MLM Industry in Turmoil

The U.S. Federal Trade Commission has been busy. Inquiries into large, mainstream multilevel marketing (MLM) companies like Vemma and Herbalife are occurring at a rate not seen before.

Investors, state agencies, and consumer protection groups have leveled complaints of unfair business practices, deceptive recruiting techniques, and claims of pyramid schemes. And now the FTC is weighing in.

In August 2015, at the FTC’s request, a federal court halted Vemma’s operations, alleging, “Vemma is an illegal pyramid scheme that rewards affiliates for recruiting participants rather than for selling products.” This move took most in the MLM world by surprise. A card-carrying member of the Direct Sales Association, Vemma was operating within what it understood to be the guidelines allowed for multilevel operations. Then, suddenly, the FTC put on the brakes. Vemma was shut down, its financial accounts frozen, and the company itself placed under receivership. What of the thousands of distributors who had worked countless hours to build their Vemma business? Their source of income instantly vanished. No more commission checks. No more bonuses. No more opportunity to advance.

The FTC’s message to other MLMs: you may be next.

At the time of the Vemma injunction, the third-largest MLM in the U.S. had been under investigation by the FTC for more than a year. A more than 30-year-old company with operations around the world and billions of dollars in annual sales, Herbalife has been a pillar of MLM practice for a generation. Allegations claimed it was little more than a pyramid scheme—a scam built not on typical consumer behavior, but an organization that made its profits at the expense of an unsuspecting public’s hope that they could someday earn rock-star-like income. In other words, it was never about products. Herbalife was about selling “business opportunities.”

The basis of the charges became a top concern for every MLM. If Herbalife was found out of compliance with the law, surely others would be too. Management teams at hundreds of other companies anxiously awaited the outcome of the FTC investigation. If the ruling on Herbalife was dire, the consequences for other MLMs would be far reaching.

On July 15, 2016, news broke. Herbalife signed a consent decree, agreeing to pay a historic $200 million to reimburse distributors who lost money. More importantly, Herbalife agreed to sweeping changes to its business model that would otherwise leave it defined as an unlawful pyramid scheme subject to a forced shutdown.

For Herbalife, the changes are dramatic. And while the full effect of these conversions has yet to be seen, industry experts are predicting a crippling slowdown for Herbalife—if not a complete collapse of their U.S. operations.

What of the hundreds of other similar companies trying to make sense of the decision? The MLM industry is in turmoil. The FTC’s recent actions against both Herbalife and Vemma make it clear that no MLM company is safe from scrutiny.

FTC Chair Edith Ramirez has signaled that more direction is coming for MLM companies and they can expect it will shake their mode of operation like nothing before.
Congratulations to the FTC for protecting the consumer! It’s exactly what America (and Melaleuca) needed!

Thirty-one years ago, Melaleuca set out to build a company that would champion the “little guy.” A different kind of company that could provide everyday people—driven by an honest desire to work hard—a chance to earn supplemental income and improve their lives.

Melaleuca management had seen multilevel marketing companies and get-rich-quick schemes in the past prey upon people’s desire to get ahead, thus ruining lives by employing pyramid-scheme tactics that required participants to spend exorbitant amounts in inventory to get nothing in return. Frank VanderSloot knew he didn’t want anything to do with multilevel marketing. Instead, he wanted to build a company that compensated businesses for selling products to real consumers. Driven by this desire, Frank created what is now known as the Consumer Direct Marketing® business model.

At the time, Consumer Direct Marketing was a revolutionary idea and most people thought it would not work. How could a direct-selling company make money without requiring people to load up on inventory? How could a company survive unless its focus was on recruiting more and more people into the pyramid? Fortunately, Frank did not listen to the naysayers and forged ahead believing that Consumer Direct Marketing was the only way to build a truly lasting business.

Now, 31 years later, Melaleuca has stood the test of time and has been validated time and time again as the exemplary way to build a viable, long-term business opportunity. In fact, not long ago, Melaleuca and its Consumer Direct Marketing business model received an important confirmation when the United States Federal Trade Commission (FTC) made its historic announcement. To be clear, the FTC did not mention Melaleuca’s Consumer Direct Marketing by name in its announcement, but when you look at the way the FTC described how a direct-selling company should operate and compare it to Melaleuca’s Consumer Direct Marketing, the two align perfectly with each other.

For Melaleuca, it was validation of what we had been practicing for over 30 years. It is important that everyone understand exactly what the FTC said and how it applies to Melaleuca.

