

DIRECT SELLING FROM ISLAMIC PERSPECTIVES

AMMANOBAH BINTI MOHAMMAD

WORLD UNIVERSITY COLLEGE MALAYSIA, S.A.

0000019346

DIRECT SELLING FROM ISLAMIC PERSPECTIVES

Aminorah Binti Mohamed
(Matric No. P010207)

Perpustakaan
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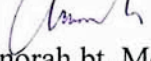
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AUTHOR DECLARATION

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I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

Date: 9th march 2004

Signature : 
Name : Aminorah bt. Mohamed
Matric No. : P010207
Address : Lot 2723, Lorong Pendekar,
Kg. Semat Jal,
16250 Wakaf Baru,
Kelantan.
09-7194261

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah, the Compassionate and the Merciful

Praise is to Allah Almighty, the Cherisher and Sustainer of the Universe. May the peace and blessings of Allah Almighty be upon Muhammad, the Seal of the Prophet (PBUH). In completing this academic project, I have contracted many debts. I am grateful to many people whose sincere help and encouragement, I would like not be able to complete this research.

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Lastly, if there are faults and mistakes, it's entirely mine and I seek Allah's forgiveness for any such inadvertent error. May Allah bless us forever....

Thank you. Wassalam.

ABSTRAK

Kajian ini bertujuan untuk mengetahui dengan lebih mendalam lagi tentang konsep perniagaan jualan di Malaysia. Untuk memperolehi segala maklumat bagi kajian ini, penulis telah melakukan penyelidikan di beberapa perpustakaan, melayari internet untuk mendapatkan lebih bahan serta meneliti buku yang berkaitan dengan kajian ini. Penulis juga telah membuat beberapa temuramah pihak yang bertanggungjawab serta pengedar dan meninjau pandangan pengguna mengenai jualan langsung ini. Hasil daripada kajian tersebut, tidak banyak syarikat jualan langsung yang beroperasi secara haram dan kebanyakannya telah mengikut peraturan yang telah ditetapkan. Sehubungan dengan itu juga, kajian ini menghuraikan dan mengenalpasti kesan yang timbul samada pro dan kontra daripada perniagaan ini. Di samping itu, penulis telah mengambil beberapa pendapat daripada cendekiawan berhubung dengan perniagaan ini dari perspektif Islam.

ABSTRACT

The aim of this research is to know deeply about concept of direct selling business in Malaysia. To complete and gather information for this research, the writer had conducted intensive steps such as making a library research, through surfing Internet to get more information and search relevant books that related with this research. The writer also, handling interviews with authorities with this field, wholesaler and conducted survey to consumer to get opinion about direct selling business. Result from this research, there is lack of illegitimate companies, which is illegal operating and performs their business. Most of them followed the rules and regulation that stated by government. According to this research, the writer also has explained and determined impacts pro and cons through this business. However, the writer has takes a views of point from Islamic scholars regarding with this research from Islamic perspectives.

ملخص البحث

تهدف هذه الدراسة إلى معرفة دقيقة عن مبدأ التجارة المباشرة في ماليزيا. ولتحقيق هذا الهدف, اعتمدت الباحثة على منهج البحث المكتبي الذي يكون بالرجوع الى الكتب والمصادر المتعددة التي لها صلة بالموضوع. وجدير بالذكر, أن الباحثة ايضا استعملت شبكة الإنترنت للحصول على المعلومات الإضافية لهذه الدراسة. وجرت الباحثة المقابلة مع الموظفين والتجار والمستهلكين للإطلاع على آرائهم حول هذه القضية. والنتيجة من هذا البحث, تبني أن هناك عدد قليل من شركات التجارة المباشرة تخالف مع القوانين التجارية مقارنة إلى الشركات التي تنقيد أنشطتها التجارية مع هذه القوانين. ويتطرق هذا البحث إلى دراسة الآثار الايجابية من التجارة المباشرة وسلبياتها فضلا عن مناقشة آراء الباحثين عن هذه التجارة من المنظور الإسلامي.

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ABBREVIATION

Dr.	Doctor of Philosophy
DSAM	Direct Selling Association of Malaysia
Ibid	<i>Ibidem.</i> In the same place
KPDHEP	Kementerian Perdagangan dan Hal Ehwal Pengguna
MLM	Multi Level Marketing
n. a.	no author
n. d.	no date
p	page
PBUH	Peace Be Upon Him
PERDASAMA	Persatuan Pedagang dan Pengusaha Melayu Malaysia
Prof.	Professor

CHAPTER 1

CHAPTER 1

INTRODUCTION

The existence of direct selling companies, which is based on multi level marketing (MLM), registered under Ministry of Trade and Consumer Affairs in our country nowadays, can change the lifestyle many people. It clearly shows that direct selling business has a bright future. The direct selling in our country nowadays is a business that can help to increase Malaysians economy; the government gives full support to the people who are involved in this business to encourage more people to join this type of business. In this circumstance, the writer wants to study about direct selling industry and tries to make comparison with Islamic perspectives.

According to the Minister of Domestic Trade and Consumer Affairs (MDTCA), there are a lot of complaints accepted by National Consumer's and MDTCA about the ability of direct selling in this country. This is because; there are consumers who are still confused and unsatisfied with the running of this industry. The consumers have complaint about direct selling, because they do not have any exposure or lack of knowledge about the direct selling business. Besides that, there is irresponsible person who takes the opportunity to cheat customer who are lack of experience about this sale. As a result, there are a few cases, which affected the rights of consumer.

