



Australia – UK FTA Coordinator
Regional Trade Agreements Division
Department of Foreign Affairs and Trade
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BARTON ACT 2600

Email: ukfta@dfat.gov.au

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Dear Sir/Madam,

AUS-UK FTA -Need for Direct Selling Commitments:

DSA is an industry body that for over 50 years has been representing companies operating direct selling businesses in Australia (**Members**). “Direct selling” describes the retailing of goods and services to consumers away from a fixed location.

Direct selling companies operating in Australia and the U.K. market and sell their products through independent distributors, person-to-person, away from a fixed retail location. Direct selling is a business model that offers entrepreneurial opportunities to individuals as independent contractors to market and/or sell products and services, typically through one-to-one selling, in-home product demonstrations, or online. Many direct sellers earn compensation not only on their own sales but on the services provided in support of sales by other individuals.

Over 450,000 Australians and nearly 120 million globally are involved in direct selling. Many are women, including micro-entrepreneurs who make supplemental income by selling the product and/or services of the company they represent. The industry is growing. While global sales totalled over AUD\$257M in 2019, we expect strong 2020 growth. In 2019, the direct selling industry in Australia contributed AUD\$1.7 billion to the national economy.

International rules governing the services trade are especially important because the WTO GATS does not specifically address direct selling as a method of distribution. Due to a lack of familiarity with direct selling, confusion between legitimate direct selling and fraudulent activities such as illegal “pyramid” scheme sales is common. Such confusion has resulted in restrictions on direct selling companies in some countries and, as a result, has limited the growth of legitimate direct selling companies in some cases. For example, some countries limit the sales of nutritional supplements to pharmacies or bricks-and-mortar retail establishments.

We believe all countries should adopt a common standard to treat direct selling as a mainstream sales distribution channel.

Direct Selling Provision in the AUS-UK Trade Agreement:

In the context of the AUS-UK Trade Agreement, Direct Selling Australia supports the inclusion of language specifically related to direct selling, such as was included or is being considered in other global trade agreements including the U.S.-Mexico-Canada (USMCA) Agreement, the U.S.-Japan FTA and the U.S.-UK FTA. The USMCA included a provision in the Chapter on Cross-Border Trade in Services that provides that each party shall endeavour to support the development of business models “such as direct selling services.” In particular, the USMCA defines direct selling as follows:

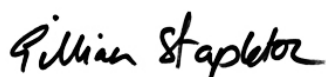
“Direct selling is the retail distribution of goods by an independent sales representative, and for which the representative is compensated based exclusively on the value of goods sold either by the representative or additional representatives recruited, trained, or otherwise supported by the representative. Such goods include any product that may be distributed by other retail distribution service suppliers without a prescription or other special authorization, and may include food products, such as food and nutritional supplements in tablet, powder, or liquid capsule form; cosmetics; common consumer products for which medical expertise is not required, such as cotton swabs; and other hygiene and cleaning products. The term “nutritional supplement” applies to all health-maintenance products not intended to cure or treat a disease, and that are sold without prescription or other special authorization.”

DSA considers that the following principles should be included in the AUS-UK Trade Agreement:

1. Countries should not prohibit the distribution of products through direct selling that otherwise may be freely distributed by other retail distribution service suppliers without a prescription or other special authorisation. Goods normally sold on an “over-the-counter” basis should be permitted through the direct selling channel. There should be parity in the distribution of products sold directly to consumers and those sold through traditional bricks-and-mortar retail outlets.
2. Countries should not prevent the compensation of an independent sales representative on the basis of the value of products sold either by the representative or additional representatives recruited, trained or otherwise supported by the representative.
3. In any commitments, it should be made clear that countries should not be prevented from adopting or maintaining measures against fraudulent practices such as pyramid schemes (in which participants give consideration for the opportunity to receive compensation that is derived primarily from the introduction of other participants into the scheme), inventory loading schemes (in which companies induce participants to purchase goods that cannot be resold or returned to the company), or subscription churn schemes (in which the company earns funds primarily from entry fees paid by subscribers who do not stay in the business and not from product sales). In addition, direct selling commitments would not affect the ability of countries to restrict direct selling of products requiring medical expertise, prescription or other special authorisation to consume.

Should you have any queries about issues raised in this submission, please do not hesitate to contact me.

Yours faithfully



GILLIAN STAPLETON
CEO