

Multi Level Marketing In India

Date of Submission: 09-11-2023

Date of acceptance: 23-11-2023

INTRODUCTION OF MULTI LEVEL MARKETING

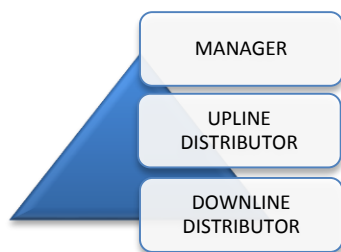
A business strategy known as multilevel marketing (MLM) entails hierarchical, unpaid sales teams selling goods directly to customers while also hiring new firm sales representatives. Referral marketing and network marketing are other names for multilevel marketing.

Current MLM employees market and sell the company's goods to a network of potential consumers. They are frequently asked to recruit new employees to join the company's rising sales levels. A multilevel marketing company's organizational structure always includes a hierarchy of roles or levels that may be attained via effective sales or recruiting and are connected to prizes and promotions for the associates.¹

WHAT IS MLM

Multilevel marketing (MLM) is a tactic that uses a pyramid-shaped commission structure and a non-salaried workforce to offer goods and services. Referral marketing and network marketing are other names for the MLM approach.²

- The multilevel marketing (MLM) technique features a pyramid-shaped commission structure that encourages current distributors to find new distributors.
- Distributors in multilevel marketing operate independently and are not paid. For the sales that they and the members of their down line teams generate, distributors are paid commissions.
- Multilevel marketing enables businesses to grow their clientele while incurring little overhead expenditures.³



TOP MULTI LEVEL MARKETING COMPANIES IN INDIA

1. MI lifestyle marketing global Pvt. Ltd.
2. RMC
3. AMWAY
4. Vestige
5. Modicare foundation
6. Forever living products
7. IMC
8. Herbal life nutrition

¹ Laura Fitzgibbons, tech target, November 2022 < <https://www.techtarget.com/whatis/definition/multi-level-marketing> > accessed on 6th march 2023

² CFI, 20TH December 2022 <<https://corporatefinanceinstitute.com/resources/management/multilevel-marketing-mlm/>> accessed on 6th march 2023

³ Ibid

MLM COMPANIES REGISTRATION LAWS IN INDIA

The registration or creation of a Multi-Level Marketing Corporation is not governed by a separate legislation in India. While it was put out to the Parliament in 2005, it has not yet been made into a law. But, before establishing an MLM Business, a few things need to be taken into account. An MLM company cannot operate any of the following businesses or programmers in India as they are considered to be unlawful multi-level marketing.⁴

- The pyramid scheme, often known as a Ponzi scam, is prohibited in India. It involves an organizer creating a pyramid structure that starts with one individual representing the apex of the pyramid. It covers the Monopolies and Restrictive Trade Practices Act, 1969.⁵
- It shouldn't be a money-transfer system prohibited under the Prize Chit and Money circulation schemes (banning) Act 1978.⁶

REGISTRATION OF LML COMPANIES IN INDIA

1. Establish a New Business: - The preferred business structure for a new MCA Direct Selling Company in India should be a Private Limited or Public Limited Company.
2. Create a new MLM business and read the guidelines: - Every direct selling entities have received guidelines from the Ministry of Consumer Affairs. Review the direct selling guidelines for 2021 in detail.
3. Getting registered to launch a multilevel marketing business: - Complete all necessary registrations. According to MCA guidelines, one should launch a new direct selling business after completing the relevant registrations.
4. The best MLM company plan: - Create a Strategy and Software the Plan, Product, and Software are the three fundamental pillars of MLM Company. You should now work on each of these three points.
5. Send an undertaking to the MCA: - Within 90 days of opening for business, a direct selling entity must submit an undertaking to the Ministry of Consumer Affairs.⁷

IS MULTI LEVEL MARKETING LEGAL IN INDIA

Is network marketing legal? According to the most recent regulations and legislation, the answer is yes, unless it qualifies as a Ponzi scheme or an unlicensed pyramid scheme business in India. It is lawful to join a pyramid scheme through a network as long as you are not asked to pay a fee to do so. The following clauses will take effect if the same is different and loses its ability to do business or employment legally:

- Cheating is prohibited by section 420 of Indian penal code⁸ when another person coerces a person into doing or not doing anything he could otherwise choose to do. In India, illegal pyramid schemes frequently entice consumers with exaggerated rewards.
- Consumer Protection (Direct Selling) Regulations - It establishes the guidelines for legislation governing multilevel marketing in India and outlaws the operation of direct selling businesses there. For the protection of customers, such firms may pay a price for breaking the regulations.⁹
- Competition Act, 2002 - Multilevel marketing businesses operating in India as pyramid schemes occasionally tag their items at exorbitant rates, causing the true value to climb enormously without cause. To prevent monopolistic or unlawful practices in the market, the authorities step in and control the pricing of such items so that the quality of the product complements the price, as stated by the Competition Act.¹⁰