In Malaysia, the law on consumer's right is under the Ministry of Domestic Trade and Consumer Affairs. The Ministry needs a new law to restrain the action of dishonest and irresponsible sellers their business. It is very important to solve each complaint handling made by consumer and to protect the consumer's right by law. Hereby, the consumers who are not satisfied can take action on those sellers.

1.1 Background of Research

As stated in Section 2 of Direct Sale Act 1993, direct sale means a door-to-door sale whereby the seller goes to the buyer to sell the goods directly to the buyer.

the seller goes from home to home has no a fixed place of business to sell the goods or services conducted and seeking out for people who are interested to join, as purchasers, for the sale of goods or services. In relation to the sale of goods, the place at the vendor normally carries on a business or at which goods of the description to which the sale relates or goods of similar description are normally offered or exposed for sale in the course of a business carried on at that place.

The buyer or the purchaser is the person to whom the goods or services are supplied or are to be in a deliverable under a contract and, if the rights of that person are transferred by operation of law, included the person at that time to be entitled to those rights.

The goods that the seller sells in this business, every kind of moveable property such as soap, dishes, the necessary home items and other negotiable instruments, shares, debentures and money.

Mail order sale means the sale of goods or services which person conducts, either by him or through any person authorized by him, by receiving an offer for a sale contract by mail.

In Islam, it has laid down the condition of a valid sale. There are as below:

- First: it should be concluded willingly and with mutual consent according to Quranic statement, that trade should be done with mutual consent. A contract of sale is not valid if it is concluded with coercion, unless the coercion was done in justice and fairness.
- Second: each one of the two parties should have the capacity to conduct such a sale, like being sane of age and discerning. Thus, sale is not valid if an insane person, a child, a drunken person or a sleeping person conducts it.
- Third: the object of sale should be proper or a kind of money, which carries a legal benefit and which not, needed by the seller.
- Fourth: the seller should own the object of sale or he should have permission by the owner to sell it. If he sells something owned by somebody else without opinion, such a sale would be valid if the owner gave his belated consent; if he did not give, the sale would be void.
- Fifth: the object of sale should be capable of being delivered or handed over. If the seller cannot do that certain thing, the sale is nugatory.
- Sixth: the object of the sale should be made known to the purchaser by sight or by sample description. The sale is invalid if the buyer does not see the sold object or if it was not described to him, if it is incorrect if he sees the object but does not know its reality, or if the description was not sufficient in *salaam* (delayed sale).
Another opinion is that would be valid, and the buyers has the option of breaking the contract after seeing the object.
This condition aims to protect the buyer, safeguard his interest, and prevent the seller from cheating and committing fraud.
- Seventh: the price should be made known to the two parties. By analogy to the capital of delayed selling, if the price of the merchandise was unknown to both parties and either one of them, the sale would be invalid due to (*gharar*) ignorance. Thus, anything leading to ignorance and deceit in

sales renders the sale nugatory. This is to safeguard the interests of both parties from falling into conflict and dispute.¹

From these conditions, the writer tries to relate whether the business of direct selling business comply with the conditions or not.

1.2 Significance of Study

As we know, direct selling is a business that can give profit to both parties. This means, that method of selling even though it comes from the western but it is permitted in Islam, as long as it is line with the Islamic teaching.

This study will look at the Islamic perspective of direct selling. The writer is in view that the study on direct selling business is important due to the mushrooming of this type of business in Malaysia. The study is significant in the sense that it explores on the legal aspect of the business such the rules and regulations governing this study. It is very important to see the Islamic aspects in the practice of direct selling, as whether it is for profit taking only in accordance to Islam.

Due to lack of information on direct selling in Islamic law, the writer would like to explore the issue on direct selling based on Islamic law, so, the writer wants to know the position of direct selling business in our country

In this circumstances, the writer presumes that the significance of laws is important for consumer and they must have an instruction or basic guideline about the law, so that, it can protect their rights. The consumer should not know the whole part of that law like a practitioner of law but it is sufficient to know the basic knowledge about the law and information on this industry.

Furthermore, it can satisfy them to unleash their dissatisfaction through a right channel to make profit for both of parties. The consumer's right must be protected and

¹Sami Ibrahim Al-Suwalem. (Dr.) 2000. "*Business Ethics Under Islamic Perspectives*". (Paper) Conference on Islamic Economics, UK., August 13-15 2000.

they need to be more sensitive about this law, so as to avoid cheating made by irresponsible person.

In this topic also, the writer wants to study whether the society cares and is aware about this trade and the possible benefit from this trade of direct selling. Beside that, the writer wants to know the implementation of this business and whether the method of this direct selling is similar to pyramid system that we can find so many trade like that system nowadays. Is direct selling trade effective for the society's involvement and whether the society is ready enough to apply the direct selling business in their life.

1.3 Aim of Research

This research is important to study because the business subject nowadays rarely touches under Islamic economics. The aim for this research is to explore the elements and method of direct selling based on Islamic law. In the other hand, the writer wants to know and to compare with Islamic law of contract.

1.4 Objectives of Research

In this research, the writer wants to recognize whether the direct selling nowadays follows the rules and regulations as stated in Direct Sales Act 1993 are parallel and applicable with Islamic law of contract.

The writer also wants to know if the ethics of direct selling touch on the needs for the business community to be self regulated and disciplined as well as for them to practice their social responsibility to society. It is important to study about the implementation of Islamic principles in direct selling nowadays. At the same time, we can know the profits that the public can get from the direct selling.

Besides, the writer wants to study more about the implementation of Direct Sale and the implications that exist through this direct selling because it contains the public's right to avoid cheating by irresponsible people in direct selling. Furthermore, the writer wants to know about the implementation of Islamic contract in Direct Sale Act.

