

Removing the Mask

*Reconsidering Multi-Level Marketing
as “Business” Enterprises*

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How an individual is publicly identified can shape virtually every aspect of a life. Imposed identities such as “slave”, “inmate”, “felon”, “illegitimate child” restrict life. Identities like “entrepreneur”, “citizen,” “from a good family,” offer advantage and opportunity.

This also applies to enterprises and organizations. And just as individuals can assume false public identities, so too can enterprises. Enterprises self-identifying as multi-level marketing (MLM) claim the public identity of *business*. Specifically, MLM’s identify as for-profit businesses engaged in sales of products or services through independent contractor/agents who operate from non-fixed retail points of sales, aka “direct selling.”

While no formal or universal definition of “business” exists, at the least, the “business” identity presumes legality and commercial legitimacy. Businesses may engage in fraud and still retain their business status, but a dedicated, organized fraudulent enterprise such as the Mafia, does not engage in “business” though it may wear the mask of business.

Business is a civil institution for the peaceful exchange of value and for facilitating production and trade through voluntary contract. Business is not a license to steal, lie or engage in force in commercial transactions.

If MLM does not meet the most basic requirements of “business” – engaging in voluntary, adequately disclosed contracts and facilitating fair exchanges of value – it should not be included in the domain of real business.

This essay does not address what MLM should be classified as. At the international consumer conference, *Multi-Level Marketing, the Consumer Protection Challenge*, hosted by The College of New Jersey School of Business, April 30-May 1, 2021, I offered my own invented term, *Ponzinomics*, to classify MLM.ⁱ *Ponzinomics* incorporates the swindle of a

pyramid scheme as part of a delusional belief system, presented as a way of life and a pathway to prosperity and happiness. *Ponziomics* is a cultic racket. This article is not to support that classification. It is an argument and a plea to regulators, media, academia and interested consumers to reconsider the current treatment of “multi-level marketing” as Business so that the true identity and characteristics of the MLM phenomenon can be understood. In its business mask, this is not possible.

At present, MLM widely enjoys an unexamined “business” identity and lays claim to the privileged status accorded to business in a society based on market economics. Legality of MLM enterprises, legitimacy of MLM contracts, and value and demand for MLM products are generally assumed. Financial benefits to MLM owners and contractors, even if crassly flaunted, are thought to be legally and fairly gained. In turn, losses to participants, even on an epic scale, are categorized as ordinary outcomes of normal economic factors of risk, free choice, timing and effort. With a “business” identity, MLM promoters are honorifically described as entrepreneurs, job-creators, and opportunity-makers.

In keeping with the business identity, the academic disciplines of marketing, finance and economics describe and measure MLM operations in conventional business terms. Consumer transactions are cast as rational commercial behavior, on par with shopping in stores. Consumers who sign MLM “reseller” contracts, purchase products under contract terms and recruit other “resellers” are described as making free choices, influenced by allowable types of promotion and commercial incentives.

MLM enterprises are depicted as shaped by the same market forces as all other businesses are, such as supply and demand, consumer need, levels of competition, demographic limits of customer bases, and competitive pricing.

Many consumers put their trust in MLM, guided by the Received Opinion that MLM is a “legitimate business,” even when they do not fully understand the MLM structure, costs or compensation.

MLM does not deserve this opinion or qualify for this status. Its claim to “business” identity has never been subjected a to critical analysis by any authoritative institution, not a university, government agency of investigative news organization. If it were, its official “business” status would be reconsidered. The time has come to remove the mask.

I. Privilege without Basis

MLM’s privileged status of *business* is not based on fact, and the endorsements it receives are not based on actual knowledge of MLM or its consequences. MLM’s business model, value proposition, contract terms and compensation plan, in fact, are almost universally misunderstood or unknown. Until the publication of my book, *Ponzinomics*, not one book existed that comprehensively and historically examined the MLM phenomenon. I am contacted on a regular basis by journalists around the world asking for help in understanding MLM.

