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Organizational Deviance in the Direct Selling Industry: A Case Study of the Amway Corporation

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ORGANIZATIONAL DEVIANC IN THE DIRECT SELLING INDUSTRY:
A CASE STUDY OF THE AMWAY CORPORATION

by

Carol Lynn Juth-Gavasso

A Dissertation
Submitted to the
Faculty of The Graduate College
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Department of Sociology

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ORGANIZATIONAL DEVIANCE IN THE DIRECT SELLING INDUSTRY: 
A CASE STUDY OF THE AMWAY CORPORATION

Carol Lynn Juth-Gavasso, Ph.D.
Western Michigan University, 1985

Drawing upon the literatures of organizational theory, sociology, criminology, and entrepreneurship, the intent of this study was to develop a theoretical model which would explain the creation and maintenance of organizational deviance in a direct selling organization. Based upon the work of Cole (1959), Finney and Lesieur (1982), Hughes (1980), Gross (1978), and Vaughan (1983), the utility of the model is illustrated with data gathered on the Amway Corporation, a multilevel direct selling organization. The model takes into consideration (a) the environment of the organization; (b) the goals of the organization; (c) the structure of the organization; and (d) the pressures, constraints, and controls which affect the actions and decisions of an organization.

Viewing the multilevel direct selling organization as two symbiotic entities, the research has shown that factors in the social structure produce pressures within each organization to achieve certain goals. If these goals cannot be obtained through normative or legal channels and if the controls or constraints impeding illegal behavior are not present or not fully operative, decisions may be made by the organization to engage in unlawful conduct. If no countervailing force arises to impede the illegal
actions they tend to feed back into the organization to be reproduced.

Specific factors creating and sustaining organizational deviance in a direct selling organization are: (a) direct selling's emphasis on culturally approved success goals; (b) the business organization's need for profit; (c) competition and the need for constant recruitment in direct selling organizations; (d) low profitability on the part of most direct sellers; (e) a reward structure in multilevel direct selling organizations which emphasizes sponsoring over selling; (f) a policy of nonselective recruitment; (g) the fact that the training and guidance of distributors is left in the hands of other distributors in multilevel direct selling structures; (h) the fact that distributor organizations can number into the thousands; (i) the independent contractor status of direct sellers; (j) the fact that recruits and customers are friends or relatives of the distributor; and (k) the fact that the activities of direct selling usually take place in private settings.
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Carol Lynn Juth-Gavasso
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CHAPTER I

THE PROBLEM: ORGANIZATIONAL DEVIANCE

The problem of crime in America has usually been defined in terms of such deviant behavior as murder, rape, robbery, prostitution, assault, and drug abuse. While these traditional forms of crime, usually associated with members of the lower classes, have occupied the attention of professionals and citizens alike, there is growing movement within the academic, professional, and citizen ranks to look at a "new" form of illegal and deviant behavior - corporate crime. Across the nation, actions are being taken to define and legislate against the harmful and costly effects of corporate behavior.

A report issued by the U.S. Department of Justice (1983) found that "fraud against consumers, cheating on income taxes, pollution by factories pricefixing, and accepting of bribes, are viewed as seriously as or more seriously than) many of the conventional property and violent crimes" (p. 5). Research studies have documented the fact that some of the nation's largest corporations are serious and repeat offenders who violate many of the criminal and civil statutes of the land (Clinard, Yeager, Brissette, Petrashek, and Harries, 1979; Clinard and Yeager, 1980; Ermann and Lundman, 1978a, 1982a, 1982b; Hochstedler, 1984; Kelly, 1982; Perez, 1978; Ross, 1980; and Sutherland, 1949).
This study is concerned with the illegal and deviant behavior found in the direct selling industry. More specifically, the study is concerned with the organizational deviance that is created and maintained within a direct selling firm. Direct selling is generally defined as the marketing of products or services directly to a consumer on a one-to-one or small group basis usually in a home environment. Prime targets for direct selling firms are young, middle class women with children at home. Typical (and successful) direct selling products include those with a high profit margin and a potential for repetitive sales: cleaning products, kitchen wares, decorative accessories, cosmetics, and jewelry. Other products, higher priced and nonrepetitive, but supplemental (i.e. attachments or updates can be added) in nature, include: encyclopedia sets, vacuum cleaners, security alarm systems, computers, and water filters. Some of the direct selling firms are nationally known companies such as Avon, Amway, Tupperware, Mary Kay, Fuller Brush, and Shaklee. Other direct sellers include less known firms like Tri-chem, Jafra, Discovery Toys, and Society Corporation.

The illegal and deviant behavior within the direct selling industry is important to study not so much because of its financial impact, for it represents only about 4% of the retail market, but because of its social impact in the society. A nation wide telephone survey completed for The Direct Selling Education Foundation (1982a) found that approximately 62 percent of those individuals surveyed had been contacted by a direct seller within
the past year. The same survey also found that 20 percent of the households interviewed have had at some point in time a member engaged in direct selling. News stories and court cases concerning direct selling firms particularly the Amway Corporation attest to the fact that direct selling is fertile ground for the study of organizational deviance.

Defining Organizational Deviance

Controversy surrounds any definition of deviance. This is particularly true when definitions of deviance are applied to the behaviors of business organizations. In a rapidly changing environment the line separating sharp but legal business practices and unlawful behavior is often ambiguous (Vaughan, 1983). In this study organizational deviance will be understood to encompass the violations of civil, regulatory, and criminal laws. Further, the terms corporate misconduct, organizational deviance, illegal behavior, and deviant behavior are used synonymously throughout the paper.

Organizations can become deviant in one of two ways. They can adopt organizational goals which are at variance with societal norms or laws; or, organizations can become deviant when they adopt illegal means (violate civil, regulatory, or criminal codes) in order to achieve their legitimate goals of profitability, growth, an increased market share, and the like (Sherman, 1982). It is in the
latter sense of organizational deviance that this study is undertaken.

Support for this position and definition of organizational deviance comes from the work of Sutherland and the many sociologists (Clinard and Yeager, 1980; Ermann and Lundman, 1978a, Geis and Meier, 1977) who followed in his footsteps. Sutherland's efforts to bring the study of white collar crime, which includes the study of organizational crime (Clinard and Yeager, 1980), within the scope of traditional criminological study was based, among other reasons, on the fact that civil and regulatory laws conform to legal definitions of crime. Legal scholars have recognized that definitions of crime require two abstract elements: (a) a definition of an act as socially harmful, and (b) a provision for a penalty for that act (Sutherland, 1945). Civil and regulatory laws in the United States conform to this legal definition of crime.

Clinard and Yeager (1980) have reaffirmed Sutherland's pioneering efforts in their work. Like Sutherland, their definition of corporate crime encompasses more than the violation of criminal law.

A corporate crime is any act committed by corporations that is punished by the state, regardless of whether it is punished under administrative, civil, or criminal law. This broadens the definition of crime beyond the criminal law, which is the only governmental action for ordinary offenders (p. 16).

Further, Clinard and Yeager have also recognized the limitations of the present legal system which separates some offenses from others. They state:
Unless this more inclusive definition of crime is used, it is not possible to consider violations of law by corporations in the same context as ordinary crime. In legal terms, business and corporate offenders are "administratively segregated" from ordinary offenders not because of differences in illegal actions but because of differences in legal terminology (p. 16).

A more complete discussion of the theoretical underpinnings of this study, white collar crime and corporate crime/organizational deviance can be found in the following chapter.

Historical Origins of Direct Selling

The stereotype image of the door-to-door salesperson is that of an unscrupulous individual acting alone using pressure tactics, misrepresentations, and other questionable behavior to ensure a sale. Such behavior on the part of the salesperson is viewed as a personal character flaw. This study seeks to dispel that myth maintaining instead that much of the deviant and illegal behavior found in direct selling is the result of structural pressures on a direct selling organization. In order to better understand the thesis that deviance in direct selling is organizationally based, it is necessary to trace the history and development of direct selling in America.

The direct selling method of distribution in America dates back to the colonial era when thousands of lone peddlers with knapsacks roamed the countryside disbursing their wares and services. One author claims that "the pack peddler practiced free enterprise in its purest form" (Golden, 1963, p. 27). While often a welcome sight
to many a household these peddlers were also a source of irritation, fraudulent behaviors, misrepresentation, and general complaints (Carson, 1954; Dolan, 1964; Golden, 1963; Wright, 1965).

No accurate figures on the total number of peddlers exist nor ever have, but many estimates have been made. One authority says that in 1850 there were 10,669 and he follows this up with a figure of 16,595 in 1860. I am inclined to think these figures are low. But if we assume that the number was approximately 17,000 it means that thousands of men were hundreds of miles removed from the restrictions they would have felt in their home areas where they were known -- in itself a powerful temptation to palm off a piece of cheap jewelry for a more expensive one. An itinerant, by the very nature of his job, must find it hard to tell the complete truth when a little deviation may mean the difference between sleeping under a roof that night or out under the stars (Dolan, 1964, p. 231).

The peddler - customer relationship can be characterized as one governed by the maxim "caveat emptor" (let the buyer beware). If the customer was taken it was often the victim who was held accountable for being the fool. While the deviant or criminal behavior of this early direct seller is more akin to occupational crime than it is to organizational crime, it was not long before firms began engaging peddlers to market their goods.

The Transition from Peddler to Big Business

History does not record which organization was the first to recruit peddlers (salespersons) to market their goods. But there is some indication that an organizational structure, in the form of a crude multilevel marketing system, was in use in the nineteenth century.
The people who did the big business with the peddlers in the South were suppliers, or as we called them, wholesalers," most of whom were up in New York, and the Baltimore Bargain House. A peddler with small capital couldn't go to New York or to Baltimore to get his supplies, as he needed them every week or so. There were various subcontractors, or jobbers, who handled merchandise which they bought from the big suppliers in New York, Philadelphia, and Baltimore. ... During his years of peddling and then selling to other peddlers, Mr. Fels recognized the great possibilities in the marketing of a low-priced household soap, which he made himself. Eventually, this became the Fels-Naptha Soap Company (Golden, 1963, pp. 59-60).

Today more sophisticated, similar multilevel marketing structures are the foundation of many direct selling corporations. Direct selling is no longer an individual enterprise. It is the rare individual who sells what he or she has made or independently acquired. For the most part, direct selling is now an organizational or corporate function. Firms like Amway Corporation, Mary Kay Cosmetics, and Avon Products, Inc. are devoted to the manufacture and distribution of goods through a national and, at times, an international network of independent contractors called distributors or representatives.

While the direct selling organization and its fleet of distributors may be a far cry from the lone peddler in the backwoods, the image of the direct seller is still linked to illegal and deviant behavior. One author has noted:

Quite often, despite a proper training program, sales people in the interest of more sales and high commissions, may intentionally use unethical, deceptive, or highly questionable tactics in dealing with the prospective customer. Unfortunately, there are also direct selling firms which, at national, regional, or
local level, train their representatives to misrepresent (Jolson, 1971a, p. 11).

Consumer complaints about direct selling generally fall into the following categories:

1. Deception used by the salesperson to gain access into the home. Tricks such as saying you won a free prize, or "special offers" are used to entice individuals to 'hear the salesperson out' (Wagner, 1972; "When a magazine," 1975).


5. General annoyance due to the intrusion of an uninvited and unsolicited salesperson (Brittenham, et al., 1969; Wagner, 1972).

While these complaints appear to emanate from transactions between seller and buyer and may represent in many cases only instances of occupational deviance, there is some indication that direct selling organizations are themselves responsible for some of these illegal behaviors as well. Clearer involvement of the direct selling firms in illegal and deviant behavior comes from Congressional investigations, investigations of the Federal Trade Commission, court documents, and general news reports. A check of the index to The Wall Street Journal, the Business Periodicals.
Index, and the Readers' Guide To Periodical Literature reveals many charges and complaints concerning direct selling firms. Some of these complaints and charges include the following:

Avon Calling, and the IRS answers; Uncle Sam is checking whether Avon ladies are paying their taxes (The Wall Street Journal, June 12, 1974).


Glenn Turner is ordered by FTC to pay $44 million to victims of his pyramid scheme (The Wall Street Journal, May 28, 1975).

FTC seeks to determine whether Shaklee violated consent order on Instant Protein (Zonana, 1982).


