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Is multi-level marketing of nutrition supplements a legal and an ethical practice?

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SUMMARY

Background: Multi-level marketing (MLM) of nutrition products has experienced dramatic growth in recent decades. ‘Wellness’ is the second most popular niche in the MLM industry and represents 35% of sales among all the products in 2016. This category includes dietary supplements, weight management and sports nutrition products. The aim of this paper is to analyse whether this practice is legal and ethical. **Methods:** An analysis of available documentary information about the legal aspects of Multi-level marketing business was performed. Ethical reflexion was based on the “principlism” approach.

Results: We argue that, while being a controversial business model, MLM is not fraudulent from a legal point of view. However, it is an unethical strategy obviating all the principles of beneficence, non-maleficence and autonomy. What is at stake is the possible economic scam and the potential harm those products could cause due to unproven efficacy, exceeding daily nutrient requirements and potential toxicity. The sale of dietary and nutrition supplements products by physicians and dieticians presents a conflict of interests that can undermine the primary obligation of physicians to serve the interests of their patients before their own.

Conclusion: While considering that MLM of dietary supplements and other nutrition products are a legal business strategy, we affirm that it is an unethical practice. MLM products that have nutritional value or promoted as remedies may be unnecessary and intended for conditions that are unsuitable for self-prescription as well.

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1. Introduction

Multi-level marketing (MLM) also known as network marketing is a form of direct sales in which independent distributors sell products, usually in their customers' home, by telephone or through the internet [1]. In this practice, the distributors (or sellers) are rewarded not just for the sales they generate personally, but

also for the sales generated by the people they recruit. In other words, sellers are rewarded economically down through multiple levels of recruits. The MLM distributors become a non-salaried workforce, which do not only sell the company's products, but also encourage others to join the company as a distributor. In 2015, more than 103.3 million people around the world worked for MLMs, creating a retail turnover of approximately 183.7 billion US dollars [2]. ‘Wellness’ is the second most popular niche in the MLM industry, after cosmetics and personal care products only. This category represents 35% of sales among all products in 2016 and includes dietary supplements, weight management products and sports products (Table 1) [3].

Among the top 20 MLM companies by global revenue in 2017, eleven companies are devoted to selling ‘wellness’ products (Table 2) [4]. Some companies such as Herbalife and Usana are specialized in dietary supplements and weight control, other enterprises sell dietary supplements as well as a wide range of

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Table 1
Global sales by product category in 2016.

Wellness	35%
Cosmetic and personal care	30%
Household goods and durables	12%
Clothing and accessories	7%
Home care	3%
Financial services	3%
Utilities	3%
Books, toys, stationery, etc.	2%
Foodstuff and beverages	2%
Home improvement	2%
Other	2%

Adapted from World Federation Statistical Database. <http://wfdsa.org/global-statistics/> [2].

products such as disinfectant cleaners, skincare, make-up, air purifiers and cookware. On their official websites, these companies claim a wide range of benefits to nutritional status and health. In fact, companies are responding to people's deluded demands for health and fitness maximization, anti-aging solutions, immunity improvement, boost of metabolism, weight loss, vitality or organs 'detoxification'. Moreover, some distributors make illegal claims, for example, that nutritional supplements can cure all sorts of diseases or illnesses. In 2016, the watchdog organization Truth in Advertising investigated the 62 companies selling nutrition supplements that were members of the Direct Selling Organization. They found that 60 of them (97%) had illegally claimed or were claiming – either directly or through their distributors – that their products could treat, cure, prevent, alleviate the symptoms of, or reduce the risk of developing diseases or disorders [5]. They found more than 2000 problematic product claims made by

those companies. The list can be consulted at: <https://www.truthinadvertising.org/mlm-health-claims-database/>.

Consequently, the lack of truthfulness within the MLM strategies has become particularly problematic. We must also ask whether this marketing strategy for nutrition supplements is legal and ethical in and of itself? Can physicians and dietitians legitimately become distributors?

2. Is multi-level marketing a legal practice?

MLM business originated in the USA in 1934 with the California Vitamin Company today called Nutrilite (Amway product) and exported worldwide. Selling dietary supplements through MLM strategies can be considered legal when the company and its distributors follow the legal framework and regulations made by the different legislations around the world. In The United States (USA) the regulation of MLM business is made by The Federal Trade Commission (FTC) and in Europe by the Directive 2005/29/e of the European Council which regulates unfair commercial practices [6].

However, some legitimate MLM organizations share many of the same characteristics of illegal marketing scams (called pyramid scheme companies). Looking at this market from a legal point of view, the issue is not black and white and entails more complicated consideration. Sometimes it is a challenge for regulators and for customers to identify companies that operate in the "grey area" [1,7].

The pyramid scheme and MLM strategies depend on recruiting people to become distributors of a product or service, but the entire purpose of the former is to get gullible people's money and then use these people to recruit other so-called 'distributors'. Thus, the

Table 2
The top 20 multi-level marketing companies by global revenue in 2017.

	Company	2017 Revenue	Product	Example of nutritional or health claim
1	Amway	\$8.80 billion	- Nutrition supplements - Weight management - Sport Nutrition - Energy drinks	"Help support a healthy heart, brain, eyes, skin, bones and immune system". ^a
2	Avon	\$5.70 billion	None	
3	Herbalife	\$4.50 billion	- Nutrition supplements - Weight management - Sport Nutrition - Energy drinks	"To maximize your health and fitness goals », « may help the body's absorption of micronutrients ", "to help accelerate your weight management goals", "Can help improve your eating habits", "Helps support your natural defences year-round" ^a
4	Vorwerk	\$4.20 billion	None	
5	Mary Kay	\$3.50 billion	None	
6	Infinitus	\$3.41 billion	- Nutrition supplements	"To stimulate the body's immunity and resistance".
7	Perfect	\$3.06 billion	- Nutrition supplements	" To strengthen immunity, improve cell metabolism, regulate hormonal system, and generate optimum health and vitality". " Improves body physical strength". "Promote healthy liver functions and protect it against damage".
8	Quanjian	\$2.89 billion	Nutrition supplements	^b
9	Natura	\$2.26 billion	None	
10	Tupperware	\$2.210 billion	None	
11	Nu Skin	\$2.208 billion	- Nutrition supplements	"Promote longevity, wellness and vitality".
12	Primerica	\$1.52 billion	None	
13	JoyMain	\$1.49 billion	- Nutrition supplements	"Rejuvenates your body and strengthens your bones".
14	Jeunesse	\$1.41 billion	- Nutrition supplements	"Effectively delay the symptoms of premature aging regulate mental clarity and focus".
15	Oriflame	\$1.40 billion	- Nutrition supplements - Weight management	"To stay young, inside and out".
16	Ambit Energy ++	\$1.2 billion	None	
16	New Era	\$1.16 billion	- Nutrition supplements	^b
17	Telecom Plus	\$1.12 billion	None	
18	Belcor	\$1.09 billion	None	
19	USANA	\$1.01 billion	- Nutrition supplements - Weight management - Sport Nutrition	"Unlock the innate intelligence of your cells to protect and renew good health", "Support for the health and longevity of your cells", "Activate your cells' natural ability to protect and renew themselves", "support your liver's natural detoxification processes". ^a
20	Polá	\$1.004 billion	- Nutrition supplements	"Balance the body"

^a The claims are accompanied by the following sentence: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease".

^b Because of language, no translation was available.

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