MLM has not been subjected to any significant analysis by academia. It is widely regarded to be so lacking in verifiable data that useful research is nearly impossible. The Federal Trade Commission, though it has prosecuted numerous MLMs as pyramid schemes, has never made a study of the MLM “industry,” enacted an applicable regulatory rule or clarified the difference, if any, between MLMs that have been prosecuted as pyramid schemes and all others.

Most consumers sign MLM contracts on the faith that if the MLM model of recruiting and the promise “unlimited income potential” were not legitimate, it would not be allowed. This faith-based acceptance of MLM, which seemingly makes due

diligence unnecessary, is bolstered by MLM claims that MLM's value proposition can be realized only if participants *believe it can*. Failure to maintain unwavering faith, according to MLM promotions, *causes* failure. Thus, subjecting MLM legitimacy to scrutiny is regarded as not only contrary to public policy but is cast as "anti-business", a bias against MLM, a denial of the power of positive thinking, almost un-American.

At the top of groups that seemingly would have in-depth knowledge of MLM are professionals in finance and investing. Having been consulted by numerous Wall Street analysts and fund managers, I can attest that, from their questions and statements, they do not understand the MLM "model" any more than ordinary consumers do. Like consumers, they believe they do not need to scrutinize the "business model" as long as MLM is deemed "legitimate" by regulators, and has a proven history of attracting large numbers of people. From their perspective, the dire financial consequences that befall those people are irrelevant to Wall Street speculation in MLM stocks.

Absence of Social Value, Not a Business Status Criterion

Wall Street's unconcern about the financial plight of consumer participants in MLM – *99% lose money each yearⁱⁱ and up to 80% of the newest recruits quit within a year*– reflects the worldly reality while that the status of "business" may require legality and legitimacy, it is not determined by social value. The accepted legitimacy of selling tobacco, firearms, and the production of fossil fuels, among other "legitimate" businesses that cause death, illness or global harm, are invariably cited.

It is sometimes pointed out that even the human slave trade in the United States qualified for centuries as "legitimate business." The business status was based strictly on commercial principles. Buyers and sellers of enslaved humans entered into voluntary contracts that produced what that the signers accepted as equitable exchanges. As long as some human beings legally could be taken by force and reduced to "property", the slave "trade" could take a seat at the Chamber of Commerce table.

II. The Essentials of “Business”

Commercial enterprises are not required to do good or to cause no harm to qualify for business status, but they do have to meet the basic standards that define the institution of business. It is precisely on these defining and *amoral* elements of business that MLM’s business status must be challenged. As a commercial solicitation offering a viable income opportunity, in return for payment and labor, which is MLM’s value proposition, MLM does not qualify as business. Since the basis of the proposition is the claimed capacity to expand to infinity, the proposition *cannot* be fulfilled. The failure of at least two-thirds of “sales” contractors to make any sales at all, the lack of an enduring sales or customer base, and the general absence of enough end-users to provide a retail sales profit to MLM “sales” agents, also disqualifies MLM from its claimed business classification of “direct selling.”

The contradiction between MLM’s “business” identity and its operational reality shows up also in MLM’s history of class actions lawsuits, government prosecutions and first person consumer testimony. The lawsuits brought by consumers commonly allege “racketeering,” “pyramid schemes”, “unconscionable” contracts, and cultism. “Business” status is challenged by torrents of consumer testimonials, now flooding social media, of pervasive deception, abusive persuasion methods, deliberate withholding of key information, false advertising about income and products, and threats of lawsuits and personal intimidation against complaints or whistle-blowing.

Persuasion methods described by former participants that are used to recruit and retain MLM participants, often called thought-control, undue influence or brainwashing, limit free choice and make due-diligence impossible. Without free choice and adequate disclosure MLM transactions cannot qualify as valid business.

