



DIRECT SELLING ASSOCIATION

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May 8, 2013

Mr. Douglas Bell
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Re: Comments on the Transatlantic Trade and Investment Partnership

Dear Mr. Bell:

In response to the April 1, 2013 *Federal Register* notice (78 *Fed. Reg.* 19566), the Direct Selling Association (DSA) appreciates the opportunity to submit comments in support of the negotiation of a Transatlantic Trade and Investment Partnership (TTIP) agreement with the European Union (EU).

On behalf of the nearly 200 members of the DSA, we support the effort to negotiate a TTIP agreement and believe that such an agreement could be beneficial and increase competitiveness in the EU, where our member companies currently face services and standards barriers that should be addressed in the upcoming negotiations. Our industry represents over \$29 billion in domestic sales and over \$153 billion in worldwide sales each year. The 15.6 million individuals engaged in direct selling in the U.S. are independent contractors who typically sell on a part-time basis to their neighbors, relatives, and friends to supplement their family income. Direct selling companies include some of the nation's best known and respected commercial names. Direct selling salespeople have become icons of American business and entrepreneurship and are globally recognized as engines for economic growth.

Restrictions on direct selling have limited the opportunity for growth of legitimate direct selling enterprises in the EU. We are very concerned about restrictions on the type of products that can be distributed in the EU through the direct selling channel. Some EU Member States prohibit or limit the ability of companies to sell food supplements, including botanical and herbal products, through this channel even though these products are sold on an over-the-counter basis in retail shops. We believe these restrictions should be lifted.

DSA would support the inclusion of language specifically related to direct selling, such as in an annex in the services chapter of the agreement. A model Direct Selling Annex is attached.

Thank you for your consideration of this submission. We would be pleased to speak with you further about any aspect of these comments.

Sincerely,

Adolfo Franco

Adolfo Franco
Executive Vice President
Direct Selling Association

ANNEX [XX] DISTRIBUTION SERVICES

Direct Selling

1. Direct Selling or Direct Sales refers to a sales system through which companies engage independent contractors to provide sales and sales-support services away from a fixed retail location. Direct Selling is distinguished from catalog and other direct marketing operations, as well as by sales in fixed locations, by its reliance on personal demonstration and sales. Direct Selling includes wholesale and retail trade activities. Direct Selling typically includes compensation to independent contractors based on their own personal sales and sales by those independent contractors who are recruited, trained and otherwise supported by the initial direct seller based on the value of products sold. These payments recognize the value of the marketing and sales support services of independent contractors as measured by product sales.
2. As such, direct selling is a recognized type of distribution system, and products sold through this sales system should be provided the same market access as provided to these products when sold through any other sales system. The type of sales system should not be a basis for discrimination.
3. In contrast, this commitment in no way limits a Party from imposing restrictions on fraudulent sales systems, including but not limited to: 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); and, 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).
4. If a Party considers that the other Party is not maintaining its market access commitments, it may request consultations. The other Party shall afford adequate opportunity for consultations and, to the extent possible, shall provide information in response to inquiries regarding the level of access and any related matter.
5. Goods normally sold to consumers without prescriptions or special authorization shall be permitted through the direct selling channel. This includes: food products (such as food and nutritional supplements, in tablet, powder, liquid capsule form); vitamins, minerals, or other biologically active substances which are intended to support the healthy function of the human body and not intended to cure or treat a disease; cosmetics; common consumer products for which medical expertise is not required, such as cotton swabs; and other hygiene and cleaning products.