Attempts to Control Direct Selling

There was little regulation of the illegal and deviant activities of the peddler. As one author points out:

The only fair way to judge the character of the peddler is to look at him against the background of his time. Beyond a few local license requirements and petty ordinances there was virtually no government restraint on business practices; and when we look carefully we find that the peddler as a character comes off rather well when compared with his more respectable settled contemporaries in commerce (Dolan, 1964, p. 233)

The first real ordinances enacted against direct sellers have come from communities where these agents were seen as a nuisance or
as competition for the merchants already established there. Such laws are generally referred to as Green River Ordinances named for the town in Wyoming which had such an ordinance banning direct selling. In 1933 the community of Green River successfully defended its law in the federal courts against the Fuller Brush Company thereby making it unlawful for "solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise" to call at any home unsolicited (Brittenham, et al., 1969, p. 942). While few communities totally ban direct selling some require that direct sellers register and/or pay a license fee and/or deposit a bond.

The use of local ordinances to regulate the conduct of direct sellers is, for the most part, ineffective. A study by the UCLA Law Review found:

the present approach of each locality acting for itself has proved extremely ineffective.

A licensing provision which regulated a larger geographical area could solve some of the existing problems. A state-wide provision, for example, would probably be more familiar to consumers, attorneys and businessmen. Moreover, companies would no longer be able to take advantage of the haphazard pattern of regulation that results from each municipality having its own ordinance. Salesmen would be forced to either comply or get out of the market (Brittenham, et al., 1969, p. 954).

As proof of the ineffectiveness of these local statutes during the late 1960's and early 1970's, Congress and the regulatory agencies, particularly the Federal Trade Commission, found themselves reacting to the same customer-identified abuses of the direct selling industry (i.e. high pressure sales,
misrepresentation, poor quality goods, high prices). The primary complaint centered around the use of high pressure sales tactics by some door-to-door salespersons. In 1974 Congress responded to these complaints by passing what has come to be known as "cooling-off legislation". These statutes allowed for the cancellation of a contract, entered into by a direct seller and a customer, within a period of three business days after the contract had been signed (Schorr, 1980).

While the local ordinances and the cooling-off legislation appear on the surface to have been aimed more at the direct seller than at the company he or she represented, there is some indication that the Congress was cognizant of the fact that some of the corporations were responsible for the behavior of their sales agents or representatives. Companies are required to print on the sales receipts or contracts used by their salespersons the fact that the customer has the right to cancel the order within three business days if the amount of the contract is in excess of $25.

A 1975 article in Changing Times: The Kiplinger Magazine noted that many firms, particularly magazine subscription companies continued to encourage deceptive practices and evaded the "cooling-off" bill by having their salespersons write orders for $24.99 rather than $25 or more. In addition, the magazine article points out that deceptive and deviant practices were used by some companies to recruit distributors.

Selling magazines door to door may not seem exciting to you, yet every year scores of people, including
teenagers, are lured into the work by recruiters or ads that promise fat commissions and a chance to travel the country with all expenses paid. Often there is a wide gap between the come-ons and the facts.

Salespeople may be promised minimum earnings of $50 to $100 a day, but actual earnings may turn out to be $5 or even less, and sometimes deductions are made for food, travel and lodging. Solicitors who fail to make a sale for several days have been abandoned far from home with little or no money. The files of the Ohio Better Business Bureau contain the case of one teenage girl who said she was threatened with beatings and kept a virtual prisoner by the crew manager ("When a magazine," 1975, p. 44).

The early 1970's marked a time when the focus of investigations into direct selling shifted from actual sales tactics and practices to an examination of the direct selling organization itself. Particular attention was paid to organizations based on the pyramid scheme. Direct selling firms operating a pyramid scheme sell rights to individuals to sell products and other distributorships, these individuals in turn sell additional goods and rights to distributorships to others, who in turn do the same, and so on down the line. The activities of Glenn Turner and his company, Koscot Interplanetary Inc., were a primary focus of interest. An FTC investigation found that Turner managed to extract about $44 million from about 30,000 investors who were sold the right to sell cosmetics and distributorships to others. Distributorships were sold at a cost ranging from $500 to $5000 ("Glenn Turner," 1975).

The FTC also examined the organizational structure and practices of other direct selling firms including Shaklee and the Amway Corporation. In 1972 the FTC issued an administrative
complaint against Grolier charging them "with unfair and deceptive practices in recruiting its personnel, selling its products and services and collecting debts" ("FTC modifies order," 1984). In 1973 the FTC investigated Shaklee for "alleged deceptive and misleading claims being made by Shaklee salespersons for its instant protein product" ("Panacea, placebo," 1977). The Amway Corporation was investigated for numerous complaints including restraint of trade, unfair methods of competition, for false, misleading, and deceptive practices regarding the potential earnings of its program (In re Amway Corporation, Inc., et al., 93 F.T.C. 618).

The direct selling industry has again made news headlines because of illegal and deviant activities. In 1982 the Internal Revenue Service (IRS) began investigating the tax returns of direct sellers for illegal deductions. In a sample of 300 returns from the state of Maryland the IRS found "of the first 300 audits completed, all but two resulted in back taxes and penalties. ... Cheaters were assessed an average of $1,350 in back taxes and penalties -- not including interest" ("IRS goes," 1982). The IRS was not the only organization investigating the tax returns of direct sellers. The State of Wisconsin in its investigations also found evidence of questionable deductions.

In 1982 the State of Wisconsin undertook an investigation of the Amway Corporation for alleged misrepresentations in connection with the Amway program and the earnings potentials of Amway distributors. In February 1983 the Justice Department of the State
of Wisconsin obtained a consent judgment against Amway and four of its distributors which required them to pay in excess of $17,000 in civil forfeitures. The consent degree also mandated that the firm and the distributors disclose actual sales of distributors when using hypothetical income examples.

In November 1983, the Amway Corporation paid a fine of $25 million, in exchange for the dropping of criminal charges against four of its top executives, for fraudulent activities aimed at misleading Canadian Revenue about the value of Amway products shipped into Canada. Civil cases for another $148 million are still pending for the back taxes and fines in this case. In May 1984 a case was filed in a U.S. District Court in Ohio by 79 Amway distributors against the Amway Corporation and some of its high level distributors charging that the distributors were coerced into the purchase of large amounts of motivational materials from their up-line sponsors.

It is evident that the study of illegal and deviant behavior within the direct selling industry is warranted. The study of the direct selling industry can lead to the advancement of theory in the areas of white collar crime, or more specifically, organizational deviance. In searching for the best theoretical explanation for the continued illegal and deviant behavior in direct selling the following theoretical advantages should accrue.

1. The study of direct selling can lead to new insights concerning the role of workers in a non-industrial setting.
Most studies of corporate illegal behavior have focused on the activities of workers and management in a traditional industrial or business environment. The direct selling firm, however, must be viewed differently. The direct selling firm is usually comprised of three distinct work groups: (a) a management team comprised of those who own and/or manage the company; (b) an office and/or manufacturing staff composed of those paid employees who work for the corporation; and (c) a sales force composed of independent contractors, also called dealers, distributors, representatives, or beauty consultants, who are responsible for the distribution and sale of the company's products to the ultimate consumer. This last group, the independent contractors, are the primary key to profitability for the direct selling firm. The very fact that the organizational structure of the direct selling firm requires its major work force to be independent (i.e. not considered employees) and to work outside of the corporation creates a situation of unique dynamics and opportunities for illegal behavior to occur.

2. The role that cultural ideology plays in the operation of a business-for-profit can more easily be assessed in direct selling than almost any other industry group.

The direct selling industry as a whole is particularly dependent on the cultural goals of economic freedom and success for the growth and profitability of its firms. Direct selling firms emphasize to the potential distributor recruits the advantages of "owning one's own business". Horatio Alger stories abound in the
cultures of direct selling firms. Such emphasis makes the study of
direct selling fertile ground for analyzing modifications of
Merton's ends/means thesis (Finney and Lesieur, 1982; Gross, 1978;
Vaughan, 1983)

Summary of Intent

Abuses continue to abound within the direct selling industry
despite legislative and regulatory attempts to control them. It is
the intent of this study to develop a theoretical explanation for
the persistence of organizational deviance within a direct selling
organization. The principal organization under consideration will
be the Amway Corporation. It is hypothesized that the illegal
behavior found in a direct selling firm (organization) is the
consequence of failed attempts to achieve its goals through
normative channels. Violations of the law by entrepreneurial
organizations, such as direct selling firms, occur as these
organizations seek survival through the adroit exploitation and
manipulation of the constraints found in their environment.
Specifically, this study will consider the following questions:

1. What structural factors of the society engender illegal
behavior on the part of entrepreneurial organizations particularly
direct selling firms?

2. How do the unique organizational features of the direct
selling firm create and maintain illegal activity?
3. What interaction patterns occur between the direct selling firm and the other institutions in its environment which systematically aims to enhance the profit and growth status of direct selling firm?
CHAPTER II

THEORETICAL ORIENTATIONS

The study of corporate misconduct emerged out of a wider body of literature generally known as white collar crime. White collar crime encompasses the illegal and criminal behavior of the upper classes, government, corporations, and other organizations. As early as 1907 sociologist Edward Ross wrote of the wrong-doing of "criminaloids" -- individuals who prospered "by flagitious practices which have not yet come under the effective ban of public opinion". Ross was cognizant of the fact that the misdeeds of the wealthy and the influential members of a community often escaped condemnation and punishment.

In 1939 in his Presidential address to the American Sociological Association, Sutherland (1940) reiterated, in somewhat different terms, the earlier ideas of Ross. In introducing the concept, white collar crime, Sutherland set out to bring within the scope of criminology the study of the illegal and criminal behaviors of the corporations and the upper classes. He believed that criminology could not be limited solely to the study of individuals criminally adjudicated. Sutherland argued that criminology needed to be expanded to include (1) the decisions of agencies, including the civil courts and the regulatory bodies; (2) behaviors that would have a reasonable expectancy of conviction if tried either in a
criminal or civil court; (3) behaviors which avoid prosecution simply because pressures are brought to bear upon a court or a regulatory body; and (4) the study of individuals who are accessories to a white collar crime.

Sutherland's work was and continues to be a source of controversy in the fields of sociology and criminology. Critics, like Tappan (1947), charge that behaviors not adjudicated in a criminal court cannot be considered criminal. They also argue that behavior cannot be considered criminal if it is not perceived as such either by the public or by the perpetrator himself or herself. Sutherland (1945) aptly answered these criticisms and challenges in an essay entitled "Is 'White Collar Crime' Crime?" He noted that legal scholars had defined two criteria for a crime: (1) a legal description of an act as socially injurious, and (2) a legal provision for a penalty for such an act. Clearly then, besides the laws outlawing rape, murder, robbery, and so on, most of the laws governing civil affairs and most of the regulations constraining business practices provide descriptions of social harms and provide for penalties. Most business regulations are aimed at providing a measure of protection for the consumer, the employee, the public, and other organizations from such things as dangerous products, unfair labor practices, or unregulated competition.

In 1949 Sutherland published White Collar Crime, a study which detailed the illegal and criminal behaviors of seventy of America's largest corporations. In addition to presenting a case for the
study of the criminal behaviors of the corporations and the upper classes, the book was an attempt on Sutherland's part to extend his theory of differential association to include corporate misconduct. Although he left a heritage of muddied waters concerning the exact definition of and parameters for the study of white collar crime, it is to him that the study of corporate criminal behavior owes its debt.

Researchers (Clinard and Quinney, 1973; Clinard, et al., 1979; Clinard and Yeager, 1980; Conklin, 1977; Edelhertz and Overcast, 1982; Ermann and Lundman, 1978a, 1982a, 1982b; Geis and Meier, 1977; Geis and Stotland, 1980; Hochstedler, 1984; Vaughan, 1983; and Wickman and Dailey, 1982) following in the footsteps of Sutherland have expanded and refined the concept of white collar crime. Specific forms of white collar crime have been delineated. These include: occupational crime and corporate or organizational crime. Occupational crime is crime that is committed by individuals in the course of their occupational duties and includes offenses like embezzlement, stock manipulation, or fraudulent repair work (Clinard and Yeager, 1980). Organizational, or corporate crime, is crime that is committed on behalf of the organization by responsible individuals acting within the organization. It includes such offenses as the manufacture of faulty products, violations of health and safety standards, price-fixing, and corporate fraud. It is the latter category of corporate or organizational crime that is of interest here.
Theories of Corporate Crime

Generally, the studies of corporate criminal behavior have adopted one of three approaches: differential association, political economy, or an organizational perspective.

Differential Association

The theory of differential association was first proposed by Sutherland as an attempt to explain traditional criminal behavior. He held that criminal behavior is learned behavior. An individual's associations and cultural environment provide a situation wherein attitudes favorable or unfavorable to the violation of the law are learned. If an individual is exposed to an excess of definitions favorable to the commission of illegal acts, he or she will be more likely to engage in such acts.