Regulatory Contradictions, Nonsense and Corruption

Perplexingly, government regulators routinely assert “MLM is a legitimate business” but also have prosecuted dozens of MLMs as pyramid schemes or criminal frauds without distinguishing those schemes from all other MLMs in practices or structure. Consumers are advised to beware of pyramid schemes “disguised” as legitimate MLM. A list of “red flags” is usually provided to help consumers avoid being duped. The red flag characteristics, e.g., emphasis on recruiting over selling, lack of retail sales, and few people make a profit, are universal in MLMs.

The nonsensical and contradictory “guidance” is further discredited when the history of revolving-door professional connections between MLM and regulators and the extraordinary level of political influence-buying by MLM, dating back to the US presidency of Ronald Reagan, are factored.

Disguises and Masks

MLMs look like businesses, but outward appearances do not make an enterprise a business. Swindles, for example, can mimic business in most respects, except delivering value. Extortion schemes can engage in many aspects of business except one party to the contract has no choice. Making someone an “offer they can’t refuse”, as the Godfather famously did, is not a “business” deal. Business is not a license to steal.

A long list could be assembled to drive the point that an enterprise’s outward appearance, popular belief in its authenticity, and government endorsement do not equate to legitimacy. Additionally, the list would also show that the inclusion of *some aspects* of real business in a non-business scheme does not redeem it.

Parts of Bernard L. Madoff Investment Securities LLC in which retail trades of securities were made were valid. The enterprise employed people and paid taxes. The news media, the government, and Wall Street affirmed the company’s legitimacy and

Madoff himself was honored as a business leader. Yet, the Ponzi money transfer scheme, which was the essence of Bernard L. Madoff Investment Securities LLC, invalidated the entire enterprise.

Enron was named “America’s Most Innovative Company” by *Fortune* magazine for six consecutive years, from 1996 to 2001. During its operation, Enron delivered electricity, shared “profits” and paid suppliers and employees. In 2001, it was revealed that Enron’s remarkable “profits” were the fabricated result of massive accounting fraud. Its ability to gain financing and surpass competitors, its celebrated “innovations” and its spectacular “growth” were illusory. Fraudulence underpinned and sustained its operation. Businesses may engage in racketeering and still be classified as a business, but a deliberately organized racket cannot be classified as a “business.”

The Barrier to a Reckoning

Even to begin to reconsider the true identity of “multi-level marketing” extraordinary cultural barriers have to be surmounted and a reckoning of grand proportions overcome. Past inaction by the FTC must be explained. Media treatment of the phenomenon requires correction. Media also must overcome threats of libel lawsuits and other MLM efforts to discredit investigative journalists. Celebrity endorsements need retraction. Compliant politicians who received MLM funds must be held accountable. Then, there is more than \$20 billion in MLM stocks held by Wall Street institutions, which could go to near zero if the public identity of “MLM” were reconsidered. These are cultural, financial and political challenges but they are not relevant to an objective analysis. The pathway to reconsidering the true identity of MLM is based on factual analysis and observation, direct experience, and data.

III. Paths to Truth about MLM

1. Reconsider the Language

Beyond applying common sense, direct experience and hard data, a reconsideration is needed of how MLM is treated in academic disciplines and in professions, starting with the diverting and inappropriate “business” language routinely and unquestioningly used to characterize MLM. Only when the masking language of business is removed, can the non-business reality of MLM emerge.

For example:

- Should participation in an endless chain recruiting program be called “entrepreneurship”?
- When a solicitation depends on deception and leads to failure and loss to the other party, can it be called “enrollment”?
- Does investing in a MLM “distributorship” qualify as “business ownership” when the “distributor” does not select its own suppliers, set its own prices, or have control over its own customer base?
- Should MLM recruits be referenced as “distributors”, when virtually none sells anything to bona fide end-users?
- Should MLM be called a “channel” when no or very few end-users can be identified?
- Should MLM’s leveraged, extremely top-loaded reward formula, which overwhelmingly rewards recruiting at the expense of retail selling, be called “sales compensation”?
- Should MLM titles, e.g., Manager, Executive Manager, Presidential, etc., be described as commercial “ranks” when they have no relevance to management responsibility and only reflect levels of recruiting?

