

The World of Direct Selling

Direct Selling Wisdom in 100 Words

<http://www.worldofdirectselling.com/what-should-the-others-do/>

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The court ruling on [Vemma](#) upon [Federal Trade Commission's \(FTC\)](#) accusations undoubtedly has attracted much attention within and out of the direct selling industry. So, when a member of this industry receives such a ruling, what should the others do, how should they position themselves?

"When authorities file a lawsuit declaring a direct selling company a pyramid scheme, what would you recommend to a competing firm in terms of the actions to take?" was the question I asked to some of the experts.

Let's see what they have to say on this...

Oscar Canio Arias, Managing Director of [Direct Selling Europe \(DSE\)](#):



"I welcome the decision of a US Court to close down Vemma, following FTC's complaint accusing the company of operating a pyramid scheme. Further to the Vemma case, the industry continues following the investigations by the FTC, FB and SEC against Herbalife. What would I recommend to competing firms? Certainly, putting an end to the misleading and/or aggressive practices that still exist nowadays in some unethical companies. The Code of Ethics of DSE is a good example of a credible and highly demanding set of requirements for its members and direct sellers. Just to name a few examples: a) no compulsory entry fees;

b) the vast majority of income of direct sellers shall be derived from product and service sales to consumers; and c) product training shall be offered at no cost to the direct seller. Following the example of DSE and implementing those three requirements, the industry would benefit from more trust and credibility from regulators and consumers."

Jeff Babener, Legal Counsel at [Babener and Associates](#):



"We live in a litigious world. A pyramid lawsuit is an allegation. An adjudication may be years away. A third party is not privy to all the relevant facts... and so, you are an observer. But, as to your business, you know the facts. Consider such a suit a wakeup call. It is time, with your own direct selling legal counsel, for an internal audit to assure compliance with current best practices and legal standards. It is important to determine if any of the alleged

offensive practices are present in your business, and it is also important to understand if the allegations are common to all businesses like yours, i.e., is there a new regulatory paradigm that the entire industry must address. What it is not time to do is to seek to take advantage of the circumstances to raid your competitor during their difficult time. Such an opportunistic move would be more than 'poor form'."

Jonathan Gilliam, Founder and President of [Momentum Factor](#):



"The current slew of federal cases in the US serves as a wake-up call that regulators have taken a much more aggressive stance toward our industry, worldwide. The biggest risk to companies comes from the advent of social media and marketing technology, as it is difficult to control claims made by the field online. It is incumbent upon all executives of a direct selling company to ensure their company is actively engaged in protecting its business by monitoring, identifying, and enforcing violations of compliance. Solid direct sales-specific compliance monitoring technology is a first step

toward accomplishing this."

Brent Kugler, Partner at [Scheef & Stone](#)



"Companies should seek an independent review of their business practices to determine if they are susceptible to a similar regulatory attack. It is not enough for a company to rely on the fact that its business practices are similar to other companies which have never faced regulatory scrutiny. Regulatory lawsuits typically begin with a court order suspending a company's business operations. Rarely can a company survive such an occurrence, even if it ultimately prevails in the lawsuit. Companies must therefore identify business practices that might attract regulatory

scrutiny and make the necessary changes to remain in compliance with recent regulatory developments."

Alan Luce, Founder and CEO of [Luce, Murphy, Fong and Associates](#):



"The recent enforcement action by the FTC against Vemma should cause every direct selling company to reexamine its policies and practices against those set out as violations. In that examination the company should ask itself two questions: 1) Is any part or our compensation plan paying financial rewards to recruiters based in whole or in part upon the new recruit's required investment in the business? 2) What determines whether a sales person is an "active member" of the salesforce with the right to sell products and recruit other people for a reward that is unrelated to the sale of products to ultimate users? If the answer to the first question is "yes" and/or the answer to the second question is that an enrollee must either buy a minimum amount for personal use or recruit others to buy a minimum amount, then your company practices may fall under those the FTC seeks to prohibit. Changes might be in order."

Jonathan Riley, Partner at [Wragge Lawrence Graham & Co](#):



"Watch and learn. Make sure that you know the real facts of the lawsuit and don't rely on press reports or second-hand accounts. That includes what the regulator and the direct selling company say – remember that they both have a vested interest in their own versions of events! Wait until the court judgement has been issued before deciding whether the outcome is relevant to your own business; what happens before that point might be interesting but it is not what counts. Compare the court judgement to your own business model: don't rush to act and don't lose confidence in the

strengths of your business."

Richard W. Waak, Principal Attorney at [Nehra & Waak](#):



"1. Avoid Schadenfreude: Don't revel in your competitor's problems. Any problem for one industry participant is, in a very real sense, a problem for all. 2. Take Stock: Review and examine your company's marketing model and practices. Be ruthlessly honest when comparing your practices with those of the company that is under attack. Focus especially on customer or distributor complaints that may be persistent or occur frequently. Resolve them fully – don't tolerate them. 3. Use the Teaching Opportunity: Share the insights and lessons learned in step 2 with your management team first, and then with your sales leaders and the entire organization."

Bobbie Wasserman, Managing Director of [Wave2 Alliances](#):



"When government actions are taken against competitors, I strongly suggest finding out on what grounds those actions were taken, review your company's policies and procedures in that area. If your company has similar issues – fix them to meet authority guidelines, proactively. Prepare a statement as such and use it reactively only. If your company follows different policies and procedures, prepare a statement, and talking points, as to the difference between your company and the other company. This statement can be used when executives are asked questions about the issue, allowing them to be prepared in advance

when the questions arise."

Bob Woodard, Founder of [BW International](#):



"1. Take the high road. When asked say: "I will leave it to the courts to decide. In the meantime I (we) prefer to focus on the "good news... the over 200 companies who support 18 million independent sales consultants serving 2 out of every 3 adults in the US. (2014 Harris Poll). 2. Lead by example. Speak with your employees and your sales leaders. Give them positive talking points. 3. Publish positive content... real people in your sales organization who have gained self confidence, become leaders, are better citizens serving charitable organizations because of direct selling."

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Once again, I would like to thank here those who responded for taking the time to share their views.