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WEBINAR

PROVINCIAL LICENSING FOR CANADIAN DIRECT SELLERS

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DISCLAIMER

- This PowerPoint and presentation do not constitute legal advice and are not to be relied upon.
- If you wish to obtain legal advice on your specific fact situation, contact Canadian legal counsel.

Where do the rules apply?

- Direct Seller Licence (DSLs) and bonds required in all Provinces/Territories (except BC, ON and YK)
- Prescribed retail sales contract wording required in ALL Provinces/Territories
- Independent Salesperson Licences (ISLs) required in MB, NB, NWT, Nunavut, PEI [and SK]
- ID Cards required in AB, NS [and SK]
- Bureau opinion required for DSL purposes in SK, MB and AB



Why do we need a DSL?

Broad definitions of “direct selling” and location/method of promotion/sale

- House to house selling
- Sale at location other than vendor’s usual place of business
- Offer, solicitation, proposal or approach made by word of mouth/telephone
- First contact made outside retail outlet
- Consider jurisdictional issues



ISL Requirements – MB example

Consumer Protection Act:

- ISC's responsibility:

“No person shall, on behalf of a vendor, make any offer, solicitation, proposal, or approach that is intended to result in a sale to which Part VII applies unless the person is licensed as a direct seller for that vendor under this Act.”

- Direct seller company's responsibility:

“No vendor shall use a person as a direct seller unless that person is licensed under this Act as a direct seller for that vendor.”



ISL Requirements – MB example

Consequence of non-compliance

“The director may refuse to grant a licence as a vendor, direct seller, or collection agent

(a) to any person...

...(ii) who has been convicted of an offence against this Act, or...

...(f) to any person who has made a material misstatement in his application for a licence; or

(g) to any person under circumstances where the director is of the opinion that it would be injurious to the public interest to grant a licence; or

(h) to any person who has not complied with the requirements of any applicable federal, provincial or municipal statute, regulation or by-law.”

ID Card Requirements - AB

AB – Direct Selling Business Licensing Regulation:

- *“Every licensee must provide every individual who engages in direct selling business on behalf of the licensee with an identification card”*
- Must contain ISC’s name, direct seller company’s name and address, and AB DSL number
- Must be signed by the direct selling company
- ISC must produce it when requested to do so by customer, potential customer, an inspector or the Director, or a peace officer under the Provincial Offences legislation
- Penalty: up to \$300 000, or 3 times the amount obtained as a result of the offence, whichever is greater, or to imprisonment for not more than 2 years, or both.
- Director/officer liability (authorizing, assenting to, acquiescing in or participating in the act or omission that constitutes the offence)

ID Card Requirements - NS

NS - Direct Sellers Regulations:

- *"A direct seller shall provide each salesperson who represents the direct seller....with an identification card"*
- Must contain (a) *"The bearer of this card is permitted to engage in direct sales activity regulated by the Nova Scotia Direct Sellers' Regulation Act on behalf of [direct seller company]"*; (b) name of direct seller company; (c) name of ISC; (d) direct seller company's address and NS DSL number and phone number; (e) issue date of ID card; (f) expiry date of NS DSL.
- Must be signed by direct selling company
- Penalty: up to \$300 000, plus the monetary benefit obtained as a result of the offence, or to imprisonment for not more than 2 years, or both.
- Director/officer liability (directing, authorizing, permitting, acquiescing in or participating in the contravention)

ID Card Requirements - SK

SK – *The Direct Sellers Act:*

- “The vendor shall provide an identification card to any salesman acting for or on behalf of the vendor”
[where the ISC does not require a ISL]
- Must contain name and address of direct seller company; name of ISC; issue date of ID card
- Must be signed by direct selling company
- Penalty: up to \$100 000, or to imprisonment for not more than 1 year, or both.
- Director/officer liability (directing, authorizing or participating in the act or omission that constitutes the offence)

ID Card template

[COMPANY LOGO]	
[NAME, ADDRESS AND TEL # OF COMPANY]	
AUTHORIZED SALES CONSULTANT IDENTIFICATION CARD	
[Name of Authorized Sales Consultant] is an Authorized Sales Consultant of [COMPANY NAME] products.	
Alberta Licence No: [XXXX]	
Nova Scotia Licence No: [XXXX]	Nova Scotia Licence Expiry Date: [DD/MM/YYYY]
ID card date of issue: [DD/MM/YYYY]	
The bearer of this card is permitted to engage in direct sales activity [regulated by the Nova Scotia <i>Direct Sellers Regulation Act</i>] on behalf of [COMPANY NAME].	
[Signature of Officer]	 _____, officer of [COMPANY NAME].



Practical Approaches to ISL/ID Card Compliance

- Use electronic ID cards
- Distinguish between 'active' ISCs and other ISCs
- Periodic notices to ISCs re. compliance with ISL requirements
- Include ISL requirements in policies and procedures/terms
- Consider restricting business activities of ISCs that are non-compliant with ISL requirements
- Monitor ISCs' ISL registrations
- Communicate with provinces eg. MB



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Questions?