1.5 Scope of Research

The scope for this academic project is limited to the practice of direct selling in Islamic perspectives or in Islamic way. This research will explore on the legal aspects of direct selling in Malaysia such as the statutes, rules and regulations issued by the Ministry.

1.6 Literature Review

According to Moehamad Izat Emir (Dato'), (2003) the president of "Persatuan Pedagang dan Pengusaha Melayu Malaysia" (PERDASAMA) in *Usahawan Sukses Magazine*, direct selling in Malaysia is different from the retail business. He said that, the direct sale is whereby salespersons visit customer with the goods to sell, at a time convenient to consumer, demonstrate the products and let the customer use it for a month before considering the sale complete. With the direct sellers having at stake in the reputation of the brands they promote, they have interest in ensuring that the consumer is fully satisfied with the products. This is more so because the overwhelming majority of direct selling companies offer sizeable refunds on the products from 70 percent to 100 percent if the product does not meet the promised 100 percent guarantee of satisfaction.

Azman Ching (Dr) (2003) gives his view in *Usahawan Sukses Magazine* entitled Multi Level Marketing; direct selling is a unique business in this century. This business has many benefits better than other conventional business. In the other hand, MLM does not need an experience in business and higher academic qualification but

it need a high effort to achieve target. At the same time, the direct selling company offers refunds if its products do not meet total customer satisfaction and the product is returned within a month. The guarantee of satisfaction goes beyond the warranty assurance offered by the products. Warranties are assurances of replacement or repair of specific parts or finished goods under conditional circumstances for a limited period. The guarantee of satisfaction is offered by direct sellers, however is a sweeping offer of refund, not merely if the product does not fulfill the terms of the performance it is pledged to, but if the customer, for any reason is not happy with it, no question asked, no explanation sought. This moves the guarantee from an objective undertaking to meet a sentiment that is subjective. However it has to be done within 30 days from the date of the purchase because it is enough time to try a product and decide whether its performance is satisfactory or not.

William S. Pinckney (2000) in his article *Business Line* (internet edition) gives his view about consumer rights in direct selling. He said that, direct sellers known as Independent Business Owners; undergo rigorous training in dealing with consumers before they become operational. Among the codes of conduct they are expected to follow strictly are explaining as well as demonstrating the use of a product to the consumer, visiting homes at mutually convenient times, and being available to the consumer for any clarifications or complaints that may subsequently arise. He also mentioned about the explanation and demonstration that are not merely accounts of the products available; these veritably become educational elucidating what the consumer can rightfully expect as a result of the purchase, not merely in terms of the performance of the product, but also subsequent service. Direct selling invests heavily in training their direct sellers, primarily to avoid what customers may consider poor salesmanship.

Through the views above, this research is different compared to other research. This is because; the writer tries to compare it with Islamic perspectives. However, it is a challenge to the writer, in order to do study in the direct selling topic because it is not easy to get sources of information about direct selling business from Islamic perspectives.

However, the writer had concluded that, the direct selling is a business that goes direct to customer. The real direct sale's company based on quality of products that gives profit to consumer. This business can attract many people because it needs no place or office. The only thing that they need is high efforts to sell their product. The direct seller can go anywhere he wants to operate his transaction. Direct seller can succeed if he has taken the efforts to sell his products. Direct sale offers quality products for consumer and have a satisfaction guarantee toward the product. Beside that, it is not encourage to over staking of goods or high inventory and perform a justice in sale.

For those who are involved in this industry, they should not feel hesitate or fear because direct sale's company have a responsibility to follow the regulation which is made by Malaysian government. Although the regulations endorsed by Malaysian government, it is still parallel with Islamic method whereby it cares on consumer's right. However, it is not easy to change the mind setting of the public who still presumed that all direct selling business is the same. In this circumstance, the public must be aware that there are many direct selling companies operating in Malaysia. If the companies are illegal, of course, the government will take an action and cancel their sale license as long as to care of customer right.

1.7 Research Methodology

In order to identify the ethic and procedure of direct selling, the writer studies about the implementation of Islamic method in this business for consumer in Malaysia. The writer used primary data to collect the information from the authority in this industry. The writer conducts an interview with some officers such as Mr. Paul Yee (president of Direct Selling Association of Malaysia (DSAM) and Encik Ramlan Selamat (the millionaire of direct sale-CNI) about the performance of direct sale industry in Malaysia.

The writer also uses secondary data gathered from reference books and articles to support this research that relates with this topic. This research also uses the Direct Sale Act 1993 and other references to support this study research. The result from

argument and information was arranged to receive the base about the topic as an actual proof.

CHAPTER 2

CHAPTER 2

DIRECT SELLING IN MALAYSIA

2.1 Introduction

The business of direct selling is a valuable industry, although this is a new business mushrooming in our country. There are many people outside who are involved in this business and become a millionaire. Most of them become millionaires and successful businessperson after being involved in this business of direct selling.

