Pyramid selling schemes

Pyramid schemes

Section 65AAC of the Trade Practices Act makes it unlawful for a corporation to participate in a pyramid selling scheme. A corporation also must not induce, or attempt to induce, a person to participate in a pyramid selling scheme. Under a pyramid scheme consumers are recruited to join it and encourage others to join. Generally, people pay to join and are promised a commission for introducing others. This often looks like an attractive investment with the potential to generate a lot of money later on. However, more often than not, participants end up losing their initial investment.

The scheme could be an illegal pyramid scheme if a proposal offers financial rewards for recruiting people, combined with:

- offers of goods or services of little or doubtful value that serve only to promote the scheme
- an initial outlay of money to purchase large quantities of goods, or
- no goods or services being offered for sale.

Generally, the way pyramid schemes work is that promoters want people to join the scheme, to recruit more people who will in turn recruit others, with each participant paying money to those further up the pyramid. People are often convinced to join by family members or friends, but there is no guarantee that they will recoup their initial investment. They may not be able to find other willing participants, or could have legal action taken against them if they participate in or do induce others to join.

Ultimately it is for a court to determine whether a particular scheme is a pyramid one, as prohibited under the Act. Customers need to be wary of opportunities presented to them in ways similar to those described above. They need to keep in mind that if they do participate and induce others to join, they may breach the Act regardless of whether they set up the scheme originally. What the Act makes unlawful is the making of promises to induce or persuade a person to enter the scheme or to purchase products by a corporation, or in some circumstances a person.

Differences between pyramid selling and multi-level marketing

Consumers often ask the ACCC about the difference between a pyramid selling scheme and a multi-level marketing scheme. Sometimes the differences might not be obvious to the average consumer.

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Pyramid selling schemes rarely include the legitimate and regular retailing of products. Instead, they provide rewards for introducing new participants. Saturation point is very quickly reached and later recruits have little chance of recovering their money. Legitimate marketing schemes only provide rewards based on genuine product sales.

Pyramid sales promoters may attempt to disguise their schemes by selling goods and services that are overpriced, of poor quality, difficult to sell or of little value.

Participants who induce others to join pyramid schemes, as well as the initial promoters, risk breaching s. 61 of the Act.

There are two questions that may help consumers identify legitimate multi-level marketing schemes:

- Are the rewards for participants in the scheme purely based on product sales (by either themselves or others they introduce to the scheme)?
- Are the products genuine products of real value, and of a type that normally will be used and purchased time and time again by a consumer, and not at a grossly inflated price?

If you answer yes to both questions, it is likely that the scheme is a legitimate multi-level marketing scheme.

If you have doubts about a particular marketing scheme, the ACCC or your state or territory fair trading agency may be able to help. You should seek legal advice before entering into any business arrangements. Visit the Commonwealth Government's Consumers Online website (see Links in *Related documents)* for comprehensive information on scams and swindles. This website has links to the state and territory offices of fair trading and, under Scams and frauds, a downloadable Little Black Book of Scams.