In applying his thesis to corporate criminal conduct Sutherland used personal documents and interviews to substantiate the fact that new recruits to a business are expected to learn and to follow the normative practices of that company irrespective of the fact that such practices may be illegal. As further evidence of differential association Sutherland asserted that illegal practices diffuse throughout an industry or business environment. Companies learn from each other. When one firm adopts an illegal practice which increases its profits, it serves as a model for other corporations in the industry to follow suit.
Some researchers have found support for Sutherland's theory of differential association. Lane (1953) found that shoe-manufacturing communities differed in their rate of violations of the law by shoe manufacturing firms. In some communities firms did not violate the law; in other communities almost half of the shoe-manufacturing firms found themselves in legal difficulties. In his study of the electrical equipment companies and their violations of the antitrust laws, Geis (1957) also found some indication that differential association was operative. The men in the electric companies had conspired together to allocate market shares and contracts. Codes and detailed plans were used to mask the real activity of the men. In telephone conversations between members of the various firms references to scheduled meeting were known as "choir practices" and the names of the companies involved formed the "Christmas card list". Violating the law became a normative practice for these men.

While Sutherland's theory of differential association has received some tenative support, others, particularly Geis have noted a particular weakness with the theory. Differential association does not distinguish adequately differences between occupational crime and corporation crime. Sutherland failed to recognize the fact that the officers and/or management of a corporation and the corporation itself are not the same thing. Corporations are legal entities created by law and as such they exist independent of any given individual. Traditional law with its emphasis on the individual and mens rea (a guilty mind) is not only inadequate but
an inappropriate guide for the study of corporate criminal behavior. Because the unit of analysis is the corporation and not the individuals within it, the study of corporate misconduct demands a more macro approach. To this end theories of political economy have been used to explain the creation and maintenance of corporate criminal behavior in the society.

**Political Economy**

The political economy approach to the study of corporate criminal behavior is based upon the thesis that a society's political and economic structure contributes to the nature and amount of crime found in the society. Accordingly, this view holds that corporate capitalism, on the scale found in the United States, ensures the creation and maintenance of large amounts of corporate criminal behavior. Because capitalism demands continued growth and expansion, corporate crime will be continually reproduced in the society. Reduction in the amount and impact of corporate crime can come only through a transformation of the structure of the society.

Quinney (1977) holds that corporate crimes are crimes of domination which secure the existing economic order for the capitalists. "These crimes of economic domination include the crimes committed by corporations, ranging from price fixing to pollution of the environment in order to protect and further capital accumulation" (p. 51). Similarly, Chambliss (1975) notes that "criminal acts which serve the interests of the ruling class will go unsanctioned while those that do not will be punished" (p. 167).
Barnett's view of the etiology of corporate criminal behavior is less instrumental than Quinney's or Chambliss's view. In his analysis capitalism creates an economic environment where corporations are free to pursue goals of profitability, growth, and expanded market share. In the pursuit of these goals corporations are constrained in their behavior by market factors (supply and demand constraints) and by current legal practices and laws. Corporate crime "will occur when management chooses to pursue corporate goals through circumvention of market constraints in a manner prohibited by the state" (Barnett, 1982, p. 158). Furthermore, corporations will choose to violate those laws which are expected to result in increased profits if enforcement or detection of such acts is low.

The political economy perspective also considers the economic and political power of the corporations. There is great variance between the power and influence wielded by corporations and that wielded by individuals or other groups in the society. Because of this imbalance in power and influence corporations have been able to institutionalize, through legal and political channels, their desires and wishes. One of the manifestations of this power differential is the ineffectiveness of the legal constraints placed upon corporate misdeeds (Barnett, 1981). Besides securing the economic status quo for capitalists, corporate crime is an alienating force in the society.

Moreover insofar as such crimes involve the defrauding of consumers and/or jeopardizing the health and safety
of workers, the notion that social relationships under capitalism are exploiting and alienating in nature is confirmed (Simon, 1981, p. 354).

Political economy theories of corporate crime have expanded the definition and scope of criminology by their consideration of how structural factors relate to the creation and maintenance of crime and deviance. However, such theories do not adequately account for illegal behaviors found in the government or other sectors of the society (e.g. nonprofit organizations, hospitals, universities) nor do they take into consideration some of the unique aspects of the organizations themselves which may act as a stimulus to law-violating behavior. For these reasons, other researchers have chosen to study corporate criminal behavior from an organizational perspective.

Organizational Crime

Corporations are organizations. They are legal entities created by the state. They exist independent of any given individual who may occupy a given role or position within the corporate structure. Traditional theories of crime which have as their focus the individual offender are inappropriate for the study of corporate criminal behavior. Schrager and Short (1978) note that:

Preoccupation with individuals can lead us to underestimate the pressures within society and organizational structures which impel those individuals to commit illegal acts. ... Recognizing that structural forces influence the commission of these offenses does not negate the importance of interaction between
individuals and these forces, nor does it deny that individuals are involved in the commission of illegal organizational acts. It serves to emphasize organizational as opposed to individual etiological factors, and calls for a macrosociological rather than an individual level of explanation (p. 410).

The view that corporate crime is organizational crime and that sociology needs to develop an expanded framework to encompass the study of this phenomenon has received support from sociologists and criminologists alike. It was Sutherland (1949) who first noted "that the violations of law by corporations are deliberate and organized crimes" (p. 239). Twenty-five years later, Wheeler (1976) asked that sociologists direct their attentions to the "patterns of illegal activity that will become the routine forms of illegality in a post-industrial, educated, affluent, heavily bureaucratized, and perhaps over-regulated society" (p. 525).

Many researchers responded to the call for the development of an organizational perspective. Ermann and Lundman (1978a) developed a thesis of organizational deviance which considered as deviant those actions supported by the internal norms of a corporation but were contrary to the normative expectations of those outside the organization. In later refinement of their work, Ermann and Lundman (1982a) argue that organizational positions and structures combine to create organizational deviance which can cause serious economic, physical, and social harm.

In a review of organizational studies, Kramer (1982a) has noted that there are three factors of organizations which make them susceptible to illegal or deviant activity. These factors
include: the goals of the organization, its structure, and its environment.

**Organizational goals**

Organizations are created to accomplish certain goals. Gross (1978) has noted that:

as arrangements which are committed to goal attainment or performance, organizations will often find themselves in difficulties. They live in competitive environments ... given a situation of uncertainty in attaining goals, and one in which the organization is judged (directly, or indirectly by sales or other indicators) by its success in goal attainment or performance, one can predict that the organization will, if it must, engage in criminal behavior to attain those goals (p. 57).

One of the primary goals of a business corporation is the accumulation of profits. While profit maximization may not be the sole goal of a corporation, corporations must show a profit in order to survive. Several researchers (Gross, 1978; Kramer, 1982a; Vaughan, 1982, 1983) have suggested that the attainment of this goal (profit) has been one of the major factors responsible for the production of illegal and deviant behavior within the organization. (It must be understood that it is not the desire for profit per se that causes organizational deviance. Rather, profits are a factor in the decisional process to act in an illegal manner in order to realize a goal.) Kramer (1982a) points out that the Ford Motor Company's decision to continue the manufacture of the Pinto automobile, after it was known that the gas tank could explode, was "based on a "cost-benefit analysis" that said it would not be
profitable to make the safety changes" (p. 82). In other words, corporations may be expected to engage in illegal and deviant behavior "when the expected costs of its illegal action are acceptably low relative to perceived gains" (Barnett, 1981).

Organizational structure

An organization's structure includes such internal factors as the arrangement of positions and roles, the distribution of authority and power, division of labor, patterns of communication, and the nature of its transactions. Hall (1977) indicates that an organization's structure serves to minimize an individual's influence within the organization increasing conformity to organizational requirements. In addition, an organization's structure serves to establish the manner in which power relationships, decisions, and organizational activity will occur.

Ermann and Lundman (1982b) have observed that:

Corporate positions and coalitions can combine to produce corporate acts in at least three ways. First, the complexity of positions within large corporations can produce an act. Second, corporate elites can indirectly influence actions by establishing particular norms, rewards, and punishments for people occupying lower-level positions. Third, a coalition at or near the top of a corporation can consciously initiate a behavior and explicitly use hierarchically linked positions to implement it (p. 9).

The notion that the normative climate of an organization influences its behavior is accepted by Clinard and Quinney who argue that law-breaking behaviors within an organization can become routine and normative. Drawing upon the work of Stinchcombe (1965),
Vaughan (1983) has argued that new organizations are often led by new leaders who believe "that new organizations only rise rapidly if they have some disrespect for traditional standards" (p. 60).

There is some indication that complex organizational structures often break corporate goals into smaller subgoals. In trying to attain these subgoals a corporation can run afoul of the law (Needleman and Needleman, 1979; Stone, 1975). Kramer (1982a) pointed out that Ford's subgoal of producing a car costing less than $2000 and weighing less than 2000 pounds resulted in the production of the unsafe Pinto automobile.

Diffused responsibility within a complex organizational structure also contributes to the production of deviant and illegal behaviors. Clinard and Yeager (1980) have noted that:

The complex structural relationships in large corporations make it difficult, if not impossible, to disentangle delegated authority, managerial discretion, and ultimate responsibility. The present criminal law is ill equipped to distinguish between those who set corporate policy and those who implement it. ... Upper management may go scot-free in cases of violations that they have approved (p. 279).

Vaughan (1983) has also noted the fact that the structure of complex organizations can create opportunities for illegal and deviant behavior by providing numerous settings where such behavior can occur, isolating those settings, and masking organizational behavior so that the result is a reduced risk of detection and sanctioning.
Organizational environment

Organizations do not operate in a vacuum. They exist in a context (environment) shaped by economic, legal, political, social, technological, and other organizational relationships. Economic or market constraints have been linked to illegal corporate behaviors. Corporations, under pressure to generate a profit, will engage in price-fixing agreements if market conditions have deteriorated and enforcement activity is limited (Geis, 1967). Similarly, competition between organizations for needed resources can result in unlawful conduct (Vaughan, 1983). Crime occurs when corporations choose to circumvent the market constraints in an illegal manner (Barnett, 1981).

The legal environment of an organization will also affect the production and the amount of illegal and deviant behavior found in an organization. Regulatory agencies are most often the bodies which constrain the abuses of corporations. However, as Clinard and Yeager (1980) observed:

> Having the statutory authority to use various enforcement tools does not mean that a regulatory agency actually will use such instruments. Budget and manpower considerations, lack of enforcement data and interagency coordination, the political and economic powers of corporations, the consequences of drastic legal actions on corporations, whose position is strategic in the economy, and agency inertia are all factors that limit what an agency can, and will, do in enforcement (p. 95).

In the absence of a real threat of sanctioning, law-violating behavior on the part of corporations becomes "quite rational from a profit standpoint" (Simon, 1981).
Patterns of interaction between regulatory agencies and the corporations and industries they are supposed to regulate result in a rather favorable climate for corporations. It is known that industries influence regulatory bodies in a number of ways: companies can put direct pressure upon a given regulatory body by involving members of Congress to act on their behalf in limiting any new or proposed regulations. Companies can promote a favorable climate of opinion among the regulators by providing dinners, seminars, and meetings for members of the regulatory bodies. Finally, the observed pattern of interchange of personnel between regulatory agencies and corporations make it unlikely that serious sanctioning will occur (Clinard and Yeager, 1980).

In essence, the organizational perspective adopts a macro level of analysis. The focus of attention is on the unique features of the organization's structure and its environment which contribute to the creation and maintenance of illegal and deviant behavior. Finney and Lesieur (1982) have proposed a model of organizational crime which includes "background factors, structural operating strains within the enterprise, internal and external social controls, subjective and rational dimensions of the decision process, societal reactions, resulting strategies of organizational influence and defense, and finally, the deviant commitments that may result from crime" (p. 256).

Basically, the Finney and Lesieur model traces the creation and maintenance of deviance within an organization. Their model
emphasizes the roles that cultural values and social institutions play in creating a climate conducive to organizational deviance. They argue that these cultural factors find expression in goals and performance standards set by organizations the attainment of which is constrained by factors external and internal to the organization. Operating problems result when the organization's goals interact with the internal and external constraints on the organization. These operating problems call for decisions (solutions) on the part of the organization. But the decisions themselves are limited, or controlled, by internal and external factors. If the structural constraints which produce the operating problems in the organization can be overcome in an illegal manner, AND if the controls operating on the decision-making processes do not prevent it, then organizational deviance is likely to result. A modified illustration of the Finney and Lesieur model showing this process is found in Figure 1.
The Finney and Lesieur model also provides insight into the processes of societal reaction to an organization's deviance, the efforts of an organization to mitigate negative reactions to the news of its illegal or deviant activity, and the deviant patterns of commitment which may result from the original misconduct. While the theories and model of organizational deviance presented here are heuristic for understanding organizational deviance, it is necessary to draw upon one more theoretical area to understand direct selling more fully. Direct selling corporations are manifestations of a particular type of business organization. Direct selling firms are entrepreneurial organizations.
Entrepreneurial Organizations

Entrepreneurship can be understood in its generic sense as a concept that refers to all entrepreneurs, enterprisers, or more specifically, to the function or activity of an individual or an organization. Hebert and Link (1982) in the preface of their book on the entrepreneur note that treatments of the subject have usually been historical - biographical studies of the "captains of industry". There is no single theory or clear idea of who the entrepreneur is or what function he or she plays in the economic process. Casson (1982) argues that there is no economic theory of entrepreneurship and that the study of entrepreneurs has been yielded by economists to others, namely, sociologists, psychologists, and political scientists.