Founded in 1978, Direct Selling Association of Malaysia hereinafter known as (DSAM) was formed as a national trade association aimed at promoting the direct selling industry on a national and international level, as well as the *de facto* voice of the industry. The DSAM functions at the societal level to create and maintain an environment that is conducive to the growth and stability of the direct selling industry in Malaysia.²

The direct selling industry is a multi billion industry generating a total turnover of RM3.9 billions to the economy in year 2002. DSAM member companies generated RM2.29 billions, which constitutes 65% of total industry turnover for 2002. In Malaysia, it is estimated that more than 3 million people are involved in direct selling. There is a lot of opportunity in the direct selling business. According to the Ministry of Domestic Trade and Consumer Affairs, the value of direct selling industry is vast. The prospect of this business is encouraging with a growth of 10 – 15% year.³

² n.a. January 2001. "*The Interpretation of Direct Selling*". Direct Selling Association of Malaysia. <http://www.dsam.org.my>. P. 1

³ *ibid.* p. 1

2.2 What is Direct Selling?

Direct Selling is defined as the sale of consumer products or services, person to person, away from a fixed retail location, but there is more to the story than the simple sale of products. Which means that the seller or sales representative going home to home or place to place to sale of goods direct to the consumer whom want to enter into contract for the sale.⁴

The term direct selling refers to the selling of consumer products directly to consumers, generally in their homes or the homes of others, at their workplace and other places away from permanent retail locations, by the direct seller being physically present, and usually explaining or demonstrating the products. The term direct selling company refers to a business entity, which utilizes a direct selling organization for the selling of products associated with its trademark or service mark or other identifying symbol.

The distinguishing characteristic of this method of marketing is that the direct seller or retailer initiates contact with the potential customer instead of waiting for the customer to come to a store or some permanent place of business.

The direct seller, therefore, is a person who sells consumer products and renders a service by direct personal contact with the consumer products, usually but not always in the consumer's home. The term direct seller refers to a person who is a member of a distribution system of a direct selling company. A direct seller may be an independent commercial agent, independent contractor, independent dealer or distributor, employed or self-employed representative, franchisee and others.⁵

⁴ Direct Sales Act 1993 and Regulation. 2003. Kuala Lumpur. International Law Book Services. P.6

⁵ n.a. 17 June 1999. "*The Definition of Direct Selling*". International Code of Direct Selling. <http://www.iccwbo.org/home/statement>. p. 2

Usually the sales representative uses a catalogue and brings a sample to show to the consumer about their goods and by that way, the consumer who is interested with the goods can enter into the contract of sale. This business need time, energy and power, commitment and vision. That is why we called this business as direct selling because it goes direct to the consumer.

The term consumer refers to any natural persons to who direct selling activities are directed outside of their trade, business or profession; the consumer product or service can be purchased through direct selling. People who purchase through direct selling product quality; uniqueness and money back guarantees as the top reasons for shopping through direct selling. Normally the sellers of direct sales sell the goods that are commonly of moveable property such as the healthy food; supplement, vitamins and other women's needs such as cosmetics, healthy food and others. Other goods are household products such as soap, food, drinks, clothes and others.

The term party selling refers to selling through explanation and demonstration of products to a group of prospective customers by a direct seller usually in the home of a host or hostess who invites other persons for this purpose.

In Malaysia, according to the Minister of Domestic Trade and Consumer affairs stated that direct selling is a diversified business with sizeable product categories. It is increasingly becoming a significant distribution channel within the country's total retail enterprise system. It offers a high growth alternative to a retail system, still lagging behind in accommodating the changing and busier lifestyle of Malaysia consumers.

Conventional distribution system and direct selling system is quite different. How we can differ between these industries? We can understand it based on the figures below about operation and performance of these two businesses.

