. 	<p>The new sub paragraphs b) and d) are requirements under the WFDSA.</p>
New Clause 5	<p>Literature The member must ensure that promotional literature, advertisements and mailings do not contain product descriptions, claims, photos or illustrations that are misleading or deceptive. Promotional literature must contain contact details</p>	<p>This paragraph on Literature has been a long-standing requirement of the WFDSA</p>

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	of the member and may include the contact details of the direct seller.	
	Purchase Agreement/Order Form	Change of Heading – recommended as it more clearly identifies the type of documentation that the underlying clause relates to.

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Clause 21	Recruiting In promoting the role of a direct seller a member or direct seller must: a. present earnings representations and sales figures that are truthful, accurate and are based on documented and substantiated facts in the relevant market; b. explain that actual earnings and sales vary from person to person depending on factors including the seller's personal skills and the time and effort put in; c. not engage in any misleading, deceptive or unfair conduct; d. not make false representations or exaggerated claims about the amount or timing of earnings from involvement as a direct seller; e. not promote involvement solely or predominantly on recruiting other direct sellers; f. not engage in fly posting.	<p>This WFDSA code amendment is connected to the recent FTC case against Herbalife and the call for greater transparency of earnings claims. We endorse this approach and are supportive of members who have already voluntarily made changes within their organization in line with the US direction.</p> <p>The term "false representations" rather than "unrepresentative" follows the wording of the Australian Consumer Law.</p>
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Clause 25	Payments Any payment by a direct seller under an agreement including a payment related to joining, renewing or training with the member or for marketing materials or sales aids must: a. be reasonably required for the purposes of becoming a direct seller; b. represent reasonable value. c. be fully refundable (less commission) in the event that the direct seller terminates their agreement within 30 days of payment; and d. not require product purchases as part of the application process unless included in the starter kit.	These changes reflect the exact wording required under the WFDSA
New Clause 26	Pyramids A member or direct seller must not engage in any activity that is a pyramid scheme within the meaning of the Australian Consumer Law.	This has been moved from earlier in the document and is not new.

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<p>Clause 27</p>	<p>Inventory If requested, upon either party terminating a direct seller agreement, the member must repurchase inventory. The direct seller may return, at their expense, any unsold, re-saleable inventory, including member produced demonstration material, sales aids and demonstration kits purchased by a direct seller within the previous 12 months and the member must refund the direct seller's original cost less a 10% administration charge and any related commissions.</p>	<p>The WFDSA Code of Ethics provides specifics on a direct sellers' rights regarding inventory return in the event that they terminate their agreement. These specifics provide clarity which will benefit both direct sellers and members if this scenario arises.</p>
<p>New Clause 29</p>	<p>Inventory A member shall not engage in unfair, misleading or deceptive recruiting practices that require or encourage a direct seller to purchase unreasonable quantities of product or sales aids.</p>	<p>Broadly, this is already covered by Clause 21 a. This new clause simply clarifies that this prohibition applies to the purchase of product or sales aids as part of the recruitment process.</p>
<p>New Clause 32</p>	<p>Remuneration & Accounts A direct sellers' remuneration shall be derived from sales of products or services to consumers. Earnings must not include any payment for the act of recruitment.</p>	<p>This re-states Australian law in relation to pyramid laws.</p>
<p>New Clause 36</p>	<p>Privacy and Data Protection Members and direct sellers shall take appropriate steps to ensure the protection of all personal information provided by a consumer, a potential consumer, or a direct seller, in</p>	<p>Given the increased importance of protecting personal information in an environment</p>

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	accordance with Australian laws that apply to privacy and data protection.	where more and more data is shared or stored online, this new clause required by WFDSA is a welcome enhancement to the Code to the extent that it re-enforces the importance of compliance with Australian privacy laws.
New Clause 37	Privacy and Data Protection Members and direct sellers shall contact direct sellers only in a reasonable manner and during reasonable hours to avoid intrusiveness.	Required under WFDSA Code in relation to contact with direct sellers. Consumer privacy is covered in clauses 13-15