JUL 27 2004
7:30 PM

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1769

Introduced by: Representative **PROSPERO A. PICHAY, JR.**

EXPLANATORY NOTE

Millions of Filipinos and people from all over the world have become hapless preys of nefarious pyramid sales schemes operating in the guise of network marketing agencies. In fact, countless retirees, pensioners, low salaried clerks, and gullible housewives, enticed by the "get-rich quick schemes" invested their savings and hard earned money only to find themselves at the end holding the proverbial empty bag.

Pyramiding companies are merely sales structures devised to recruit people who want to make fast money, where the value of the product or the customer base is questionable. They usually offer products with no real value and operate on the principle of making payments for recruiting others. When the inevitable saturation occurs, the people at the bottom in the pyramid run out of prospects to join the organization and lose money.

Unless and until the operation of these "chain distribution plans or pyramid sales schemes" are completely banned, their activities will continue to undermine the operation of legitimate multi-level marketing companies and, by and large, affect the country's economy.

It therefore, becomes exigent that certain provisions of Republic Act No. 7394, otherwise known as the Consumer Act of the Philippines, be amended to embody comprehensive guidelines governing multi-level marketing companies, completely banning the operations of pyramid sales schemes and providing penalty for violation thereof. Pyramiding per se is against the law.

Passage of this measure is earnestly requested.

PROSPERO A. PICHAY, JR.



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AN ACT
BANNING CHAIN DISTRIBUTION PLANS OR PYRAMID SALES SCHEMES AMENDING FOR THE PURPOSE REPUBLIC ACT NUMBERED SEVENTY-THREE HUNDRED AND NINETY-FOUR AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the "Pyramid Sales Ban Act"

SEC. 2. Article 4 (k) of Republic Act Numbered Seventy Three Hundred and Ninety Four, otherwise known as the Consumer Act is hereby amended to read as follows:

"ART. 4. *Definition of terms* - For purposes of this Act, the term:

x x x

(k) "Chain distribution plans" or pyramid sales schemes" means sales devices whereby a person, upon condition that he makes an investment, is granted by the manufacturer, PRODUCER, IMPORTER, OPERATOR or his representative a right to recruit for profit one or more additional persons who will also be granted such right to recruit upon condition of making similar investments: *Provided,* That, the profits of the person employing such a plan are derived primarily from the recruitment of the other persons into the plan rather than the sale of consumer products, services and credit: *Provided, further,* That **EVEN IF THE INCOME IS DERIVED NOT PRIMARILY FROM RECRUITMENT, A SUBSTANTIAL AMOUNT IS DERIVED THEREFROM THAN FROM THE ACTUAL SALE OF THE PRODUCT:** ***PROVIDED, FINALLY, THAT*** the limitation on the number of participants does not change the nature of the plan."

SEC. 3. Insert new paragraphs (k.1), (k.2) and (k.3) after Article 4 (k) of the same Act to read as follows:

"K.1) OTHER FORMS OF CHAIN DISTRIBUTUION PLAN OR PYRAMID SALES SCHEME - WITHOUT LIMITING THE COVERAGE OF THE TERM 'CHAIN DISTRIBUTION PLAN' OR 'PYRAMID SALES SCHEME' IN ARTICLE 4(K) ABOVE, A BUSINESS, SALES OR MARKETING PLAN OR SCHEME SHALL BE CONSIDERED AS A CHAIN DISTRIBUTION PLAN OR PYRAMID SALES SCHEME IF:

(I) A PROMOTER PERSUADES RECRUITS TO PURCHASE PRODUCTS, SERVICES, CREDIT, TITLE OR RANK WHEREBY THE RECRUITS CAN RECEIVE INCOME PRIMARILY FROM THE MERE INTRODUCTION, RECRUITMENT OR SPONSORSHIP OF OTHER PARTICIPANTS INTO THE SCHEME RATHER THAN FROM THE MARKETING AND SALE OF PRODUCTS; OR

(II) THE PROFITS OF THE PERSON EMPLOYING SUCH ARE DERIVED PRIMARILY FROM THE RECRUITMENT OF THE OTHER PERSONS INTO THE PLAN OR SCHEME OR A SUBSTANTIAL AMOUNT IS DERIVED THEREFROM RATHER THAN FROM THE SALE OF CONSUMER PRODUCTS, SERVICES AND CREDIT AND SAID PLAN/SCHEME INCLUDES, BUT IS NOT LIMITED TO, ONE OR MORE OF THE FOLLOWING ATTRIBUTES:

1) REVENUES OR INCOME ARE DERIVED FROM PARTICIPANTS' ENTRY FEES;

2) IN ORDER TO EARN INCOME, PARTICIPANTS MUST SPONSOR A FIXED NUMBER OF OTHER PARTICPANTS, EACH OF WHOM MUST IN TURN SPONSOR A FIXED NUMBER OF PARTICIPANTS AS IN A PLAN COMPENSATING PARTICIPANTS, BALANCING NUMBER OF RECRUITS THAN NUMBER OF SALES VOLUMES;

3) INCOME OF A PARTICIPANT IS DEPENDENT PRIMARILY UPON H IS SLOT OR POSITION WITHIN THE ORGANIZATION AS DETERMINED BY THE TIME, DATE AND ORDER OF PARTICIPATION;

4) PARTICIPANTS ARE NOT ALLOWED TO RETURN MARKETABLE AND UNUSED PRODUCTS FOR REFUND WITHIN A REASONABLE PERIOD OF TIME OR THE CONDITIONS FOR SUCH PRODUCT RETURN ARE CONTRARY TO THE PROVISIONS OF THIS ACT OR ITS IMPLEMENTING RULES AND REGULATIONS;

5) THERE IS NO FAIR MARKET VALUE FOR THE GOODS RECEIVED. FOR THIS PURPOSE, FAIR MARKET VALUE IS A PRICE DETERMINED IN AN

OPEN MARKET SYSTEM. AND INDICATOR WOULD BE THAT CONSUMERS WOULD STILL BE WILLING TO BUY A PRODUCT AT ITS QUOTED PRICE EVEN WITHOUT PARTICIPATING IN THE COMPENSATION PLAN.