**FTC v. Herbalife**

On July 15, 2016, the FTC announced that it had entered into a settlement agreement with Herbalife, one of the largest international multilevel marketing companies in the world. This settlement agreement was the culmination of over two years of intensive investigative work by the FTC. The FTC had alleged that Herbalife was an illegal pyramid scheme because Herbalife’s business model relied upon the recruitment of new distributors into its “pyramid” rather than legitimate product sales to end consumers. The model required distributors to purchase an oversupply of products to earn commissions. This led to the vast majority of distributors making little or no money—in many cases even losing money—and product never making its way to the end user. Herbalife fought back and denied the allegations.

In the end, the FTC and Herbalife cut a deal rather than litigate in court. The deal consisted of two parts. First, Herbalife agreed to pay $200 million to compensate distributors who were harmed and lost money participating in Herbalife’s business scheme. Second, Herbalife agreed to revamp and change its business model. In summarizing the deal, FTC Chairwoman Ramirez said, “The settlement will require Herbalife to fundamentally restructure its business so that participants are rewarded for what they sell, not how many people they recruit. Herbalife is going to have to start operating legitimately, making only truthful claims about how much money its members are likely to make, and it will have to compensate consumers for the losses they have suffered as a result of what we charge are unfair and deceptive practices.”

**Specific Changes to Herbalife’s Business Model**

Some of the specific “restructuring” changes Herbalife agreed to make include the following:

1. Herbalife agreed to clearly divide its participants into two distinct groups: Preferred Customers and Business Opportunity Participants. (Yes, the FTC actually used the term “preferred customers” in its settlement papers—the term Preferred Customer is a term introduced exclusively by Melaleuca in 1987. Melaleuca has used that term since then.)

2. Herbalife agreed to pay distributors only for true retail sales. This means that Herbalife can no longer pay commissions on products that sit in people’s garages. The agreement stipulates that two-thirds of all retail sales must be to Preferred Customers rather than Business Opportunity Participants.

*Results vary. For typical results, please consult the Annual Income Statistics on page 64.*
3. Herbalife agreed to require its distributors to collect sales receipts and data on all retail sales. This means that each Herbalife distributor has the burden of collecting the first and last name of each customer, contact information for each customer, the method of payment, the date of purchase, the products sold, the price paid for the products, and the signature of the customer—a burdensome requirement.

4. A retail sale must be at a price higher than what was paid for the product. That means distributors can no longer dump excess product on Amazon or eBay at a discount, an important part of today’s model.

5. Herbalife agreed to prevent inventory loading by limiting the amount of sales made to other distributors that are eligible for commissions to no more than $200. This means that if a distributor sells products to another distributor, the amount upon which commissions are calculated will be capped at $200.

6. Herbalife agreed to a more robust refund policy. This means that Herbalife will have to refund unopened product for up to 12 months.

7. Herbalife agreed to refrain from making lavish lifestyle claims and misrepresenting income potential. This means that Herbalife can no longer encourage people to quit their jobs or show yachts, airplanes, luxury cars, and mansions as a way to entice people to become distributors—a crushing blow to their model.

Validation of Consumer Direct Marketing

When you look at what the FTC required of Herbalife, it is clear that Consumer Direct Marketing is in compliance.

Dividing people into preferred customers and business builder groups? Check. Melaleuca has been doing that for years. Most of Melaleuca’s customers are Preferred Customers and not Marketing Executives actively building a business. This is proof that people join Melaleuca because they love the products and Melaleuca is a company built on real products with real consumer demand.

Paying commissions only for true retail sales? Not a problem. The genius of the Consumer Direct Marketing model is that ALL sales are retail sales. In fact, reselling Melaleuca products is prohibited. There is no multilayered pricing or wholesale activities. Because Melaleuca takes orders and ships directly to end users, Marketing Executives do not have to carry inventory or load up on product with the hope of someday reselling the product.

Collecting sales data? Done. Because Melaleuca takes orders and ships products directly, Melaleuca can demonstrate that all sales are true retail sales driven by true consumer demand. Best of all, the Consumer Direct Marketing model means that Marketing Executives are relieved of this administrative burden. Herbalife distributors now have that cost and expense of fulfilling this paperwork requirement.

Proactively safeguarding against inventory loading? For years, Melaleuca has been limiting commissions to the first 150 Product Points on each monthly order. This prevents Marketing Executives from pressuring others to load up on product just to earn commissions. As a company built on real products and real product demand, we only want people to buy what they use. It would be easy to encourage people to “over-purchase” products with the promise of big commissions, but we do not think that would be right or ethical.

Robust refund policy? Melaleuca’s Satisfaction Guarantee has been the industry standard for years. If customers are not satisfied with Melaleuca products, they can return them for a full credit or refund.