The arguments about who to consider an entrepreneur seem to center around the perceived economic function that the entrepreneur plays in the society (Casson, 1982; Cole, 1954; Hebert and Link, 1982; Hughes, 1980). Hebert and Link point out that there are static and dynamic theories of entrepreneurship. In static perspectives the entrepreneur serves in one or more of the following roles: he or she is a supplier of financial capital; a manager or superintendent; a proprietor of an enterprise; or an employer of factors of production. Dynamic theories of entrepreneurship view the entrepreneur as an individual who is or who performs one or more of the following functions: he or she makes innovations; makes decisions; he or she is an industrial leader; he or she is an
organizer or a coordinator of economic resources; he or she is a contractor; or she or he is a person who allocates resources for alternatives uses.

It is not the intent of this paper to enter into a debate concerning the relative merits of each of these perspectives. Rather, one particular perspective of entrepreneurship, particularly robust for an understanding of direct selling, will serve as the model for this study. To this end, the work of Cole, completed while he was at the Research Center in Entrepreneurial History at Harvard, is cited. Hebert and Link have placed Cole's theory of entrepreneurship among those dynamic theories which consider entrepreneurship to be characteristically comprised of a combination of uncertainty and innovation or special ability.

Cole's (1959) theory of entrepreneurship was selected because it views entrepreneurship in organizational rather than in individual terms. His theory will be quoted in length in order to show that his theory of entrepreneurship is compatible with organizational theory and analysis. Many of the elements and factors delineated by organizational theorist are found in Cole's work. He states:

Entrepreneurship will be used in two senses, although the context of each use should make the particular meaning obvious. Usually, the word will be employed to mean the function of activity. Here I shall have in mind the purposeful activity (including an integrated sequence of decisions) of an individual or group of associated individuals, undertaken to initiate, maintain, or aggrandize a profit-oriented business unit for the production or distribution of economic goods and services. The aggregate of individuals which together
and cooperatively develop the decisions might perhaps be designated the "entrepreneurial team." It is really a team in the sense (a) that each person or officer plays a particular position or represents a particular aspect of the total enterprise, and (b) that each such person or officer is in some measure a complement of the others as far as the total purposes of the unit are concerned. ... In such activity the goal or measure of success will ordinarily be pecuniary, but that basis may be supplemented by other yardsticks of appraisal. Again, it should be specified that this entrepreneurial activity proceeds in relationship to the situation internal to the unit, and to the economic, political, and social circumstances - institutions, practices, and ideas which surround the unit. ... Although the word "entrepreneurship" will usually be used to indicate function or activity, occasionally I may use it to signify the commonality of entrepreneurs. By this I have in mind the aggregate of individuals performing that function or carrying on that activity in a given time and place, or even over considerable periods of time, just as one might speak of "knighthood" or "the ministry" (pp. 7-9).

In the direct selling industry organizational goals are identified in terms of entrepreneurship. Most of the direct selling firms have been started by entrepreneurs in the twentieth century - Mary Kay Ash, Richard DeVos and Jay Van Andel, Albert (Dad) Fuller. These entrepreneurs have taken the risk believing that they could/can manufacture and/or distribute a product profitably through a direct-to-the-customer distribution network. In turn, these founding entrepreneurs encourage others to join their organization as entrepreneurial businesspersons. Individuals are recruited by direct selling firms as distributors or representatives through appeals to the ideals of capitalism, free enterprise, and entrepreneurship. Individuals are told to "go for their dreams",

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"work for themselves", "build a business of their own", and "be in charge of their lives".

Constraining the success of both types of entrepreneurs (the owner/managers and the distributors) are (a) factors in the institutional environment, like current laws; (b) established rights to property; (c) economic changes external to the entrepreneur; and (d) technological progress (Hughes, 1980). These constraints are similar to those previously identified by sociologists as contributing to the production of illegal and deviant behavior within an organization. Hughes (1980) observes that the success for the entrepreneur comes from the "adroit exploitation and manipulation of profit possibilities arising from changes in these variables" (p. 215).

In essence, direct selling firms are unique entities. Unlike traditional organizations, their primary workforce is independent of the company. As each direct selling entrepreneurial entity (corporation and distributor organization) tries to "adroitly exploit and manipulate" the constraints on its organization in order to enhance its profit possibilities, illegal and deviant actions may be taken. Such behaviors are organizational in nature because they are "enacted by collectivities or aggregates of discrete individuals; ... hardly comparable to the action of a lone individual" (Shapiro in Clinard and Yeager, 1980, p. 18).

The intent of this study is to develop a theoretical model for understanding the creation and maintenance of organizational
deviance in a direct selling organization. The model is based upon the work of Cole (1959), Finney and Lesieur (1982), Gross (1978), Hughes (1980) and Vaughan (1983). To illustrate the utility of the model, data from the case study of the Amway Corporation will be used. The model takes into consideration the following factors:

1. the environment of the organization (Cole, 1959; Finney and Lesieur, 1982; Gross, 1978; Hughes, 1980; Kramer, 1982a; Vaughan, 1983)

2. the goals of the organization (Finney and Lesieur, 1982; Gross, 1978; Kramer, 1982a; Merton, 1968; Vaughan, 1983)

3. the structure of the organization (Kramer, 1982a; Vaughan, 1983)

4. the pressures, constraints, and controls which affect the actions and decisions of an organization (Cole, 1959; Finney and Lesieur, 1982; Gross, 1978; Vaughan, 1983).

First, the environment of the organization has been shown to be influential in the production of organizational deviance (Clinard and Yeager, 1980; Finney and Lesieur, 1982; Gross, 1978; Kramer, 1982a; Merton, 1968; and Vaughan, 1983). In each society there is an emphasis on the attainment of certain culturally approved goals whether they be production quotas, material goods, or money (profit). In American society this cultural emphasis revolves around the values of capitalism, profit, material goods, free enterprise, and entrepreneurship. While the society proclaims these values, it fails to provide or ensure that all will have the
opportunity to achieve or acquire these valued cultural goals. The frustration and strain which occur when such goals cannot be obtained through normative channels produce pressures which may result in decisions to obtain the goals in an illegal or deviant manner. The desire for certain goals does not in itself cause deviant behavior but it is an environmental factor to be considered in any analysis of deviant behavior.

Direct selling organizations depend upon and emphasize the values of capitalism, free enterprise, and entrepreneurship. The literature of these organizations suggests that everyone can be successful in the direct selling business if they work hard. Horatio Alger stories abound in the industry. It is suggested that such affirmation of the cultural values of American society do influence the actions and decisions of individuals in direct selling organizations. Direct selling becomes a means to an end; a means of owning one's own business, a means of earning more money, a means of marketing a new product, and so on. When the "means" do not result in the attainment of a desired end or goal a decision to obtain the goals via an illegal means may be taken.

The second factor which contributes to the production of organizational deviance is organizational goals. The attainment of goals is important for the survival of an organization. Organizations, particularly business concerns, are under constant pressure to achieve goals of profitability, growth, and expansion. When changes in the environment or in the organization itself occur

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which make the attainment of goals more difficult, decisions to illegally circumvent the constraints or barriers to the goal may be made. Direct selling companies have misrepresented its products to customers, overcharged consumers, engaged in price-fixing, and evaded local ordinances in order to achieve their sales and profit goals.

A third factor important for understanding organizational deviance is the structure of the organization itself. Patterns of communication, the size of the organization, industry concentration, the status of the work force, and lines of authority are factors which may either impede or encourage organizational deviance. In direct selling the fact that the sales force is comprised of independent contractors who are not under the direct supervision of the direct selling company may contribute to patterns of deviant behavior within the sales force.

The final factors which are important to consider in the creation and maintenance of organizational deviance are the pressures, constraints, and controls which affect the ability of an organization to carry out its tasks. Hughes (1980) has pointed out the fact that no organization has been able to order all things (the law, its competitors, economic conditions, and so on) to its own advantage. Thus, besides the pressures to achieve its goals and succeed, the organization is also under pressure to deviate from normative standards. The pressure to deviate is likely to increase if law enforcement is weak, the risk of detection is minimal, the
sanction if caught is less than the obtained profit or advantage, and if others in the industry are also violating the law.

The direct selling industry is regulated (constrained) in its activity primarily by the actions of the Federal Trade Commission and the various state and local laws. The primary laws, besides the civil and criminal codes, which govern direct selling, are the "cooling off" statutes and the Green River ordinances. Opportunities abound in direct selling for the violation of these laws because the activities of direct selling (selling and recruitment) are usually done in a home or other private environment. The fact that much of direct selling depends on relational or friendship ties also prohibits the prosecution of offenders—friends are reluctant to turn their friends into the authorities. Finally, because many of the products offered by the direct seller are relatively inexpensive (less than $25), the customer who is sold faulty merchandise or who is subject to high pressure sales tactics may be reluctant to spend the time, energy, and money required to bring a complaint against the direct selling company.

In sum, what is proposed is a model for understanding the creation and maintenance of illegal and deviant behavior in a direct selling organization. It is already apparent from the material presented thus far that direct selling organizations have engaged in organizational deviance. Given some of the "signposts" (contributing factors) in understanding this phenomenon the
following chapters will seek to identify the specific factors and processes which lead to organizational decisions to engage in illegal and deviant behavior.
CHAPTER III

THE METHODOLOGY

Data Sources for the Investigation of Organizational Deviance

The study of the illegal and deviant behavior of organizations presents many barriers for the researcher. Several authors (Clinard and Yeager, 1980; Edelhertz and Overcast, 1982) have noted the problems encountered by researchers in gathering data about the illegal activities of corporations. Much of the difficulty is due to the following factors:

1. There is no equivalent of the Uniform Crime Reports which would enumerate the offenses of corporations.

The fact that the criminal justice system is oriented towards the individual as offender and not the organization, or corporation, results in a lack of information on corporate illegal activity. For the most part the actions of a corporation are controlled by civil or regulatory law and data from these sources are not systematically quantified and released to the public in any meaningful manner for the study of corporate illegal activity. Although there have been recent attempts to correct this situation, to date there is no single or uniform measure of corporate illegal activity (Edelhertz and Overcast, 1982).
2. Corporate crimes are committed in private settings.

Corporations and organizations are for the most part closed entities. Activities take place and decisions are made within the confines of corporate or organizational private property. Unlike traditional criminal behavior (robbery, auto theft, shoplifting) which usually occurs in a public place and is often witnessed by an uninvolved party, much corporate crime takes place in private offices and is witnessed only by those party to the offense. As a consequence the detection and prosecution of the crimes of the corporation pose unique problems for the law enforcement personnel as well as for the researcher.

3. Companies prefer to fire or cover for employees responsible for corporate misconduct rather than report or prosecute such behavior.

If corporations discover illegal behavior within the ranks of the company, they rarely report or prosecute such acts fearing bad publicity from the offense. The preferred solution is often the dismissal of the offending employee(s). If blame cannot be attached to any single individual or group of individuals the company may choose to cover-up or mask the illegal behavior(s). The result of this practice keeps the "recorded incidents" of corporate illegality low and increases the potential for such behaviors to become more normative within the business.
4. Corporate disputes are often settled out of court and the settlements are not always made public.

Court and regulatory agency documents are valuable sources of corporate criminal or illegal behavior. However, the fact that so many court cases are settled out of court before the commencement of the case/trial/hearing interferes with the collection of reliable data. Further, many documents from regulatory agencies are available only if one files a Freedom of Information form and pursues the case in that manner. Out-of-court settlements and closed hearings often allow the "facts of the case" and the terms of the settlement to be kept private.

5. Corporate data are protected.

Corporate data (minutes of meetings, financial records, product formulations) like personal records and data are protected by the law. Such data are considered to be the private property of the individual or organization. And unless a corporation is publicly owned general data about the state of its financial affairs remains the private matter of its owners.