K.2) 'MULTI-LEVEL DISTRIBUTION COMPANY' - MEANS ANY PERSON, FIRM, CORPORATION OR OTHER BUSINESS ENTITY WHICH SELLS, DISTRIBUTES OR SUPLIES FOR A VALUABLE CONSIDERATION GOODS OR SERVICES THROUGH INDEPENDENT AGENTS, CONTRACTORS OR DISTRIBUTORS AT DIFFERENT LEVELS WHEREIN COMMISSIONS, CROSS COMMISSIONS, BONUSES, REFUNDS, REBATES, DISCOUNTS OR OTHER CONSIDERATION IN THE PROGRAM ARE OR MAY BE PAID AS A RESULT OF THE SALE OF SUCH GOODS OR SERVICES.

K.3) 'MULTI-LEVEL MARKETING' - IS A TYPE OF DIRET SELLING WHERE INDEPENDENT DISTRIBUTIORS ARE COMPENSATED IN BOTH SELLING THE PRODUCTS AND THE BUSINESS OPPORTUNITY."

SEC. 4. Insert a new Article 59.A after Article 59 of the same Act, to read as follows:

"ART. 59.A. *CANCELLATION OF REGISTRATION.* - UPON A VERIFIED COMPLAINT, OR REFERRAL FROM OTHER GOVERNMENT AGENCIES, OR *MOTU PROPRIO*, THE DEPARTMENT OF TRADE AND INDUSTRY SHALL DETERMINE WHETHER A COMPANY OR ENTITY IS INVOLVED IN PYRAMID SALES SCHEMES. WHEN THERE IS REASONABLE GROUND TO BELIEVE THAT THE SUBJECT COMPANY OR ENTITY IS ENGAGED IN PYRAMIDING ACTIVITIES, THE DEPARTMENT SHALL *MOTU PROPRIO* CANCEL THE REGISTRATION IF ITS IS A SOLE PROPRIETORSHIP. IF THE VIOLATING ENTITY IS A CORPORATION OR PARTNERSHIP, THE DEPARTMENT SHALL MAKE THE APPROPRIATE RECOMMENDATIONS TO THE SECURITIES AND EXCHANGE COMMISION, WHICH SHALL THEN EXERCISE THE SAMEPOWERS TO EFFECT THE CANCELLATION OF THE REGISTRATION OF SUBJECT ENTITY."

SEC. 6. A new Article 59.B is hereby inserted after Art. 59.A of the same Act to read as follows:

"ART. 59.B. *CLOSURE OF OPERATIONS.* - THE DEPARTMENT MAY, AFTER VERIFICATION OR INVESTIGATION, ORDER THE CLOSURE OF AN ESTABLISHMENT WITHOUT THE NECESSITY OF A PRIOR HEARING IF IN ITS JUDGMENT THE ACT OR PRACTICE, UNLESS STOPPED, WILL OPERATE AS A

FRAUD OR IS OTHERWISE LIABLE TO CAUSE GRAVE OR IRREPARABLE INJURY OR PREJUDICE TO THE GENERAL PUBLIC.

THE DEPARTMENT MAY REQUEST THE ASSISTANCE OF THE APPROPRIATE LQAW ENFORCEMENT AGENCIES OR LOCAL GOVERNMENT UNITS TO EFFECT THE CLOSURE.

THE SECURITIES AND EXCHANGE COMMISSION SHALL EXERCISE THE SAME POWERS IF THE VIOLATING ENTITY IS A CORPORATION OR PARTNERSHIP.

SEC. 7. Article 60 of the same Act is hereby amended to read as follows:

"ART. 60. Penalties. a) Any person who shall violate the provisions of Title III, Chapter I, shall upon conviction, be subject to a fine of not less than [Five Hundred Pesos (P500.00)] **FIVE THOUSAND PESOS** (P5,000.00) but not more than [Ten Thousand Pesos (P10,000.00)] **ONE MILLION PESOS** (P1,000,000.00) or imprisonment of not less than five (5) months but not more than one (1) year or both, upon the discretion of the court.

b) In addition to the penalty provided for in paragraph (1), the court may grant an injunction restraining the conduct constituting the contravention of the provisions of Article 50, [and] 51, **AND 53** and/or actual damages and such other orders as it thinks fit to redress injury to the person caused by such conduct.

C) IF THE OFFENSE IS COMMITTED BY THREE (33) OR MORE PERSONS OR BY A CORPORATION OR PARTNERSHIP, OR THREE (3) OR MORE INDIVIDUALS ARE VICTIMIZED, THE OFFENSE SHALL BE DEEMED AS AN ACT OF ACONOMIC SABOTAGE AND SHALL BE CONSIDERED AS A NON-BAILABLE OFFENSE."

SEC. 8. *Implementing Rules and Regulations.* - The Department of Trade and Industry, in coordination with the Securities and Exchange Commission, shall promulgate the rules and regulations for the effective implementation of this Act within a period of ninety (90) days from its enactment. Such rules and regulations shall take effect upon their publication in at least two (2) newspapers of general circulation.

SEC. 9. *Repealing Clause.* - Article 4(k) and Article 60 of Republic Act no. 7394 are hereby amended. All other laws, presidential decrees or issuances, executive orders, letters of instruction, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 10. *Separability Clause.* - If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) days from the date of its publication in the *Official Gazette* or in at least one (1) newspaper of general circulation.

Approved,