The method of conventional distribution

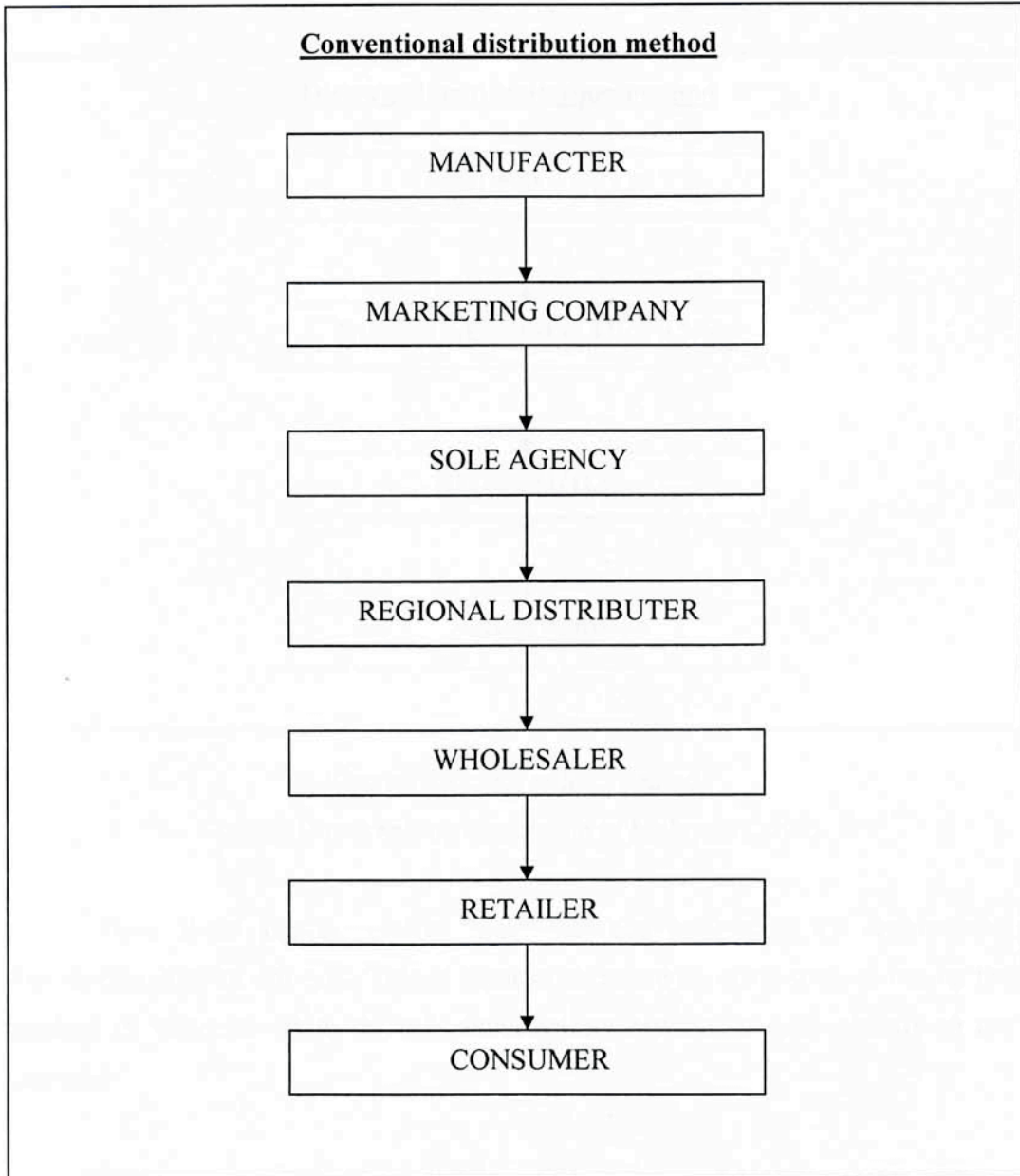


Figure 2.1 Conventional distribution methods

Source: Direct Selling Association of Malaysia, 2003

The method of direct selling distribution

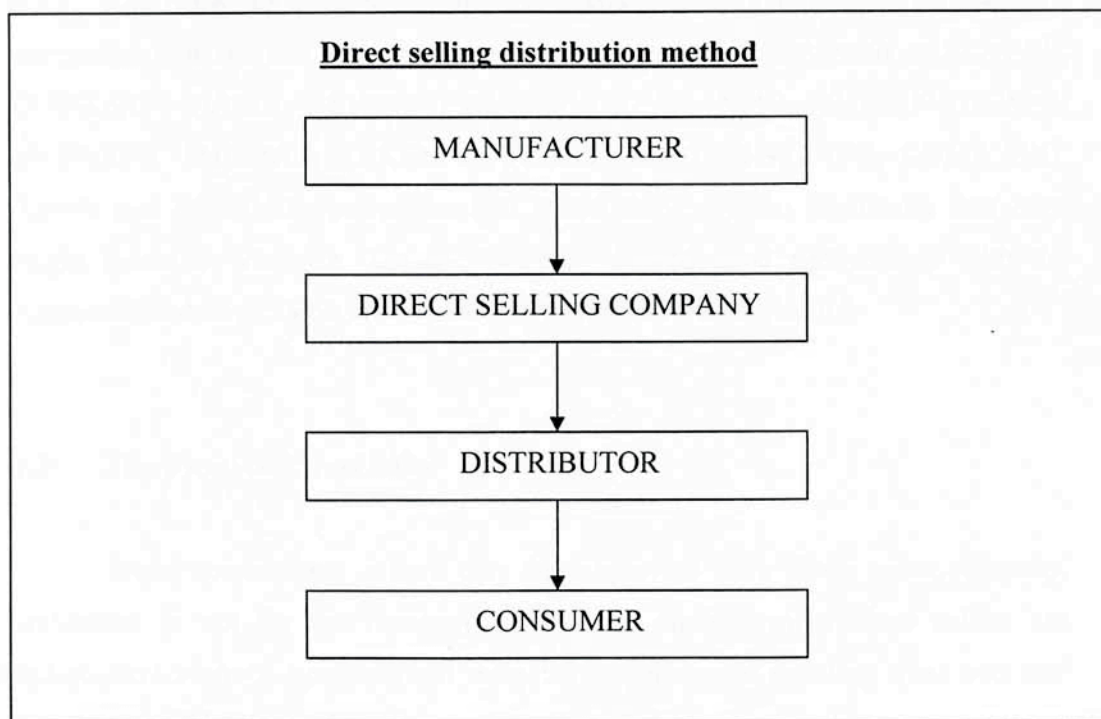


Figure 2.2 Direct selling method

Source: Direct Selling association of Malaysia (2003)

From these figures, clearly show that the performing of conventional distribution is quite different. This is because, there are so many steps to run up the product to customer while through direct selling method, it goes directly to the consumer.

There are hundreds of legitimate direct selling companies operating in the marketplace. According to the Ministry of Domestic Trade and Consumers Affairs, as of January 2003 there are 402 companies licensed to do direct selling. In this circumstance, there are some numbers of illegitimate direct selling companies. That is why it is impossible to estimate the numbers of direct selling companies operating at any given time. This is a result of several factors such as; most states do not require direct selling companies to register as such. Many direct selling companies in fact,

may even come and go before they could even be counted. The illegal direct selling company do not thrive in the direct selling market and have relatively short life span.

According to a survey done by Maslan Omar (2001), the numbers of companies that are well known and established in our country such as REVELL, COSWAY, HAI-O MARKETING, SHAKLEE, SMC INTERNATIONAL (SUNSKY), ZHULIAN, ELKEN, M-PLANT, LION BEST, CNI, CONY BIO, AVON and others. The companies that stated above are the companies that have bright future in Malaysia. These companies showed good performance with the consumers and its products are assured and customers are confident.⁶

2.3 The Types of Direct Sales

While some direct sellers may be employees of a direct sales company, authorized to act for the company in business matters, most direct sellers are independent business operators and enjoy the advantages of deciding when and how much time will be devoted to selling company's products.