Because of the above mentioned difficulties in obtaining complete and accurate data on illegal corporate behavior, researchers have come to rely on a variety of data sources to document corporate misconduct. Some of these data sources are official and primary resource materials but much of the material accessible to the researcher is only secondary in nature. Official and primary data includes court transcripts, corporate annual...
reports, and government regulatory agency material. Secondary data includes media news reports (print, radio, and television), television documentaries, and journal articles. Data for research in corporate crime can also come from surveys, interviews, and observation.

The Research Purpose

The purpose of the present study is twofold: (1) to clarify and contribute additional research and insight in understanding the problem of organizational deviance, and (2) to present a theoretical model of organizational deviance within a direct selling corporation (an entrepreneurial organization). To that end, it is necessary to examine data which will provide an analysis of both the organization and the context in which it exists. Specifically, data is needed to show how an entrepreneurial organization "manipulates and exploits" its environment in order to ensure its success and survival.

The design of this study is primarily one of case study. Although most of the data gathered is corporation specific, some of the data represents industry norms and can be generalized beyond the case corporation. The case study method with its attendant emphasis on qualitative data allows for the analysis (discovery) of specific patterns, factors, or variables which may be veiled in methodologies using more quantitative methods and data. Threats to reliability and validity in the use of qualitative measures can be
limited by using a variety of measures which view the same phenomenon from different vantage points (Webb, Campbell, Schwartz, and Sechrest, 1966).

The Research Data

As noted, qualitative, rather than quantitative, measures form the basis of this study. The data sources encompass both primary and secondary materials. The primary source material includes: participant observation, regulatory agency decisions, court transcripts and documents, Congressional testimony, and corporate publications and documents. An explanation of these data sources follows.

Participant Observation

In March of 1983 the researcher had an opportunity to attend an Amway distributor rally held on the campus of a state college. The agenda for the evening featured guest speakers, a recognition ceremony for sales goals and the awarding of plaques. The motivational speech was delivered by a couple who had reached the level of Diamond Direct in the Amway hierarchy. There was an at-the-door charge of $5 for this rally which lasted approximately three hours.

In order to gain additional information about the organizational and operational procedures of the Amway Corporation, the researcher, along with her spouse posed as an interested couple and
joined a distributor network in the summer of 1984. Joining the organization provided opportunities to ask questions and observe practices and procedures heretofore inaccessible to the researcher because of the reluctance of most Amway distributors to talk openly with others outside the organization.

Regulatory Agency Documents

The Federal Trade Commission

On March 25, 1975 the Federal Trade Commission (FTC) filed an administrative complaint against the Amway Corporation alleging restraint of trade, unfair methods of competition, deceptive and misleading claims about their earnings potentials, and price fixing. The final order issued by the FTC on May 8, 1979 ordered the Amway Corporation, among other things, to cease allocating customers, stop fixing wholesale and retail prices, and desist from making false and misleading claims about the earnings potentials of its distributors. The documents include the Federal Trade Commission's administrative complaint and decision, Amway's compliance reports, and a letter from the FTC dated August 19, 1984 to Amway's legal counsel advising the Corporation that it still was not in compliance with the May 8, 1979 order.
Internal Revenue Service

The Internal Revenue Service (IRS) began investigating the tax returns of direct sellers in 1982. The investigation began with a focus on Amway distributors in Maryland. The IRS found that many direct sellers (distributors) were overstating their business expenses and deductions. In addition, the IRS found indications that potential recruits were advised that Amway could function like a tax shelter.

The data consists of Internal Revenue Service studies and materials presented to Congressional Committee hearings and a copy of the "Statement of Roscoe L. Egger, Jr., Commissioner of Internal Revenue, Before the Subcommittee on Select Revenue Measures, House Ways and Means Committee, April 19, 1982".

Court Transcripts and Documents

The Wisconsin case

On July 28, 1982 the Justice Department of the State of Wisconsin filed a lawsuit against the Amway Corporation and four of its Wisconsin Direct Distributors. The suit charged violations of the state's deceptive practices act. The essence of the complaint was that earning potentials were misrepresented to prospective recruits. In addition the Corporation and the Distributors were charged with using unrealistic hypothetical or projected incomes and
failure to disclose to potential recruits the name of the company and the nature of the business opportunity offered.

On February 21, 1983 a consent judgment was reached between the State of Wisconsin and the Amway Corporation and its four Wisconsin Distributors. The decision required that Amway pay $17,500 in civil forfeitures and agree to disclose to potential recruits the actual sales, income and profit of active distributors when using hypothetical income examples.

The documents include the complaint, Amway's response, and the stipulations for the consent judgment as well as news releases by the Attorney General's Office of the State of Wisconsin.

The Canadian case

On November 10, 1983 in the Supreme Court of Ontario a trial was held setting Her Majesty The Queen (Regina) against Amway Corporation and Amway Of Canada, Ltd. The transcript of the trial proceedings along with its exhibits and final statements document and chronicle the illegal behavior of the Amway Corporation and are the data for this case. The documents show that from 1965 to 1980 the Corporation had been engaged in a fraudulent scheme to evade the customs duties assessed on the products the Amway Corporation shipped to Amway of Canada, Ltd. In exchange for the dropping of criminal charges against four of Amway's top officials, the Corporation pleaded guilty to the scheme and paid a fine of $25 million to the Government of Canada.
Other case documents

The researcher was also able to obtain documents relative to cases pending against the Amway Corporation and some of its distributors in the states of Ohio and California. The case in Ohio charges Amway and some of its top distributors with, among other things, restraint of trade because of forced, or coerced sales of non-Amway produced motivational materials. Plaintiffs in the case argue that they were forced to purchase large amounts of motivational materials from their up-line Amway distributors irrespective of the fact that they were "independent businesses". The case pending in California revolves around charges of inventory loading and Amway's refusal to honor its buy-back rule. While neither of the cases has been settled the documents are instructive and show the illegal patterns of behavior which have evolved in some of the distributor lines of sponsorship.

Congressional Testimony

It is important to understand how entrepreneurial organizations operate both within and outside of the current legal environment. It is necessary to understand how organizations and corporations exploit and shape the environment in which they operate. Quinney (1970) notes that "law is made by men, representing special interests, who have the power to translate their interests into public policy" (p. 35). As individual organizations, direct selling firms are limited in their impact on the government. However, as a
group united in the Direct Selling Association, they are a powerful lobby representing over 100 companies and nearly 5 million salespeople (all potential voters). In addition, many of the concerns of the direct sellers are also the concerns of the insurance companies. Many insurance agents are in positions similar to the independent contractors in direct selling organizations: both work on a commission basis and both are independent businesspersons.

The Direct Selling Association has been able to influence public policy and create and maintain an environment conducive to direct selling by providing testimony to Congress on such issues as pyramid schemes, independent contractor status, and tax compliance. The content of most of this testimony is aimed at maintaining laws and regulations favorable to the operations of the direct selling corporations sometimes at the expense of the public.

Corporate Publications and Actions

Corporate publications are a source of data (Sussman, Ricchio, & Belohlav, 1983). Of particular interest here are the statements and changes found in Amway's publications. Of particular interest is the literature aimed at the potential recruit. Although much of what the Corporation prints or televises is done consciously with the knowledge that a certain impact will be made on the public, these records (annual reports, press releases, paid ads, and distributor publications) can be valuable as indicators of a
corporation's definition of a given situation. This is important in
the study of corporate illegal behavior because what is often at
question is the very definition of what constitutes criminal or
illegal behavior (Stinchcombe, 1965).

Corporate publications also tend to reflect the content of the
corporate culture. The views of a company's hierarchy are found to
influence the normative environment and consequently the behavior of
other members of the company (Clinard, 1983). The Amway Corporation
through its publications and its actions (manifest in seminars and
rallies and its own relationships to the law) set a tone for the
conduct of behavior in the organization. Many direct selling firms
are headed by individuals who are owner/founders of the company and
in such instances these leaders and their actions serve as role
models for the rest of the organization. The conservative political
and religious views, the methods of success, and the behavior of
Amway's co-founders DeVos and Van Andel are modeled by many of
Amway's distributors.

The secondary data for this research consist of media reports
including television transcripts, newspaper stories, investigations
and reports. Books and journal articles about the Amway Corporation
and its founders also form part of the secondary data collection.
Television Transcripts

60 Minutes (CBS, Inc)

The investigative news program 60 Minutes produced by CBS News has on several occasions reported stories about direct selling companies. On October 28, 1979 the program featured a look at Mary Kay Cosmetics and the founder of the company Mary Kay Ash. On January 9, 1983 60 Minutes featured the Amway Corporation in a program entitled "Soap and Hope". The Amway story was rebroadcast with some updated material on July 3, 1983. On the 60 Minutes program aired on January 1, 1984 entitled "Camera Shy", DeVos was shown being coached by a man from a company specializing in preparing corporate executives and other individuals to face difficult television interviewing situations. DeVos was coached prior to his interview with CBS, Inc.

Donahue (NBC, Inc.)

On April 27, 1983 DeVos, President of the Amway Corporation, appeared as the guest on NBC's Donahue show. By all accounts this particular program with DeVos was a highly charged emotional hour. The audience represented people on both sides of the Amway issue and participation was often uncontrolled and spontaneous. Some of the members in the audience were also involved in the investigations of the State of Wisconsin into the operations of the Amway Corporation.
Newspapers

Both American and Canadian newspaper stories were consulted for accounts of Amway Corporate behavior. In addition to the general news stories that appeared about the Corporation, two newspapers provided indepth reports on the activities of the Amway Corporation and its distributors: The Detroit Free Press and The Grand Rapids Press. In June 1980 the Grand Rapids Press ran a series of articles on the Amway Corporation entitled "Soap and a Dream" (Dalton, Hoogterp, & Verdon, 1980a, 1980b, 1980c, 1980d, 1980e, 1980f). This series took an indepth look into the history and operations of the Amway Corporation.


Books and Journal Articles

Books and journal articles about the direct selling industry and the Amway Corporation drawn from traditional bibliographic resources comprise the remainder of the secondary materials used in
this study. Theoretical articles on direct selling and general news articles on the same subject provide an understanding and current awareness of the industry and its problems. General articles about direct selling and the Amway Corporation provide a source for public opinion and public acceptance of this method of selling and/or shopping for goods.
CHAPTER IV

DIRECT SELLING

Deciding who or what activities are to denote direct selling is difficult. Unlike the automobile industry in the United States which may easily be defined and limited to those corporations or organizations engaged in the manufacture and sale of automobiles and/or automotive parts, deciding who should comprise the direct selling industry is more problematic. Shall one count the door-to-door sales of Girl Scout cookies or the school band's sale of candy as direct selling? How does one distinguish between manufacturers representatives who sell the products of one company direct to another company and representatives who distribute a firm's products direct to an individual consumer? Are direct sellers only those independent contractors who work for an organization which manufactures and distributes their products via a network of salespersons who are compensated by their effort? What exactly is implied in the term direct selling? The answers to these questions are ambiguous. Exact definitions and reliable data on direct selling are lacking.

The United States Census Bureau collects data on direct selling establishments (with and without payrolls) but what it defines as a direct selling unit does not appear to match what the Direct Selling Association (DSA) defines as a direct selling firm.
In the 1977 Census of Retail Trade the following definition of direct selling establishments is given.

Direct selling establishments (SIC 5963) - Establishments primarily selling merchandise by house-to-house canvass, by party plan, by telephone, or from a truck. The "establishment" is the location from which the canvassers operate. Canvassers who do not have any paid help are excluded from the tabulations in this report. (The sales of the self-employed canvassers in 1977 were estimated to exceed $2 billion at the national level.) In some tabulations at the national level, direct selling organizations are divided into subclassifications on the basis of the merchandise they sell. The subclassifications are furniture, home furnishings, and equipment; mobile food service; books and stationery; and other direct selling (Appendix A, p. 10).

Using the definition cited above, the Census Bureau found that there were 8,370 direct selling establishments in 1977 with sales totalling approximately $2.94 billion. In 1972 the Census Bureau found 8,864 direct selling establishments with payrolls and sales of $2.35 billion. These figures do not reflect adequately the size or nature of the direct selling industry. The figures do not include the sales volume of the manufacturing component of the direct selling firms i.e. the total retail sales of Avon and Amway alone were almost $2 billion in 1982.

In contrast to the Census data, studies for the Direct Selling Association (DSA) define the industry in somewhat different terms. In 1976 the Direct Selling Association (1977) retained a research firm to gather reliable data about the industry - "its overall economic importance in terms of retail sales, salespersons and firms..."
involved” (p. 18). For the purposes of the study direct selling was defined in the following manner.

Direct selling is a method of distribution of goods and services from producer to consumer which utilizes independent salespersons in place of normal retail outlets. For purposes of this survey, direct selling involves four essential elements:

1. Salespersons make personal face-to-face contact with customers;
2. Salespersons either initiate the sales contract or respond in person to an inquiry by the customer;
3. Sales contacts are made at a location other than the salesperson's usual place of business, most frequently in the customers home;
4. Items sold are for personal use (Direct Selling Association, 1977, p. 18).