- Can purchase transactions incentivized by promise of “unlimited income” and driven by quota requirements still be termed “sales”?
- Where MLM products are markedly overpriced, are unadvertised, and purchasers have a buying tenure corresponding to their involvement in the income plan, can MLM revenue be said to be based on “consumer demand”?
- Do MLM recruiting and retention tactics – concealing the nature of the business or even the company name, inducing internal “self-consumption,” and convincing recruits that *belief* determines reality – qualify as “marketing”?
- Where the majority of funds are internally obtained under non-competitive and non-negotiable contract terms with demonstrably false “income” promises, can the funds be classified as “sales revenue”?
- When consumers are subjected to methods of undue influence and cultism to make purchases and participate in MLM, can they be said to have made free and rational choices that are market-based?

2. Reconsider the Data

Academicians, journalists, financial analysts and regulators often say they do not examine or question MLM’s business status due to lack of data. The data that are available, they also note, are mostly from MLM-produced disclosures, notorious for obscurity, irrelevance and incompleteness. For private firms, and nearly all MLMs are privately held, the data are also unverified.

Yet, the most important aspect of MLM data analysis is not lack of data. It is a factor that is almost never questioned but accepted, cited and relied upon by analysts and regulators.

Measuring Infinity a Year at a Time

This unexamined aspect is the standard practice of presenting MLM data in *one-year time frames*, in the manner of a legitimate business. For legitimate businesses, the one-year time frame is a valid measure of company response to changing market needs, accrual of good will, building of brand equity, cumulative customer growth and employee retention and experience. It is a 12 month measure of the defining elements of a real business: *tangible equity and enterprise sustainability*.

Measuring or describing MLMs in the 12-month interval assumes and supports the impression that MLM possesses these defining elements of accruing equity and sustainability. If it does not, there is nothing real or tangible to measure or compare. Using the same data metrics and time frames for MLM as for legitimate business misrepresents the nature of MLM. A reconsideration is needed of how MLM is measured.

Currently, media stories, academic papers and regulatory reports routinely reference *annual* income averages of MLM recruits, *annual* revenue of MLM companies, and total numbers of recruits *per year*. Data from years to years are compared to show rates of “growth” or possible decline or to compare MLM with other forms of sales enterprises such as online vendors or brick and mortar retail outlets, making them appear equivalent in business status.

Liability not Equity

MLMs do not have business equity. At all times, the MLM enterprise is *totally leveraged* by the existential, perpetual requirement to replace virtually all recruited contractors, who are the ultimate source of all value and are totally responsible for all the MLM revenue. If new recruits are not found, every day, in numbers equal to massive attrition rates, decline or eventual collapse ensues.

Gaining new MLM recruits is not a process of building upon a foundation of meeting market needs as real customer acquisition and actual business growth are. To the contrary, new recruits must be found that are unaware of the MLM model and the history of failures, losses and negative experiences of previous recruits or they must be persuaded that the losses of previous enrollees did not occur or were only the result of normal market factors, not the MLM model.

As in a Ponzi scheme, new MLM recruits trigger the immediate need for the enterprise to enroll yet more recruits to fulfill the enterprise's financial promise to the recruit, which is based on gaining and transferring funds from *future recruits*. As part of the MLM "chain," all MLM recruits, regardless of position or time when they are enrolled, bear the enterprise's perpetual liability. Recruiting is not a function of growth but of fulfilling an existential requirement. Recruiting for the MLM is the equivalent of making interest-only mortgage payments on a property in which debt exceeds value. Making the payments never reduces the debt, but only forestalls eviction.

The endless chain structure, in which all recruits must rapidly "duplicate" themselves, makes the MLM enterprise *unsustainable, by design*. A "duplication" requirement for each participant to access "unlimited" rewards is a mathematical and demographic impossibility. At any point of time, the vast majority of participants must always be positioned at or near the bottom, where profit is impossible due to lack of a "downline." Charging money for such "access" is inherently deceptive and causes loss.