Lavish lifestyle claims? Not at Melaleuca. Our message has been clear from the beginning. Melaleuca is not a get-rich-quick scheme and you should not quit your day job as soon as you enroll. Melaleuca is potentially an extremely lucrative opportunity, but we teach to under-promise and over-deliver.

Well Positioned for the Future

The FTC’s settlement with Herbalife sent shock waves through the multilevel marketing industry. Many companies right now are scrambling to figure out how to change their business model so that they are not the next target of the FTC. Melaleuca predicts that over the next few years, many of these multilevel marketing companies will not survive as they are forced to produce unobtainable retail sales. The good news is that, thanks to Consumer Direct Marketing and Melaleuca’s product focus, Melaleuca will benefit because Melaleuca will last a lifetime.
Summary of Herbalife Stipulation

1. **Herbalife** was fined $200 million to redress harm Herbalife has caused to consumers, and the FTC announced Herbalife caused harm far in excess of that amount. Herbalife must disclose customer information so the FTC can administer consumer redress.

2. **Herbalife** must adopt two contracts to distinguish between Preferred Customers and business builders. *Melaleuca has done this for 31 years.*

3. **Herbalife** must document and track its sales to end consumers. They must collect the name, method of payment, product quantity, date, purchase price, contact information, and signature of purchaser for all sales. *All of Melaleuca’s transactions are directly with the customer. Melaleuca.com provides that information instantaneously.*

4. **Herbalife** cannot pay full commissions to distributors if they do not have 66 percent of the company and individual distributor sales to customers. *Melaleuca already complies.*

5. **Herbalife** cannot pay commissions to distributors on purchases that exceed a set amount, starting at $200 and reducing to $125. *Melaleuca already complies with our 150 Product Point limit on commissions.*

6. **Herbalife** is prohibited from requiring a purchase for a distributor to qualify for commissions and bonuses. *Melaleuca already complies.*

7. **Herbalife** is prohibited from misrepresenting income potential and cannot say that the failure to reach income potential is due to participants’ failure to devote sufficient effort. *Melaleuca already complies.*

8. **Herbalife** cannot make lavish lifestyle claims such as “quit your job,” “be set for life,” “earn millions of dollars,” “make more money than you ever have imagined or thought possible,” or “realize unlimited income potential.” *Melaleuca has always advocated that people keep their jobs.*

9. **Herbalife** must train new distributors regarding inventory management, documenting sales, penalties for falsifying sales, calculating profit and loss, how to create a business budget, permissible income claims, how to receive a refund, and how to submit a complaint to law enforcement. For 10 years, Herbalife must notify high-level distributors of the FTC Order. For 25 years, Melaleuca has given full disclosure in its Annual Income Statistics.

10. **Herbalife** is prohibited from using the auto-ship program for distributors (but not for Preferred Customers). *Melaleuca has never had an auto-ship program.*

11. **Herbalife** must submit to internal and independent third-party compliance monitoring for at least seven years and must update its internal reports whenever there is company structure change. Herbalife must also keep records to establish its compliance and make its internal records available to the FTC. *Melaleuca has been keeping these records for 30 years. The FTC has never asked to see them, but if they did they would be really impressed that every single sale that Melaleuca makes is to a bona fide retail customer. Not a single MLM company can say that. Melaleuca can!*
The recent decision by the FTC to fine Herbalife $200 million is one of the most significant rulings in the history of direct selling. It will forever change the way business is done for hundreds of companies. And in fact, it is expected that many will not survive under the new FTC guidelines.

Many of those who have thrown in with these companies are experiencing very real and frightening concerns about their financial future. So it should be reassuring for them to know that Melaleuca has been in compliance with all FTC/Herbalife requirements since it’s inception more than 30 years ago. Melaleuca’s business model is totally based on retail sales. That’s all the FTC is asking of Herbalife.

For those questioning their future, help them know that they have a safe haven at Melaleuca. They can build a business that will last their lifetime without the fear that their business will be taken away from them; without the fear that the company will be closed down; without the fear that they’re going to cause harm to others.

Melaleuca products are exceptional. And they’re priced reasonably for our customers. That allows us to enjoy a 96% monthly customer reorder rate...better than any other direct-selling company in America. With that kind of customer loyalty, anyone can build with confidence. And you can rest assured that your business can truly last a lifetime.

Melaleuca’s compensation plan pays handsomely with a variety of advancement and status bonuses, plus residual income that rewards hard work.

If you know someone who’s been with an MLM company, this type of compensation plan may initially feel foreign to them. But trust us, it works. It’s the backbone of Melaleuca’s business model, and to date it’s allowed us to pay out nearly $5 billion in commissions.

Now is the time to come home to Melaleuca!

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**melaleuca.com/comehome**

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