Using the definition and criteria stated above, the Direct Selling Association identified approximately 400 firms in the United States as direct selling organizations. "These firms represent primary marketing units who control tradenames and tradestyles as opposed to distributors or sub-dealers who resell brand name merchandise" (Direct Selling Association, 1977, p. 18). Excluded in the DSA's definition were firms which sold home improvement items or goods on bi-weekly or monthly installments because the nature of the sales force differed although the products were sold on a door-to-door basis. Findings showed that some 2 million independent salespersons were responsible for retail sales of approximately $6 billion in 1975.

In a more recent study dated 1983 (data in the study were from the years 1980 and 1982), the Direct Selling Association identified 792 firms nationwide who were engaged in direct selling. The total
retail dollars for these firms were estimated to be $8.5 billion dollars and the sales force was estimated to be in the neighborhood of 5 million people.

Given the diverse definition of the U.S. Census Bureau and the Direct Selling Association one can appreciate the difficulty and ambiguity that is presented to the researcher intent upon investigating the subject of direct selling. Furthermore it does not appear that either group does an adequate job of counting all the firms. For the purposes of this study the data and definitions of direct selling presented by the Direct Selling Association will be used.

Before continuing with descriptions of specific types of direct selling structures, it is necessary to understand the advantages and disadvantages (constraints) of direct selling. While direct selling can be highly profitable for the entrepreneur with little capital, it is also a business with many attendant risks and problems. Understanding the market structure of direct selling is important for identifying sources of tension and strain within the environment of the direct selling firm which can lead to the creation of illegal and deviant behavior on the part of the direct selling firm.

Advantages of Direct Selling

Direct selling offers many advantages to the entrepreneur desiring to establish such a company. The primary incentives for a firm entering the direct selling market have been identified as (a)
selling direct to the consumer bypassing middlemen; (b) relative ease in getting acceptance and distribution for a new product; (c) flexible direct sales costs; (d) relative lack of competition; and (e) continued or increased strength in depressed times (Buell, 1954, p. 120). It is important to understand how each of these factors impinges on the direct selling firm and in the direct selling situation.

**Direct-to-Consumer Sales**

Personal selling in the context of direct selling has many advantages. Sales agents can emphasize a product's qualities which may not be readily apparent on a retail store shelf or to a consumer unfamiliar with the product. The distributor also has an advantage, once having gained entrance into the home, of holding the attention of the customer longer. In a retail store a customer can move away from a demonstration counter; in the home environment courtesy and attention are usually accorded the sales representative. The salesperson often has enough time to make his or her full presentation and overcome any buying resistance the customer may have. In the home environment the opportunity for several different "closes" (reasons to buy the product) are afforded.

**Ease of New Product Acceptance and Distribution**

Buell (1954) notes that "one of the big questions for a manufacturer of a new product or an unknown brand is: How will I get
retailers to stock my product?" (p. 120). The answer usually means advertising to create a demand. The direct selling distributor "advertises" the product name with each household contact made. And with each sale the distributor creates a potential demand for more of the product. Once company recognition is established there is little advertising needed for new products developed by the firm. Distributors incorporate these new products along with the older line of goods. Customers satisfied with the old products need little persuasion to try a new one. Many direct selling firms, particularly Avon, Amway, and Tupperware support the efforts of their distributors by some national advertising. But as a rule the advertising budget for direct selling firms is much less than for comparable retail industries.

In 1982 Amway spent $5 million on advertising. Most of this budget was aimed at recruiting distributors for their organization. Procter & Gamble, with ten times the sales, spent 134 times more on advertising than Amway. American Home Products, with three times the sales of Amway, spent 42 times as much as Amway. Bristol-Myers, also with three times more sales than Amway Corporation, spent 40 times more than Amway on its advertising (Alter, 1983).

Flexible Direct Sales Costs

In traditional manufacturing retail firms salespersons are employees of the company. As such they receive a salary and perhaps some benefits including health and life insurance, the use of a car,
and an expense account. "Payment by salary means not only an increased initial investment when a new salesforce is being built but also relatively fixed direct-sales' costs during periods of fluctuating sales volume" (Buell, 1954, p. 121). In contrast, the direct selling firm avoids these costs by paying a commission to its distributors or representatives. There is less commitment to the direct seller and less investment of the company's funds.

An example of low costs, or cost advantages, in direct selling is Amway's entry into the Australian market in 1971. Amway entered this market territory with a start-up staff of three people: one recently hired Australian manager and a husband and wife distributor team ("Amway abroad," 1971). Amway also controls its costs in relation to distributors by dealing only with distributors who have achieved the level of Direct Distributor in the organization. All other distributors receive their Amway products and training from the individual distributor(s) who sponsored them. It will be shown that this unique arrangement creates potential opportunities for the Direct Distributors to act in a deviant or illegal manner.

Lack of Competition

Buell (1954) notes that "people outside the door-to-door sales field find it difficult to understand that competition is relatively unimportant to the door-to-door distributor" (p. 121). This lack of
competition is due to the following unique features of direct selling.

1. Once a distributor or representative is in the home he or she can demonstrate the product without regard to the competition. The competitors' products are not present for comparison purposes. Thus, the customer's attention is not diverted to a competing product.

2. Brand loyalty is hard to maintain in a competitive market. A salesperson in the home usually has little trouble in persuading a prospect to at least try his or her company's product especially if it seems similar in quality to the competitors' brands.

3. Few direct selling companies market similar products in the same area. While Avon and Amway, the two giants in the direct selling industry, have some overlap in their product lines, the products are distributed by different techniques. Avon canvasses door-to-door with two-week campaigns often offering items at sale prices. Further, Avon representatives are usually assigned a specific territory where they are to sell. Amway discourages distributors from cold door-to-door canvassing. They prefer that their distributors sell only to friends, relatives, neighbors, and preferred customers. "Therefore, door-to-door companies rarely think of other door-to-door companies selling similar products as competitors, except as competitors for available sales personnel" (Buell, 1954, p. 121).
4. For many products sold door-to-door there is not yet a consumer demand. For such products the need and the want for them must be created. The direct selling representatives have the potential to arouse a desire for a product and this desire once aroused can usually be satisfied by closing the sale immediately before competitive products have a chance to interest the consumer.

While the lack of competition between direct selling firms over resources, products and territories may be minimal, there is stiff competition among the companies for good salespeople. Frustrated attempts to recruit and retain an adequate number of salespeople may result in unlawful behavior by the direct selling organization. This issue will be explored more fully in succeeding chapters.

Strength in Depressed Times

Usually economic depression means lowered production, slower sales, and high unemployment in traditional industries. For the direct selling industry growth often comes during depressed economic times. It has been observed that high unemployment often brings new recruits into the ranks of the direct selling firms. And while each individual salesperson may actually sell less, the product volume usually remains the same or increases due to the fact that there is a larger sales force in the field.
Disadvantages of Direct Selling

The advantages that accrue to the direct selling corporation are many and they come primarily through cost savings associated with distribution of the product. However, there are inherent disadvantages associated with direct selling as well. These problem areas include the following: recruitment of large numbers of salespeople; high turnover rates; high sales costs; lack of control over the sales force; legal constraints; the need for aggressive sales management; and potential damage to company reputation because of abuses by distributors.

Recruitment

Several authors (Buell, 1954; Granfield and Nicols, 1975; "Awesome potential," 1971) have identified recruitment as the primary problem of the direct selling industry. Competition between firms for competent salespeople is intense. Most companies have few salespeople making good-to-excellent sales and earnings. With the turnover rate industry-wide averaging about 100%, it is imperative that firms recruit the number of salespeople equal to their current number just to maintain a stable business volume. Most direct selling firms secure their sales volume from the large numbers of salespeople each selling a small amount of the product(s). Granfield and Nicols (1975) found that "a regression equation relating total sales volume (dependent variable) to number of salesmen, and the value of typical sale resulted in a linear "best"
Recruiting consists of more than signing an individual up; it means training and motivation. Companies compete in the training and motivation of their sales force. The more complex the product, the more training that will be required by the company to ensure that the salesperson will be able to adequately demonstrate and sell the product. This is important because products sold door-to-door often carry higher prices than those found in retail outlets. If the sales agent cannot justify this higher price to the customer the sale will probably not be completed. How companies handle their recruitment, training, and motivation will vary from firm to firm but each company seeks to do it in a manner which will lead to higher sales and higher retention rates.

Some direct selling firms appeal, by the nature of the product they sell, to only a certain segment of the population e.g. women are more inclined to see themselves distributing cosmetics or kitchenwares rather than encyclopedia sets or fire extinguishers. Direct selling firms try to break this stereotype image of the salesperson and his or her product, except in cases of cosmetics or fashions, by offering to the potential sales recruit a variety of products to sell. Amway has been particularly successful in this regard - most of their distributorships are composed of husband/wife teams. The company's "objective is to lower their firm factor supply function (acquire the same amount of labor at a lower cost)
by shifting a competitor's function upward (i.e. convince the potential salesmen to examine as many alternatives as possible)" (Granfield and Nicols, 1975, p. 41).

High Turnover

A study done for the Direct Selling Education Foundation (1982a) estimates that currently about 5 million individuals are self-employed direct sellers and that about 20% of all households had at one time or another some one involved in direct selling. Avon claims to have a sales force in excess of 395,000 (Smith, 1985a). Amway's distributors number in excess of 1 million with 750,000 of them located in the United States.

As noted in the section above the industry rate of turnover averages 100% per annum. Researchers (Buell, 1954; Granfield and Nicols, 1975; "Awesome potential," 1971) have identified several contributing factors to this situation. First, nonselective recruiting practices. Since a company's success is more dependent on the quantity and not the quality of the sales force almost everyone who applies to be a direct seller is accepted by the company. An Avon representative interviewed by the researcher said that it was "Avon's belief that all should be given the opportunity to join. Avon does not feel it can predict who is or who is not going to be successful".

Most companies feel that it is the number of hours worked by a salesperson rather than his or her particular skills that is
important in direct selling. Accordingly some companies try to convince or persuade a potential recruit to "try it for awhile". Because of this, many of those ill-suited to direct selling try, and quickly find that they do not enjoy the selling experience, and depart from the ranks.

The second factor associated with the high turnover rate in the direct selling industry is the form of compensation received by the individual direct seller. Straight commission is the industry standard with some companies providing additional sales bonuses and incentives. In the multilevel marketing plans and a few other organizations, overrides on the sales of others recruited into the organization are also awarded by the firm. Since commissions are based on an individual's sales volume, paying a commission rather than a salary to the individual contributes to the lack of selectivity because companies feel that they have lost little if a person turns out to be an unsuccessful sales agent.

A third factor contributing to the high drop-out rate in the industry is a general dislike for door-to-door selling. Few individuals really like to sell door-to-door. Most who enter the field do so only with the intent or idea that it will be for a short time. Their aim, usually, is to achieve a short-term goal - extra income for the holidays, a vacation, the college expenses of their children. Once these goals are reached they often abandon direct selling.
A fourth factor responsible for high rates of turnover is the inadequate training and direction provided by some of the direct selling companies. Field representatives are often so busy recruiting people into the organization that they do not have time to ensure the proper training and supervision of those already in the organization. Some companies leave the job of training to other distributors. In multilevel companies, like Amway, the training of new recruits is the responsibility of the individual who sponsored the recruit into the organization. Some of Amway's distributors have reported that they received little or no training and guidance from their sponsor once they joined Amway as a distributor. One consequence of inadequate guidance and training is the fact that people leave the organization who might otherwise have succeeded with a little help and direction.

**High Sales Cost**

In 1954 Buell held that the costs associated with direct selling were higher than those of traditional retail sales. However, recent literature on direct selling does not recognize this as a limiting factor. While the commissions paid to the salespeople often equals or exceeds the markup of a retailer, and the costs associated with recruitment, training, and motivation of a rapidly changing work force are high, these costs appear to be offset through savings associated with low, or nonexistent advertising.
Budgets, no retirement or medical plans, and no unemployment or disability payment plans.

Control of the Sales Force

Studies (Buell, 1954; "Awesome Potential," 1971) have pointed out the fact that one of the disadvantages of direct selling is the lack of control over the sales force. Buell cites two primary reasons for this lack of control. The first reason is the fact that about 80% of the direct selling industry's sales force is comprised of part-time workers. Most of this part-time work force is not dependent on the direct selling income as the primary means of family support. Because of this, distributors or representatives are independent and often unresponsive to the company's directions and supervision. Even those who work full-time in direct selling often resist close supervision because they know that they can change companies rather quickly.