The continuous and inevitable failure of the "last ones in" is an *essential and planned* trait of the MLM "model". If new recruits were continuously enrolled and not cycled out as "failures", the enterprise would soon collapse from consuming whole populations. It would die out like a virus that has no more hosts to infect when "herd immunity" is reached. Also, if the exiting recruits are not forcefully persuaded that they are "failures", casualties of normal market competition and risk, the enterprise would

collapse from eventual public awareness or from fraud prosecution that would follow victim complaints.

Court cases and prosecutions of MLMs as “pyramid schemes” are based on the common-sense acknowledgement that the “endless chain” model is impossible and therefore *inherently* deceptive. Constant loss is the necessary corollary to constant recruiting. Deception, therefore, must be the core competence for an endless chain enterprise. No matter how many people are recruited in any area, the MLM always claims the “opportunity” is undiminished and the price to access the “unlimited opportunity” is never reduced.

The constantly enrolled recruits face the brutal economics and suffer the sad consequences of the unsustainable enterprise. The unsustainable model precludes them from recruiting enough other recruits to “duplicate” the “success” of those at the top. Numbering in the thousands, the new recruits require millions more. Paying for access to an “infinite” market, it turns out, is a bad deal at any price.

As for the MLM enterprise itself, if it can find and persuade new recruits in equal or greater number than the churned “losers and quitters”, the MLM “annual” report may make it appear that stability exists, when in fact the MLM is continuously collapsing. It may appear solvent while operating solely on the funds lost, from deception, by past and present consumer-investors. Its future utterly depends on repeating the process with an almost entirely new set of future “losers.”

When presented in 12-month reports, the endless chain enterprise may appear as if the next year is a renewal or an expansion of equity built on sales and a customer base established in previous years. In fact, there is no underlying equity of a stable sales force or a repeat customer base, only constant re-enactment of its solicitations, a perpetual recitation of a false promise. Eventually, the MLM enterprise must expand to greater geographic territory or recalibrate its message to a new demographic. Rather

than building a sustainable edifice of equity, MLM is in a state of constant transience, on the run, always promising, never delivering.

In this manner, MLM enterprises cannot accumulate good will, build brand equity, retain a sales force or build a loyal customer base, the elements of a sales enterprise's equity. Sustainability is impossible when the value it sells – *unlimited income opportunity* – cannot be delivered and is never intended to be delivered. It does not exist.

A 12-month report cloaks the MLM enterprise in a false garb of sustainability, equity and stability. The “annual” report is a misleading still-frame of an enterprise actually in free-fall.

Buying Vitamins to Access the “Opportunity of a Lifetime”

Additionally, describing MLM revenue as gained from “sales of products”, as the annual reports also do, misdirects the researcher from the true MLM value proposition. MLM's true offering is never its mundane and usually overpriced consumer goods or services. Rather, it is the electrifying “income opportunity”, an immeasurable commodity based on infinite expansion. Only MLM makes such an offer. It is what distinguishes it from conventional sales. But access to the MLM bonanza requires recruits to make monthly purchases of vitamins, face creams or whatever the MLM offers to fulfill a “qualifying” volume quota. If the recruit fails to meet the quota, income eligibility is lost, along with the life-changing “opportunity.”

MLM's mystical income-producing power often transfers, briefly, to the MLM product, imbuing it with magical, transformative properties and producing testimonies to miracle results. But, typically, when the spell of “unlimited income” breaks, the product shrinks back to reality and the recruit never buys it again.

MLM does not make an “offer you can't refuse,” just one that people are led to believe they can't afford to pass up or give up on once enrolled. The Godfather's offer

relies on force, the MLM's on deception. Both make the business principles of supply-and-demand, price-competition, brand-awareness and others irrelevant yet, in the 12-month reports, these purchases are always called "sales" based on "demand."

Apples to Apples

If an annual time frame must be used for research or regulatory purposes it should "average" only statistically relevant and equivalent parties – *those that joined within the year*. This group represents 50-90% of the total *each year*. They are representative of the economic fate of the vast majority of recruits in past and future years.

