

# **The Operation of the Multi-level Marketing Protection Institution and the Synergy of the FTC's Law Enforcement Efforts**

## **1. Background of Study**

When efforts were first made to regulate multi-level marketing practices in the country, the provisions were established as part of the Fair Trade Law or in the Supervisory Regulations Governing Multi-level Sales enacted in accordance with the Fair Trade Law. The Fair Trade Law was designed to main market competition order, notto regulate multi-level marketing practices, but this condition continued for ten years until the Multi-level Marketing Supervisory Act was finally legislated, promulgated and enforced on Jan. 29, 2014 and regulation of multi-level marketing practices in the country officially stepped into a new era. Besides moving the provisions set forth in the Supervisory Regulations Governing Multi-level Sales enacted in accordance with the Fair Trade Law up to the status of law, the biggest change of the new law is the concept of creating a multi-level marketing protection institution specified in Article 38 to handle civil disputes between multi-level marketing businesses and their participants.

After creation of the multi-level marketing protection institution (later becoming the Multi-level Marketing Protection Foundation, hereinafter referred to as the MLMPF), participants (and multi-level marketing businesses) who used to have to resort to lawsuits for resolving civil disputes derived from multi-level marketing operations now have a fast, efficient and independent channel to seek remedies. What influence this newly created mechanism for resolving disputes in the multi-level marketing industry will have on participants and multi-level marketing businesses is an issue worthy of examination. In the meantime, how the MLMPF and the FTC, the competent authority of multi-level marketing industry, divide labor and complement each other and whether the MLMPF's role of mediating civil disputes between multi-level marketing businesses and their participants, paying for participants' damages in advance and assisting them to file civil lawsuits, enhancing multi-level marketing businesses' awareness of multi-level marketing regulations and providing legal consultation services will have a good and positive effect on shaping the image of the multi-marketing industry is also something to be observed.

## **2. Methods and Scope of Study**

The MLMPF is a first-ever mechanism of its kind in the world and there is no related literature to refer to. For this reason, the focus of this study is to examine the actual operation of the MLMPF since its creation in January 2015 as well as related data and mediation cases to analyze its interactive relationship with the FTC and the synergy of their functions. The difficulties encountered will also be reviewed in order to try to come up with suggestions for solving such problems. This study is divided into five chapters. Chapter I is the introduction, Chapter II describes the creation of the multi-level marketing protection institution and the framework of its management regulations, the process of establishment of the MLMPF and its operation overview. In Chapter III, how the MLMPF executes its duties and the relations of such duties with the jurisdiction of the FTC over multi-level marketing are examined. Chapter IV further discusses how the MLMPF carries out its duties, including mediation of disputes, provision of assistance in lawsuits, enhancement of the professional

know-how of multi-level marketing businesses and participants and its legal consultation services. Chapter V is the conclusion of the study and the suggestions proposed.

### 3. Main Suggestions

The results of this study indicate that the success of the MLMPF mechanism relies on two key factors, namely enthusiastic involvement of participants and support and trust from multi-level marketing businesses. Since the MLMPF was set up a year ago, the number of participants paying membership fees has been smaller than expected and only three dispute cases have been filed for mediation. Apparently, the MLMPF has been unable to fully exercise its functions. In consequence, the synergy in perfecting order in the multi-level marketing market through labor division and interaction between the MLMPF and the FTC is far from satisfactory. To overcome the problems, this study suggests enhancement in the two following areas:

#### (1) Increasing the number of membership fee-paying participants:

The MLMPF's protection of participant interests is based on the principle of "users pay fee." Therefore, the focus of its operations should not be limited to the passive aspect of mediating civil disputes between multi-level marketing businesses and their participants. On the contrary, it ought to take the initiative to expand its operations by holding workshops on different types of multi-level marketing practices, taxation and career planning to enhance the legal awareness and professional knowledge and skills of participants. Attractive and concrete services need to be offered for participants to become willing to pay to join the MLMPF. Meanwhile, to increase the reputation of the MLMPF among participants, the FTC perhaps can act according to Subparagraph 7 of paragraph 1 of Article 6 of the Multi-level Marketing Supervision Act and designate the operation and mechanism of the MLMPF and propaganda materials as statutory materials that multi-level marketing businesses must include in their manuals so that more new participant will be aware of the functions of the MLMPF and join the MLMPF.

#### (2) Increasing support from multi-level marketing businesses:

As set forth in Paragraph 3 of Article 38 of the Multi-level Marketing Supervision Act, all registered multi-level marketing businesses are required to pay contributions and annual fees to the MLMPF. Otherwise, besides being disqualified from requesting for protection from the MLMPF, they will also be sanctioned in accordance with Paragraph 1 of Article 32 of the same act. In the meantime, with multi-level marketing businesses failing to attend the MLMPF's mediation meetings consecutively without justification and causing mediation to fall through, the FTC has amended the Disposal Directions on Handling Multi-level Marketing Cases to list such businesses as prioritized targets of inspections to see if there is any legal violation. The measure is a "warning" strategy to compel multi-level marketing businesses to cooperate. However, imposing punishments to urge multi-level marketing businesses to take part in the mechanism of the MLMPF may be a necessary evil to push multi-level businesses to apply self-discipline, but it doesn't make them cooperate willingly. In the long run, such support for the MLMPF will not last. Hence, a "carrot" policy is also needed to encourage multi-level businesses to

cooperate. To accomplish this, the MLMPF is currently working on a set of guidelines for citation of multi-level businesses. In accordance with the guidelines, the MLMPF will publicly cite multi-level businesses that show outstanding performance in cooperating with the MLMPF, encouraging their participants to join the MLMPF, participating in mediation meetings, educational programs and presentations, and establishing their internal and comprehensive civil dispute solution mechanisms. This effort will not only help increase the number of participants joining the MLMPF but also improve the internal management and external image of multi-level marketing businesses. Consequently, multi-level marketing businesses will enjoy a better image when recruiting participants and promoting business and in turn give more support to the MLMPF. Thus, order in the multi-level marketing market can be maintained.