A second reason for lack of control is a legal one. Buell (1954) states:

Because of the high turnover, large salesforce, and already high sales costs, it is necessary in door-to-door distribution to avoid such additional costs as federal Social Security taxes, unemployment taxes, and federal withholding (income) taxes. In order to avoid these taxes, and record-keeping costs incident thereto, it is necessary to have salespeople qualify as independent agents rather than as employees of the company (p. 119).
This unique feature of the sales force, the fact that it is independent of the company, means that company control is legally limited to suggestion and illustrations of successful selling techniques.

Legal Constraints

Buell (1954) notes that door-to-door salespeople and direct selling companies have been constrained in their efforts by local regulations which prohibit or restrict door-to-door selling. Usually these regulations have required that the salesperson obtain a license or post a bond before selling in a given territory. On occasion the regulations have been more severe, banning altogether the solicitation of homes without prior permission of the resident. This latter type of regulation has come to be called a "Green River ordinance" and was discussed earlier (see p. 10).

The effect of these regulations on the direct selling industry appears to be minimal. The trade and industry associations have been able to lobby effectively against their spread. In those communities which have such laws, the laws are easily evaded and/or not adequately enforced (Brittenham, et al., 1969).

Need for Aggressive Sales Management and Promotion

Unlike sales management which is becoming more factual and empirical in traditional industry groups, the sales manager in a direct selling organization must be a motivator. Motivational and
inspirational speeches are delivered to the sales force at rallies, seminars, or on cassette or video tapes emphasizing the need for increased sales. The management team must be capable of stimulating and inspiring the sales force to achieve ever expanding goals (sales volume). Because no direct selling company has ever been able to saturate the market, the message delivered by these motivators is that there are endless opportunities out there - all representing potential wealth and success for the individual.

In some direct selling companies a lot of the motivation and stimulus comes from the founder(s) of the firm. In the Amway Corporation co-founders DeVos and Van Andel are big motivators. They attend a number of sales rallies each year and are considered heroes by their distributors. In similar fashion, Mary Kay Ash, founder of Mary Kay Cosmetics, Inc., is another charismatic leader of a direct selling firm. The force of her personality is evident during the company's annual awards night where hundreds of women receive recognition and affirmation of their worth and success.

To keep the sales force highly motivated, the direct selling firm often provides incentives. These incentives are earned by meeting ever-increasing sales goals and they include such things as cash overrides and/or bonuses, new automobiles, trips and more mundane things like pins and plaques. The growth and the survival of the direct selling company is dependent on its ability to motivate and and retain an active sales force.
Misrepresentation of the Company

One final factor that often limits a company's success and growth is misrepresentation of the company or its products by the sales agents. Buell (1954) notes that this misrepresentation is often the result of a salesperson's desire to obtain a sale. While Buell holds that such misrepresentations are not the fault of the company, others (Joslon, 1972, 1973; "When a magazine," 1975) have noted that in some instances companies have knowingly encouraged deception by their salespeople. Many direct selling companies have tried to mitigate the damage done by unethical salespersons by initiating liberal exchange and return policies.

While it is evident that there are many advantages to direct selling, it is also apparent that they are some serious constraints which limit the success of such an enterprise. It is suggested that direct selling organizations will, if necessary, circumvent in an unlawful or deviant manner these constraining forces in order to achieve the goals of their organization. It is also suggested that some direct selling organizations may be more prone to engage in illegal and deviant behavior because of the nature, or structure (including internal processes), of their organization.

The Structure of Direct Selling

Direct selling involves a particular type of retail marketing. The sales of the firms engaged in direct selling account for only 4% of the retail market. The structure of the firms
engaged in direct selling differ markedly from traditional retail organizations. While there are different forms, or structures, of direct selling firms, there are similarities in products, sales forces, and remuneration/compensation plans.

Specific data on the structure and operation of direct selling firms is difficult to obtain. Primary obstacles include the fact that most of the direct selling companies are located in the private sector and are thus not obligated to disclose any information to the public. Of the 115 active members of the Direct Selling Association less than 25 are public companies. The public companies include some of the larger, well known firms: Avon Products, Inc., Mary Kay Cosmetics, Shaklee, and Dart & Kraft's Tupperware. A second obstacle is the fact that many of the direct selling companies are small and regional in nature. Identification, much less analysis of their organizational structure and selling program, is difficult and costly. However, a fairly accurate, but limited, picture of the structure of direct selling firms can be gleaned from industry and news data as well as from business texts and literature about direct selling.

**Products Marketed in Direct Selling**

Direct selling demands that something, a product or a service, be sold. Products successfully marketed via the direct selling method are those that (a) have a high margin of profit; (b) are of
good quality; and (c) are easy to demonstrate. It is important to understand how each of these factors operates in direct selling.

**High margins**

The distribution costs of marketing goods door-to-door are very high. The products which are marketed by direct selling organizations must have an adequate margin of gross profit to absorb the high distribution costs and still leave a satisfactory net profit. This high margin is achieved by the direct selling firm in one of three ways.

1. By offering products, like cosmetics and household cleaners, which have low manufacturing costs and high distribution costs. Traditional retail manufacturers of cosmetics suffer distribution costs in terms of the costs they pay for in-store clerks or demonstrators, advertising, and packaging. Door-to-door selling firms bear their costs in terms of recruitment, incentives, and commissions offered to their distributors or representatives (Buell, 1954).

2. Direct selling firms can retain their profit margin by selling products where price comparisons cannot be easily made with similar products sold in the retail outlets. This is achieved through the addition of special features to justify the increased price; the promotion of a hidden quality feature which is not apparent to the average consumer; and by offering items for which the consumer does not usually know the prices nor purchases often.
(e.g. cleaning brushes, plastic containers - products not standardized as to price or quality) (Buell, 1954).

3. Some direct selling firms have also ensured high profit margins by selling on installment credit. In this situation the weekly or monthly payment is the primary consideration of the customer and not the total or end cost of the item (Buell, 1954).

**Quality products and sales appeal**

If products sold door-to-door are not of good or comparable quality to those found in retail stores repeat purchases or new customers may be hard to sell in a given territory. The products offered for sale must be of such a variety and range of price to ensure that most customers will find something to their liking. If the company line is limited to one product group then potential customers must be such that they can be easily located and contacted. Salespersons for encyclopedia sets often work through school systems to obtain a targeted list of potential customers.

**Ease of product demonstration**

Because of large scale recruitment, lack of selectivity in the recruitment and selection process, and high turn-over rates among those recruited, it is necessary that the products marketed in direct selling be such that they can be easily demonstrated to a potential customer. Product differentiation is an important aspect of direct selling. The distributor or the representative usually
sells the product by providing personal attention to the potential customer by showing him or her how to use the item and by pointing out its unique qualities. Herein also lies the opportunity to misrepresent the product or overstate its capabilities in an effort to close a sale.

Typical products marketed by the direct selling organizations include housewares, kitchenwares, cosmetics, jewelry, vacuum cleaners, house cleaning products, clothing, vitamins, food supplements, and toys. While most of the products marketed are consumables, thus providing repeat business opportunities, some items sold direct to the consumer are high-ticket items (usually defined in the industry to include items costing more than $25) and are purchased only once or at infrequent intervals. Products in this latter category include: encyclopedia sets, vacuums, cookware, and computers. In 1982 three categories of goods accounted for over 50% of the purchases made by consumers: housewares/kitchenwares (22%), cosmetics (19%), and home decorative accessories (9%) (The Direct Selling Education Foundation, 1982a, p. 13).

Direct selling companies either manufacture their own products or catalog a variety of products that they obtain from other sources. Some companies do a combination of in-house manufacture and act as sole distributors for other products. An example of this is Amway Corporation which manufactures in-house about 350 of the more than 2000 products it sells, the remainder are supplied to them for sale by other manufacturing firms. Home Interiors & Gifts and
Discovery Toys are direct selling firms which have no manufacturing component, each firm obtains all of its products from outside sources.

**Organizational Structures of Direct Selling Firms**

Direct selling companies vary in their operational approach to marketing their goods. The primary methods of operation used by direct selling organizations include: (a) the Distributorship Party Plan; (b) the Branch Office; (c) Multilevel Marketing; (d) Home Office, Managed by Mail; (e) the Party Plan; and (f) One-to-One Direct Selling (Bernstein, 1984).

**Distributorship Party Plan**

The distributorship party plan was initiated by Tupperware. There are three steps in the sales ladder: dealers, managers, and distributors. At the bottom are the dealers who are recruited and trained by managers. The dealers generally earn a 25% commission and if successful they are promoted to managers. Managers are rewarded by having the free use of a car and they are eligible to win prizes like trips, television sets, and appliances based on the sales of the dealers who work under them. Managers continue to hold parties for which they earn commissions as well. The top rung in the ladder is the distributorship. These positions are awarded by the company and are not based on sales alone. The earnings of individuals at this rank are kept secret. There are now
approximately 400 Tupperware distributorships in the United States (Rose, 1984). One author notes that this plan of operation "is costly to operate and necessitates charging higher prices for the merchandise, but the formula has paid off handsomely and illustrates well the power of direct selling" (Bernstein, 1984, p. 43).

**Branch Office**

Direct selling companies using the Branch Office marketing structure establish branches around the country and/or world. The aim of these branches is to better manage and control the organization. The managers of these branches are employees of the company and the sales representatives working under the direction of a manager are independent contractors. The managers are responsible for the coordination, recruitment, and training of the representatives for their given territory (branch). Some corporate headquarters provide leads for their sales agents others do not. Earnings for the independent representatives come primarily through commissions on the sale of the company's products. World Book and Encyclopedia Britannica are two examples of companies adopting this approach.

**Multilevel Marketing**

Multilevel marketing represents the fastest growing method of operation in direct selling. In a recent study of direct selling firms 60% of them identified themselves as multilevel operations

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(Bernstein, 1984, p. 37). The Amway Corporation is the best known example of this organizational structure. The W.T. Rawleigh Company serves as another example of this plan. Basically the program allows the salesperson to earn graduating commissions based on increased personal sales, plus additional bonus points for sponsoring others who, in turn, may also sponsor new people under the basic group umbrella, thereby adding further to the earnings potential. This system can proliferate into a highly profitable selling situation. As the chain grows, bonuses, overrides, and discounts grow and executive opportunities occur with appropriate rewards (Bernstein, 1984, p. 44).

Home Office, Managed by Mail

The Home Office, Managed by Mail method of operation is used by a number of direct selling companies. The structure of the organization under this plan is very simple. Sales representatives are recruited through advertisements and then all communication with them including training and motivation is done through the mail. Starter sales kits are mailed to interested individuals usually at no cost. Orders are then sent to the home office either prepaid or they arrive C.O.D. (cash on delivery) at the salespersons home. Earnings for the sales agents are in the form of commissions earned on sales. Hanover Shoe and Lucky Heart Cosmetics, Inc. are examples of this organizational structure.

The Party Plan

The party plan method of operation was initiated by Stanley Home Products in the 1930's (Kupferberg, 1980). This popular
selling technique is based around a social gathering. A host or hostess invites friends and relatives to his/her home for a demonstration and an opportunity to purchase products from a direct selling firm's representative. Refreshments are often served and occasionally games are played and small prizes awarded. Solicitation for future party bookings and/or individuals interested in becoming company representatives are also made among the guests by the company's representative. Mary Kay Cosmetics and Tri-Chem, Inc. are two firms which sell using the party plan.

One-on-One Direct Selling

The direct person-to-person selling is usually accomplished by a representative of a direct selling firm calling at the home of a potential customer. Avon and Fuller Brush are the best examples of one-on-one direct selling. Representatives are usually assigned to a specific territory. Avon's territories consist of blocks or areas of 100 households. Avon suggests that their representatives contact each of these homes once every two weeks to solicit business. Representatives earnings are based on a commission structure. The products sold on a person-to-person basis are usually, but not always, priced higher than products sold on the party plan. The purchase of higher priced items (vacuum cleaners, encyclopedia sets, food/freezer plans) offered through this method of direct selling is facilitated by the availability of installment credit offered by the companies or through another outside finance company.
A UCLA Law Review study (Brittenham, et al., 1969) found that the selling of high priced goods on a credit basis to low income people resulted in much illegal and deviant behavior on the part of the direct selling companies and their representatives. Individuals (consumers) were often pressured into buying unneeded or over-priced products. If they did purchase products that they wanted they often ended up paying far more than was necessary because of the high interest charges tacked onto the credit payments.