The current practice of "averaging" incomes of the new recruits who face saturation the moment they enroll with the top recruiters who benefit from every recruit and every purchase is statistically erroneous and misleading. Presenting and comparing "average" incomes yearly also indicates consistency of participants. In fact, MLM's sales force is composed almost completely of new sets of people, year by year.

Additionally, showing comparative "average" incomes for various "ranks" creates the misleading impression of an actual competition on a level playing field between all the recruits on an annual basis. In reality, if a one-year time frame is to be used, it should show how the top recruiters are already across the finish line at the start of each year.

By freezing the financial picture into one-year, the churning process is obscured and the impossibility of those at the bottom to "succeed" is denied. The legions of losers of all past years, whose numbers dwarf those currently counted and whose labor and payments carry the enterprise from each year into the next, are erased.

The ghosts of these innumerable "failures" constitute what would pass for "equity" in an enterprise based on deception. The enterprise rests upon the constant failure of

consumers who invested in the “unlimited opportunity.” Their “failure” and loss are the enterprise’s “profit.”

An enterprise that charges hard cash for an immeasurable, non-existent product, *unlimited income opportunity gained from infinite expansion*, cannot be measured by time. It is *suspended in time*, with nothing accruing year by year. The last year does not relate to the one before or the next. Entire constituencies are replaced. If it is stopped even for one day, it is revealed to have no *intrinsic* value. Its value is always and only a “futures” speculation.

IV. One Data Point to Test Value and Identity

To accurately portray MLM’s true identity only one point of data is required or is relevant. It is the only data point that can measure the validity of the enterprise’s value proposition and render the enterprise panoramically, in its totality.

The data point is *the percent of all participants that were recruited from the enterprise’s inception that ever gained a net profit*. This single data calculation properly counts the top recruiters and all other participants *one time*. This captures the reality of a tiny group of recruiters operating *from fixed insider positions* and continuously luring a churning base of prospects who are charged money, persuaded to provide free labor, and then replaced. This one simple data point, *the percent of the absolute total ever gaining a net profit*, has never been revealed by any MLMs and has never been publicly requested by analysts, researchers or regulators. The percent would be a statistically incalculable figure, a virtual zero. The reality would be impossible to graphically illustrate and the truth of it unimaginable to many people. The “greatest income opportunity in the world” is a financially lethal trap.

V. Short Path to Truth of MLM Business Identity

The shortest pathway to the truth of MLM begins not with actions but *inaction*. It starts with *suspending* the unfounded assumption that MLM is “legitimate business” and adopting a neutral “don’t know” position as to what MLM is.

It starts with *ending* the automatic use of business and economic language to describe the MLM phenomenon. This involves setting aside the invented language MLM promoters constantly repeat and using ordinary terms that reflect and describe verifiable experience and observation.

It begins with *halting* the useless and misleading data measures that pretend MLM responds to consumer demand for its “products”, delivers the value it promises, is sustainable, and has tangible equity that can be measured and compared annually.

When an objective and open perspective is adopted, appropriate words applied to what is seen and experienced, and valid data examined, the truth of what MLM will become clear and obvious.

ⁱ The video presentation begins at minute 40:30 at <https://vimeo.com/546172475>

ⁱⁱ The enormous loss rates have been verified in multiple court cases and in independent research, but also in the published “income disclosures” of many MLMs. Social commentator and satirist, John Oliver acknowledged this reality by showing how the disclosure of the large MLM, Nuskin revealed that 93% of its contractors gained zero income. (<https://www.youtube.com/watch?v=s6MwGeOm8iI>) The reality is far worse. Only 7% gained any “income” but most rewards were concentrated with the top 1%. The published figure also does not show costs, resulting not just in absence or meager income but significant financial losses to virtually all. See https://www.heraldextra.com/business/local/from-the-web-john-oliver-calls-out-nu-skin-in/article_62873cf0-ed42-54e8-9927-4369069c253f.html