While there is a multitude of direct selling companies in Malaysia, they basically fall into 4 categories.

- (a) Door to door sale
- (b) The hostess/party plan
- (c) Multi level marketing
- (d) Pyramid plan

⁶ Maslan Omar. 3 October 2001. "*Teknik Berkesan Untuk Berjaya dalam Jualan Langsung MLM.*" (trans) giantnetwork@webmailstation.com. P. 1

(a) Door to door sale

In this type of plan, the agent or dealer obtains an immediate discount from the company, at the point of purchase. He then makes a profit by selling the product to the consumer at the recommended retail price. The line of distribution in such plan is simple, involving the direct sales company, the dealer and consumer.⁷

The method of door-to-door sale

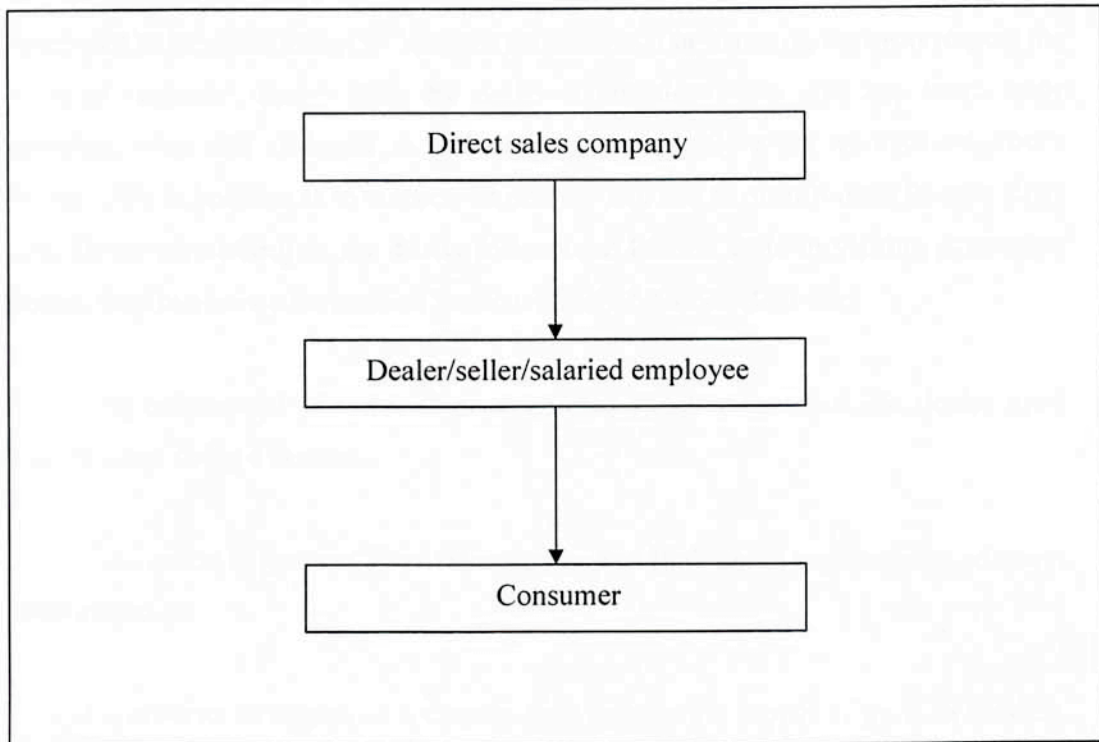


Figure 2.3 The method of door to door sale

Source from Direct Selling Association of Malaysia. 2003

⁷ n. a. n. d. "The Types of Direct Sales" Direct Selling Association of Malaysia. <http://www.dsam.org.my>. P. 12

In Islamic religion, there is not mention about this type of this method specifically. The method of door-to-door sale must be parallel with Islam. When the dealer has a transaction under method door-to-door sale, they must know and follow the ethic in going home to home. This is because in Islam there are ethics when we visit Muslim's house. In this circumstance, the dealer must know that kind of ethic so that they can follow the ethic when do a business from home to home. The dealer must ensure that they follow Islamic ethic such as give a *salam*/greeting first before enter into customer's house. They have to give three times of salam, if there is no answer, they must leave that house. This could show that the customers are not interested to have a contract or business transaction. Furthermore, we must respect the right of customer. Beside that, the dealer is not allowed to visit any home early morning, noon and midnight as mention in Islamic ethic when we visit neighbor's house. This is because as to respect the privacy and not to disturb them in their daily life. However, as long as the dealer follows the Islamic ethic in visiting customer's house, they can have a transaction by the method of door-to-door sale.

In commercial contract, there are stated requirements that the dealer must follow when doing a business.

As stated in Section 23 of Direct Sales Act 1993 about requirements of direct sales contracts.

- (1) a contract in respect of a door to door sale for the supply of good or services having such value as may be prescribed, and a contract in respect of a mail order sale-

- (a) Shall be in writing

In Islam, it is important to have a transaction, which cares for consumer's right. That is why a contract in writing is important as to avoid a cheat and *gharar* between customer and seller. It relates to the things in *muamalat* in Islam. There is lot of benefits to have a contract in writing. In this circumstance, it can avoid from breaking of promise to both of parties. This is because when we have a contract in writing; it

can be as a proof or evidence to any parties from breaking of promise. At the same time, it easy to solve any conflict of contract if there are problems or break of promise in that transaction.