Following schemes are illegal in India: -

1. Money Circulation Schemes: - are described under Section 2 (c) of the Prize Chits & Money Circulation Schemes Act, 1978,¹¹ as each and every scheme for making simple or quick money or for receiving any money or valuable thing as consideration for a promise to pay money is defined as "any scheme which assures quick and easy earning money from another in order to invest it into a money circulation scheme"

⁴ Clear tax 21st august 2021 <<https://cleartax.in/s/mlm-company-registration> > accessed on 6th march 2023

⁵ Monopolies and restrictive trade practices act 1969

⁶ Money circulation schemes act 1978

⁷ Taxindia 24 <<https://taxindia24.com/direct-selling-company> > accessed on 6th march 2023

⁸ Indian penal code, 1860, s420

⁹ Abhimanyu shandilya, vidhikarya, 9th January 2023 <<https://www.vidhikarya.com/legal-blog/is-multilevel-marketing-legal-in-india> >

¹⁰ Competition Act, 2002

¹¹ Prize chits and money circulation schemes act, 1978, s2(c)

Considering both definitions, it is very clear that money circulation schemes and money chain businesses are illegal in India¹²

2. Pyramid scheme: - In Indian law, a pyramid scheme is a system in which the organizer creates a pyramidal structure, starting with one individual who symbolizes the apex of the pyramid. Such a plan often involves one person hiring another who works beneath them and is compelled to invest a specific amount, which is given to the initial recruiter. A chain of pyramids is created because the individual who was recruited by the first recruiter must earn a profit on his investment, so he in turn recruits further investors who want to invest a set amount of money.

The Reserve Bank of India issued a statement in 2015 cautioning investors against pyramid scheme scams that exploit subscribers' subscription payments by promising huge returns to clients. The RBI further claimed that these MLM, chain marketing, and pyramid scheme members are promised quick or easy money upon joining. The RBI has cautioned the public not to fall prey to such claims of unrealistically large returns made by some multilevel marketing firms operating chain marketing, pyramid structure schemes, or network marketing in India.¹³

3. Chit fund scheme: - The chit fund act 1982¹⁴ defines chit fund. The way the chit fund system operates is that a number of individuals put a certain amount of money into a pool, and then any member is free to take a lump sum using a variety of methods, such as a lucky draw or even an auction. For instance, if a group of five persons each pays Rs. 2000 each month, the total pool would be Rs. 10,000. So, any member may withdraw funds from the chit fund as needed.¹⁵

4. Ponzi scheme: - A Ponzi scheme is an investment scam in which money obtained from new investors is used to pay off old investors. Ponzi scheme operators frequently make the claim that they will invest your money and provide large returns with little to no risk. Yet, the scammers seldom spend the money in Ponzi schemes. Instead, they compensate individuals who made earlier investments while also perhaps keeping part for themselves.¹⁶

HOW TO SAVE OURSELVES FROM MULTI LEVEL MARKETING FRAUD

Several multi-level marketing businesses have been discovered to be unlawful as a result of people who fell 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 fraud in India. If similar multi-level marketing scams have also defrauded you in India, you may always seek legal assistance!

- Secondly, if an MLM organization has taken your money and is not returning it, you can submit a notification to that company that has been prepared by a lawyer.
- You can also report the fraudulent MLM Company to the authorities, allowing them to start a criminal investigation.
- If a corporation is operating unlawfully and breaking the law, a complaint can be made to the Registrar of Companies.¹⁷

CONCLUSION

Given all of this, it makes sense that multilevel marketing is allowed in India. The wall that protects the rights of laypeople, or ordinary citizens, in India is the regulations that govern pyramid scheme businesses. Multilevel marketing is legal as long as they are focused on selling genuine goods and services to a growing number of people.

¹² Sakshi shairwal, lexology 22nd December 2022, < <https://www.lexology.com/library/detail.aspx?g=9d7e06cf-2a56-46f0-90ad-d3dbd5081d85> > accessed on 6th march 2023

¹³ Ibid

¹⁴ The chit fund act, 1982, s2(b)

¹⁵ Sakshi shairwal, lexology 22nd December 2022, < <https://www.lexology.com/library/detail.aspx?g=9d7e06cf-2a56-46f0-90ad-d3dbd5081d85> >

¹⁶Investor.gov <<https://www.investor.gov/protect-your-investments/fraud/types-fraud/ponzi-scheme#:~:text=A%20Ponzi%20scheme%20is%20an,do%20not%20invest%20the%20money.> > accessed on 6th march 2023.

¹⁷ Antim amlan, Myadvo, 12th September 2019 <<https://www.myadvo.in/blog/is-multi-level-marketing-mlm-legal-in-india/> > accessed on 6th march 2023