

114TH CONGRESS **H. R. 5230**
2D SESSION

To prohibit pyramid promotional schemes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 30, 2016

Mrs. BLACKBURN (for herself and Mr. VEASEY) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To prohibit pyramid promotional schemes, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Pyramid Pro-
5 motional Scheme Act of 2016”.

6 **SEC. 2. PROHIBITION ON PYRAMID PROMOTIONAL**
7 **SCHEMES.**

8 (a) IN GENERAL.—It shall be unlawful for any per-
9 son to establish, operate, promote or cause to be promoted
10 a pyramid promotional scheme.

1 (b) ENFORCEMENT BY THE FEDERAL TRADE
2 COMMISSION.—A violation of subsection (a) shall be
3 treated as an unfair or deceptive act or practice in or affecting
4 commerce under section 5 of the Federal Trade Commission
5 Act (15 U.S.C. 45). The Federal Trade Commission shall
6 enforce such subsection in the same manner, by the same
7 means, and with the same jurisdiction, powers, and duties as
8 though all applicable terms and provisions of the Federal
9 Trade Commission Act (15 U.S.C. 41 et seq.) were
10 incorporated into and made a part of this Act.

11 **SEC. 3. DEFINITIONS.**

12 As used in this Act:

13 (1) APPROPRIATE INVENTORY REPURCHASE
14 AGREEMENT.—The term “appropriate inventory purchase
15 agreement” is not required to be defined, as modern
16 companies ship products directly to participants and their
17 customers, so this is an antiquated term no longer has practical
18 meaning. Plans that require, encourage, or allow their
19 participants to have inventory are deemed to be illegal
20 pyramids. This definition applies to any product or service
21 provided by the company or high-level distributors, including

1 the various Business Support Materials (BSM), also known as
2 “tools,” and consist of, but are not limited to, various meetings,
3 books, CDs, DVDs, MP3 recordings, website access, and voice
4 mail, whether sold by the company or upline distributors.

5 (2) **COMMERCIALY REASONABLE TERMS.**—

6 The term “commercially reasonable terms” means the same as
7 it does for any major retailer, not the antiquated, anti-
8 consumer, restrictive definition formally used, and applies to
9 both the products/services from the company and upline
10 distributors, described in section 3(1), above.

11 (3) **COMPENSATION.**—The term “compensation”
12 means the payment of any money, thing of value, financial
13 benefits, or position within the plan or operation, including the
14 BSM/tools described in section 3(1), above.

15 (4) **CONSIDERATION.**—The term “consideration”—

16 (A) means the payment of money or another thing
17 of value or the purchase of a product, good, service,
18 intangible property, including the purchase of a product
19 furnished at cost to be used in making a sale;

20 (B) does not include—any time and effort spent in

1 pursuit of sales or recruiting activities.

2 (5) CURRENT AND MARKETABLE.—The term
3 “current and marketable” also has no practical meaning, as
4 inventory is not allowed.

5 (6) INVENTORY.—The term “inventory” has no
6 meaning in modern times, as described in section 3(1), above.
7 In fact, inventory is an automatic indication of an illegal
8 pyramid scheme.

9 (7) INVENTORY LOADING.—The term “inventory
10 loading” has no meaning, except it is an automatic indication
11 of an illegal pyramid scheme, as described in section 3(1),
12 above.

13 (8) PARTICIPANT.—The term “participant” means a
14 person who joins the plan or operation as an independent
15 contractor and does not include customers, discount or
16 otherwise.

17 (9) PYRAMID PROMOTIONAL SCHEME.—The
18 term “pyramid promotional scheme” means a plan or
19 operation by which a person gives consideration to a

1 participant for the right to receive compensation that is
2 primarily derived from a participant’s introduction of another
3 person into the plan or operation, including ongoing purchases
4 of both the products and services, including but not restricted
5 to BSM/tools and signup and renewal fees, rather than the sale
6 of products to external, non-participant customers. Initially, the
7 total compensation to both the company and upline from non-
8 participant customers must be at least 50%, which should be
9 raised over time at the FTC’s discretion.

10 (10) ULTIMATE USER.—The term “ultimate user”
11 also known as “end user” has no practical meaning, the
12 important distinction is between a participant and non-
13 participant customer, as described in 3(9), above.

14 **SEC. 4. LIMITATIONS.**

15 Nothing in this Act shall be construed to—

14 (1) limit the authority of any Federal official from
15 proceeding against pyramid promotional schemes for other
16 violations of Federal law, including the Federal Trade
17 Commission Act;

1 (2) allow for a defense to an enforcement action under
2 section 2 of this Act that the alleged pyramid promotional
3 scheme involved both a distributorship to sell a product and the
4 authority to sell additional distributorships if the majority of
5 profit is from any source(s) other than retail sales to external,
6 non-participant customers.