Beside that, when we have a transaction in writing, it can give opportunity for both parties to put the conditions in that contract. In Islam, it is important to have an acceptance and consideration between the party who enter into a contract and fulfill all of conditions and are satisfied with the term and requirement made by that party.

Furthermore, in Islam a contract in writing can be seen such as official agreement and acceptance of the contract between the parties.

Under Section 23(1)(b) also stated that it,

(b) shall contain immediately above the place provided for the signature of the purchaser the statement "THIS CONTRACT IS SUBJECT TO A COOLING OFF PERIOD OF TEN WORKING DAYS' printed in upper case in type not smaller than 18 point Times; and

Subject to a cooling of period, it mentions and known as a *khiyar* in Islamic contract. The Islamic jurists made interpretations about *khiyar* as a right to any parties who enter into a contract whether to agree or not with that contract.

There are purposes of *khiyar* to any party in contract as to ensure an existence of willingness to enter into a contract or to cancel it. Besides that, the right of choose (*khiyar*) as to care of importance's (*maslahat*) of the parties. Sometimes, a buyer unconsciously buys products that have a defect. It is fair if he has an opportunity to select whether to purchase that product or to cancel it.

There are hadith stated about Khiyar

حديث حكيم بن حزام رضى الله عنه : عن النبي صلى الله عليه وسلم :
 قال : البيعان بالخيار ما لم يتفرقا, فان صدقا وبينا بورك لهما في
 بيعيهما, فان كذبا وكتما محق بركه بيعيهما

Meanings:

Hakim bin Hizam, may Allah be pleased with him, reported: Allah Messenger's (PBUH) said: Both parties in a business transaction have the right to annul it so long as they have not separated, and if they speak the truth and make everything clear they will be blessed in their transaction, but if they tell a lie and conceal everything, the blessing on their transaction will be blotted out

This method of selecting is permitted in Islam. The right to have a selection can be done throughly or by condition.⁸

(c) shall be signed by both the vendor and the purchaser

(2) Where a contract in respect of a direct sale is concluded by a person authorized by the vendor for the purposes of this section.

(b) The Hostess/Party Plan

Under this type of plan, the direct sellers arranges with a friend who shall act as 'hostess' to invite a group of friends for demonstration of a products. In the course

⁸ Faizah Hj Ismail. 2000. "Asas Muamalat Dalam Islam". Kuala Lumpur Dewan Bahasa dan Pustaka. P. 142

of this party, orders are received for products. The hostess receives merchandise as compensation for the use of her home and help in getting their friends together.⁹

The method of hostess/party plan sale

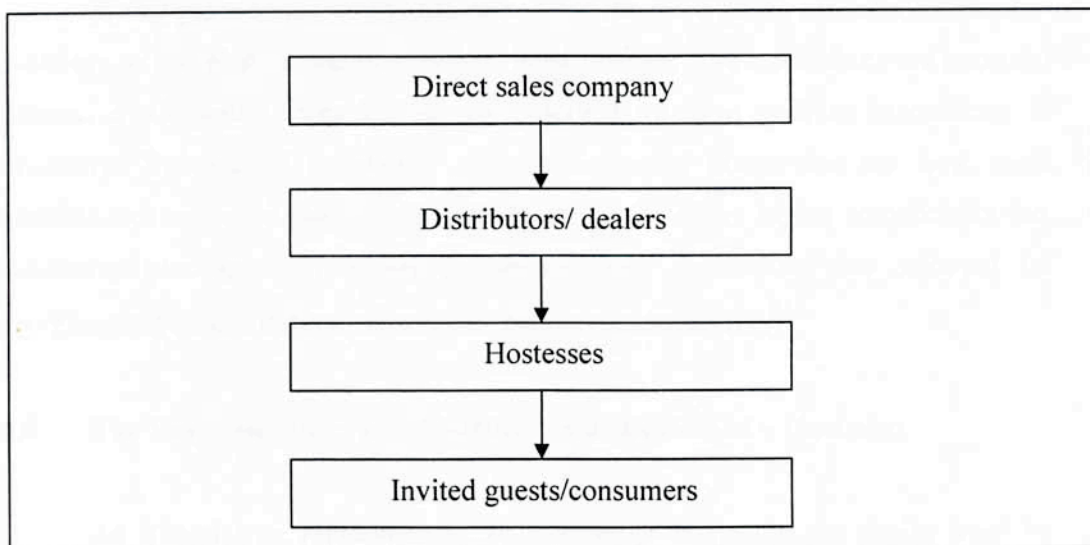


Figure 2.4 The method of host plan

(Source from Direct Selling Association of Malaysia, 2003)

(c) Multi-Level Marketing

This plan allows direct seller to manage and service a large direct retail network. An existing distributor of the company must first sponsor those interested in this plan. With the help of this distributor, he then builds his month sales volume to qualify for higher monetary incentives and higher level of recognitions. At direct distributor level, he functions as both a wholesaler and retailer, purchasing products in bulk from the company and distributing them to his distributors who in turn sell them to the customers. All income earned by a distributor is based upon the volume of sales

⁹ n.a. n. d. "The types of Direct Sales" Direct Selling Association of Malaysia. <http://www.dsam.org.my>. P. 12

and no other considerations. There is one standard distributor price for products to distributors and one standard retail price for products to customers.¹⁰

(d) Pyramid plan

In this plan, commissions are earned for the mere act of recruiting more new members to the plan, sometimes called 'head hunting'. New members are normally charged a substantial entry fee, of ten obscured by large up-front investments in inventory. Because of legislation overseas, pyramid companies are now more sophisticated and now disguise up-front loading with either higher membership fee, mandatory purchase of products or various other impositions like payment for computer and other information services, training materials etc.¹¹

