



Delhi HC judgement to boost Direct Selling: IDSA

- Direct Selling Guidelines are binding in nature for e-commerce
- E commerce and sellers cannot sell without a formal authorization from Direct Selling entities

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In a step that will keep a check on Direct Selling products being sold on e-commerce platforms, the Delhi High court has ruled that the e-commerce players and their sellers must acquire a formal authorization from Direct Selling entities before offering such sales online. The HC judgement comes as a welcome step for Direct Selling entities, who have been facing issues of their products being sold on e-commerce portals without their consent.

Vivek Katoch, IDSA Chairman said “E-commerce portals allowing sale of Direct Selling products, without the consent of Direct Selling entities, has been a longstanding concern for the industry. The high discounts offered by these e-commerce portals adversely affected the actual sales by the Direct Sellers, thus making a significant dent to the business and affecting livelihoods of millions of Direct Sellers. The HC’s judgement, which is in favor of Direct Selling entities, is expected to provide a level-playing field.”

In the past, an Inter-Ministerial Committee (IMC) was constituted under the chairmanship of the Secretary, Ministry of Consumers Affairs, which, after several meetings, decided to formulate separate guidelines to regulate the Direct Selling industry. The duly gazette Guidelines, notified by the ministry in 2016, mandates e-commerce companies and other seller to obtain consent of Direct Selling entities before offering sale of their products online. The Delhi High Court judgement clearly states that these Guidelines, being formulated after due consultation in an Inter-Ministerial-Committee (IMC), is binding in nature and the e-commerce portals are required to follow its mandates.

“The High Court judgement states that unauthorized sale of Direct Selling products amounts to misrepresentation and loss of goodwill as well as erosion of economic value of Direct Selling entities’ trademarks. Dismissing the e-commerce claim on ‘exhaustion’, the HC judgement stated that there has been misrepresentation of products sold on these portals leading to large scale impairment. Many a times, condition of goods sold online are tampered and MRPs are shown at higher side,” **Vivek** further said.

“Also, usage of Direct Selling entities’ names, logos, images, marks etc. leads to misrepresentation to consumers that the products are being sold by the entities themselves, which is not the case. The HC judgement also clarifies that neither the e-commerce portals nor the sellers can claim rights on products as both parties fail to acquire the consent of Direct Selling entities before such sales,” **Vivek** added.

The High Court made it clear that e-commerce can claim intermediary status only if they comply with their internal policies and the code of conduct.



The Parliamentary Standing Committee on Finance, having considered representation of IDSA, had recommended for establishing a regulatory framework for the Direct Selling business and distinguish between legitimate Direct Selling companies and Ponzi/Pyramid schemes. Thus, the Direct Selling Guidelines were notified to help regulating the Direct Selling business at the same time bringing recognition for legitimate Direct Selling.

The Direct Selling companies' products sold with buy-back guarantee to the consumers. However, it is difficult to offer such buy-back for products purchased from online as such sales do not have prior authorization or consent of Direct Selling entities. In some cases, it has been found that the products have been sold with tampered bar codes and inner seals, which also leads to compromise in quality of products, resulting in jeopardizing the brand reputation of Direct Selling entities.

About IDSA

Incorporated in **1996** and headquartered in Delhi, IDSA is an autonomous, self-regulatory body for the Direct Selling industry in India. The Association acts as an interface between the industry and policy-making bodies of the Government facilitating the cause of Direct Selling Industry in India. IDSA has played a proactive role in raising the voice for the Direct Selling Industry for policy reforms which can nurture growth and facilitate the trade of Direct Selling Industry in India with the Central and State Governments. It is affiliated to World Federation of Direct Selling Association, which was established in 1978, currently having 63 Direct Selling Associations across the world as its members. WFDSA is a non-government voluntary organization, representing Direct Selling Industry globally as a federation worldwide.