2.4 The Responsibilities as a Distributors or Dealers of a Company

As a dealer or representative of a member company, the dealer must be responsible for upholding the same high standards of business ethics of a company has pledged to uphold. As a sale person, he must always tell his potential customers about his identification. Moreover, why approaching about the product that he is selling to the customer. The representative must explain about the procedure of selling for example, how to buy a goods or how to return a product and cancel an order. The seller also should be responsible to respect the privacy of customer by calling at a time that is convenient to them .Beside that, he should prompt and demonstrate or present at the request of customers. They must provide accurate and truthful information regarding the price, quality, quantity, performance and availability of the goods or services. The dealer should offer a written receipt in language which customers can understand it. It must provide name and contact information, as well as the contact information of the company of him present.¹²

¹⁰ *ibid.* p. 12

¹¹ *ibid.* p. 12

¹² n.a. 2003."CNI Business Plan" CNI. P. 17

CHAPTER 2

CHAPTER 2: THE HISTORY OF THE UNITED STATES

The United States was founded in 1776.

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CHAPTER 3

CODE OF CONDUCTS FOR DIRECT SELLING IN MALAYSIA

The Code of Conducts in Direct Selling

The direct selling in Malaysia promises a new bright opportunity for people. While this industry is developing into the highest part, the seller must play an active role to ensure this industry will grow and strengthen the economic in our country. In fact, to gain the trust and good views from public, the DSAM produces a code of conduct of direct selling.

Direct Selling Association of Malaysia (DSAM) has used a code of conduct whereby each company and members must follow the ethics and practices of those regulations. The DSAM become as a guider in direct selling through an implementation of code of ethics and procedure of behaviors that must be followed by the sales representative, the members and direct sale's company in all of business aspect.

3.1 The Ethics of Conduct towards Customer

The direct seller must follow the ethics of conduct. Its purpose is to encourage development of this industry and to ensure the right of consumers is protected under the code of conduct. It is parallel with Islam, which cares, and defends customer's right. Through the ethic of conduct, the seller is responsible to care of customer's right and satisfaction.

Prohibited Practices

The seller cannot use a sales practice that is confusing, cheating, and injustice to the buyer. She/he must use a method that clearly clarify of desired by consumer and make they satisfy with it.

Identification Card

At the beginning of the sales presentation sales method, direct sellers should without request truthfully identify themselves to the prospective consumer, and should also identify their company, their products and the purpose of their solicitation. In party selling, direct sellers should make clear the purpose of the occasion to the host/hostess and to the participants. Promotional literature, advertisements or mailings should contain the name and address or telephone number of the direct selling company or the direct seller as stated in Section 18 of Direct Sales Act 1993:

- (1) Any person negotiating a door-to-door sale shall produce to the prospective purchaser
 - (a) His national registration identification card; and
 - (b) His authority card, which shall contain such particulars as, may be prescribed

- (2) Any person who fails to produce his national registration identification card or authority card or who produces an authority card, which contains any false or misleading information, shall be guilty of an offence.

Explanation and Demonstration

The seller must explain and show the product that he is offer. All of information must in detail an accurate about that product especially in pricing, and so on such as the price, the condition of payment, the cooling off period and the money back guarantee. The sales representative must mention also about the term of warranty and service before and after sale. Explanation and demonstration of the product offered should be accurate and complete, in particular with regard to price and, if applicable, credit price, terms of payment, cooling-off periods and/or return rights, terms of guarantee, after-sales service, and delivery.

The Answer to Question

The seller must give a right and accurate answer with complete that can make consumer understand the using of product. Direct sellers should give accurate and understandable answers to all questions from consumers concerning the product and the offer. Furthermore, answer the question from customer about any offer of the goods. Presentations used in direct selling should not contain any product description, claim, illustration or other element, which directly or by implication is likely to mislead the consumer explanation and demonstration

The Order Form

A written order form should be delivered to the consumer at the time of sale, which should identify the direct selling company and the direct seller and which should contain the full name, permanent address and telephone number of the direct selling company or of the direct seller and all material terms of the sale. All terms should be clearly legible. That form must be consisting of seller's name, address, phone number and all material of sale's term. That term must be stated clearly.

The Verbal Promises

The sale representative can make an oral agreement between those parties to enter the contract about the related product that have recognized by company.

In Islamic religion, the verbal promise can be as though as a promise. So, the seller must follow the verbal promise made by him to customer. This is because there are role of promise in Islam. Those who enter into a promise must fulfill the promise.

In this circumstance, the seller who makes a verbal promise to join the contract must fulfill the need of customer. That oral agreement is as a promise. As a Muslim we are expected to be honest and fulfill the promise made to other people. This is based on the following surah. Surah Al Anbiya': 17 verse 38 stressed on the importance of promise.

Al Anbiya': 17 verse 38

ويقولون متى هذا الوعد ان كنتم صدقين

Meaning:

"They say: when will this promise come to pass, if ye are telling the truth"¹³

Then, a Muslim can make a verbal promise and telling the truth to fulfill the promise.

Al Qasas: 20 verse 61

أفمن وعده و عدا حسنا فهو لقيه كمن متعنه متع الحياة الدنيا ثم هو يوم
القيامة من المحضرين

¹³ Al Quranic Translation in writing based on Syed Vickar Ahamed Holmded (Dr.) 1999. Research, Writing and Translation. Cairo, Egypt: Percetakan Yayasan Islam Terengganu Sdn. Bhd.