The Sales Force

Most direct selling companies market their products through a network of independent contractors - individuals who are considered to be self-employed, independent businesspersons. They set their own hours and their renumeration is based on their own selling efforts and, if applicable, the sales of those they have recruited into the organization. These salespersons are known by a variety of titles including: coordinator, dealer, distributor, representative, beauty consultant. A recent study of the direct selling industry using 1982 data shows that of the 4,968,953 individuals associated with the industry, 92% were independent sales agents and only 8% were employees of a direct selling firm (Direct Selling Association, 1983).

The majority of the direct selling agents work less than full-time. It is estimated that around 75% work less than 30 hours a week (Direct Selling Association, 1983). Approximately two-thirds
of the direct sellers work less than 10 hours a week. Compensation for selling is usually earned in one of three ways: (a) a combination of commission and retention of the difference between the cost of the product and the final selling price; (b) retention only of the difference between the cost of the product and its final selling price; and (c) straight commission. Table 1 shows the manner of compensation earned by salespeople (in percentages) in the direct selling industry for the years 1980, 1982, and 1984. At this point, it is not known why the compensation plans changed so much during the time period shown.

Table 1
Compensation of Direct Sellers

<table>
<thead>
<tr>
<th>Method</th>
<th>1980</th>
<th>1982</th>
<th>1984</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission &amp; retention of cost and selling price</td>
<td>54%</td>
<td>40%</td>
<td>6.3%</td>
</tr>
<tr>
<td>Difference between cost and selling price</td>
<td>36%</td>
<td>25.5%</td>
<td>42%</td>
</tr>
<tr>
<td>Straight commission</td>
<td>10%</td>
<td>34.5%</td>
<td>51.7%</td>
</tr>
</tbody>
</table>


The profile of the direct selling sales force looks like this: 80% are female; during any given year more than 600,000 are minorities; 200,000 are older than 65; and some 400,000 have a disability of some kind. In addition, they are usually younger than the public - 25% are under the age of 30; 55% are under the age of
39; and 69% are under the age of 49. These sales agents also tend to be high school graduates. They tend to be more conservative and more religious in their views and have a higher median income than the general public (Bernstein, 1984).

In summary, although each direct selling firm has its own unique organizational structure all of the products in direct selling reach the consumer through a network of representatives (independent contractors). It is suggested that the pressures placed upon the individual distributor by the organization may differ according to the structure of the direct selling firm. In party plans, distributors are under pressure to make sales to friends and relatives - to use or exploit the ties of friendship or relations in the name of profit. In direct door-to-door canvassing the seller is under similar pressure to make a sale but in the confines of a home environment and in the presence of a stranger the pressure to oversell or misrepresent the qualities of the product may increase. In multilevel organizations the pressures to recruit (sponsor other distributors), rather than retail additional products, become more forceful as the distributor desires to move up the ladder of success in such an organization.

Kupferberg (1980) sums up the essence and pressures of direct selling in America today when he says:

It's a particularly appropriate symbol right now. The success of direct selling stands for a current mood, in which unfettered business enterprise subsumes traditional virtues, and clear-cut benefits are thought to stream toward grateful workers, happy, sovereign
consumers, indeed to anyone who wants them and is not unconscionably lazy.... Corporate profit -- not family loyalty, spontaneous enthusiasm, or desire to be of service, shapes those airtight plastic containers ...

modern direct selling is almost the inverse of what it looks like in Tupperware and Amway propaganda. Instead of an example of business and traditional virtues happily merging, it looks like a living, sometimes rather charming, Marxist parody of capitalism, as a system in which all human relationships are invaded, exploited, and corrupted by money--an unforeseen part of what Marx meant when he complained that in a bourgeois society, money "transforms fidelity into infidelity, love into hate, hate into love, virtue into vice" (p. 13).

Believing that the pressures to deviate may be more pronounced in a multilevel direct selling organization because of its dual activities of sponsoring and selling, the remainder of the study will focus on the structure and practices of one such firm. The Amway Corporation was selected because of its legal difficulties and because Amway is viewed by newcomers to the industry as a success model to be emulated. The founders are regarded as highly skilled entrepreneurs who through faith and hard work achieved their life's goals of success.
CHAPTER V

THE AMWAY CORPORATION

The Amway Corporation, Ada, Michigan, is a privately owned multilevel direct selling corporation manufacturing more than 350 products ranging from household cleaners to food supplements, cosmetics, and water filter systems. In addition to the goods it manufactures, Amway catalogs another 2000 brand name products for distribution in its "Personal Shoppers" catalog. The company ranks number two, behind Avon Products, Inc., in the direct selling industry and is responsible for 16% of the industry sales. The business magazine Forbes has ranked Amway 50th in the nation among privately held corporations. The co-founders Richard DeVos and Jay Van Andel, along with their wives and two small foundations, are the sole shareholders of the Corporation.

Corporate Background

Amway was founded in 1959 through the efforts of Richard DeVos and Jay Van Andel. The two men became friends and business partners during their high school days in Grand Rapids, Michigan when DeVos offered to share gas expenses with Van Andel in exchange for rides to school. Following high school both men entered the military service. Upon returning to Grand Rapids after their tours of duty in 1945, DeVos and Van Andel opened a flying school and started a
commercial air charter service in the Grand Rapids area. They later opened a drive-in restaurant on the same airport property. In 1948 they sold these businesses.

Their next endeavor together took DeVos and Van Andel to the coast of Connecticut where they purchased a 38 foot schooner and set sail in December 1948 for a trip to the Caribbean and South America. Off the shore of Cuba the boat sprung a leak and sank. The two men were rescued and taken to Puerto Rico. After collecting the insurance money from the loss of the boat, they continued on their trip to South America.

Upon their return to Grand Rapids, DeVos and Van Andel encountered direct selling. In August 1949 a distant cousin of Van Andel's sponsored the men into the Nutrilite organization as distributors. Nutrilite Products Inc. was a multilevel, California based, direct selling company marketing a variety of health and food supplements. During the next ten years, DeVos and Van Andel, under the corporate name of Ja-Ri, developed a highly successful Nutrilite distributor organization which encompassed about 5000 other distributors.

In the late 1950's, Nutrilite began to experience some management difficulties. Not wishing to get involved in the problems of the organization, DeVos and Van Andel broke their ties with Nutrilite and established a new direct selling company. This new company (Amway) was an attempt on the part of Van Andel and DeVos to save their distributor organization and the 10 years of effort they
had put into the direct selling business (Amway: a Corporate Compendium, 1982).

Brief Corporate Chronology

1949 September 6 - The Ja-Ri Corporation is organized.

1959 November - The Ja-Ri Corporation breaks from Nutrilite and begins independent operations. The company office and warehouse are in the basements of the co-founders. The first products available for distribution by the distributor organization are household cleaning items.

1960 - - - - - - Amway begins manufacture of its own products. Goods from other suppliers are also bought for distribution. Sales at the end of the first year of business total $500,000.

1962 October - Amway of Canada is incorporated.

1963 November - Ja-Ri Corporation formally changes its name to the Amway Corporation.

1964 January 1 - The Amway Sales Corporation, the Amway Services Corporation, and the Amway Manufacturing Corporation (all Michigan corporations) merge into Amway Corporation, Inc.

1965 February 4 - In a letter to the Amway Corporation, the Canadian Customs Department advises "that, for future valuation purposes, the fair market value
of Amway products imported into Canada would be
the sales price charged by Amway Corporation to
its individual distributors in the United States"  
(Regina v. Amway, Exhibit 2, 1984).

1965 March 17 -- Amway officials, Halliday, Jr., Discher and
others, meet with Canadian customs officials to
resolve Amway's problems with the February 4,
1965 ruling. Amway felt that the new customs
duties plan did not take into consideration the
uniqueness of its marketing structure. In
Amway's opinion the use of the distributor price
doubled the value of its goods exported to
Canada.

1965 August 10 -- Believing that the Amway Corporation had altered
its marketing structure so that it sold its goods
directly to warehouses in the United States, the
Canadian Revenue officials advised Amway that the
prices of its products sold to the warehouses are
acceptable for duty purposes. This ruling was
issued in a letter to Amway on this date.

1970 -- -- -- -- The first Crown Ambassador within the Amway
distributor organization is named.

1971 -- -- -- -- Amway enters the Australian market.

1972 -- -- -- -- Amway acquires Nutrilite Products, Inc.
1973 - - - - - - The Center for Free Enterprise is dedicated at the headquarters of the Amway Corporation in Ada, Michigan. President Gerald R. Ford participates in the ceremonies.

1975 March 25 -- The FTC files a complaint against Amway Corporation citing them, among other things, for restraint of trade, price-fixing, and misrepresentation of potential earnings.

1977 - - - - - - Amway purchases the Mutual Broadcasting System, with an affiliate network numbering 838 stations, for an estimated $15 to $18 million.

1978 - - - - - - Amway enters the Japanese market.

1979 May 8 - - - - After a 5 year investigation the FTC found Amway guilty of several violations including price-fixing and misrepresentation of earnings. It did not find Amway to be a pyramid scheme.

1979 - 1980 - - - Van Andel serves as chairperson of the U.S. Chamber of Commerce.

1982 - - - - - - DeVos serves as Chairman of the Finance Committee of the National Republican Party. He is relieved of his duties in the same year over a dispute on fund raising.
1982 -------- Two Amway distributors are sued by Procter & Gamble for statements alleging that Procter & Gamble is involved in devil worship.

1982 -------- Congress and the Internal Revenue Service begin investigations into the tax returns of a number of direct sellers including Amway's. They find numerous instances of abuse.

1982 July 28 -------- The Attorney General of the State of Wisconsin files suit against the Amway Corporation and four of its Wisconsin Direct Distributors charging them with violations of the state's deceptive practices act. Defendants were charged with misrepresenting personal and potential incomes of distributors.

1982 August -------- The FTC sends a letter to the Amway Corporation advising them that the company is still not in compliance with the 1979 order of the Commission.


1983 February 21 -------- Amway agrees to a consent order with the State of Wisconsin over the charges stemming from the July 1982 lawsuit. Amway was ordered to pay $17,500 in civil forfeitures and instructed to disclose actual sales figures for its active distributors.
1983 - Former Secretary of the State Haig joins the Amway Corporation as a consultant on international affairs.

1983 November 10 - Amway pleads guilty to defrauding Canada and pays a $25 million fine in exchange for the dropping of criminal charges against Amway's four top executives: DeVos, Van Andel, Halliday, Jr., and Discher. Still pending against the company are civil suits seeking another $148 million in back taxes, fines, and interest.

1983 - Amway's distributors number 1 million; 750,000 in the United States.

1984 April - A group of 79 Amway distributors file a suit against Amway in a District Court in Ohio charging Amway, two other corporations, DeVos, Van Andel, and 15 top Amway distributors with restraint of trade and a variety of other violations. The plaintiffs in the case allege that they were coerced into the purchase of non-Amway produced motivational materials by the defendants.

1984 August 14 - A complaint against the Amway Corporation and some of its distributor was filed in a California court alleging that Amway failed to honor its buy-back agreements with the plaintiffs.
1984 October 24 - Amway's former chief attorney files suit against the Corporation charging breach of contract and libel. He was dismissed in a reorganizational move made by Amway following the Canadian case.

1984 - - - - - - Amway celebrates its 25th year in business.

1985 - - - - - - The Amway Corporation changes its advertising emphasis to encourage sales of goods instead of recruitment.

The Amway Corporate Structure

The Organizational Chart

Organizational charts are the traditional means of displaying relationships within a corporation or organization. The only organizational chart available to the researcher of the Amway Corporation is one which was used in the Federal Trade Commission investigations during the 1970's and later obtained by Canadian officials for use in their proceedings against Amway in 1983. Although dated, it appears from reports and investigations that relationships within the Corporation are still basically the same in that Van Andel and DeVos remain the controlling figures in the Corporation. Figure 2, taken from the organizational chart, shows the primary relationships within the Corporation and the relationship of the Policy Committee to the Amway Distributors Associations (in the figure called American Way Association).
POLICY MAKING

AMWAY CORPORATION
Board of Directors
Jay Van Andel - Chairman
Richard DeVos
William Halliday

AMERICAN WAY ASSOCIATION
Assn. Board of Directors
(Van Andel - Directors)
(Sales Policies)

ADMINISTRATION
CHAIRMAN OF BOARD
Van Andel

Van Andel
Executive Asst.

PRESIDENT
DeVos

Figure 2. An Organization Chart of the Amway Corporation
Source: Regina v. Amway, 1983, Exhibit A.
Van Andel serves as Chairman of the Board and DeVos as President of the Amway Corporation. Together the two men constitute what is known as the Policy Committee. Closely associated with Van Andel and DeVos until 1984 were William Halliday and C. Dale Discher. Records indicate that from 1965 until 1984, Van Andel, DeVos, and Halliday were the sole directors of the Amway Corporation (Regina v. Amway, 1983; Standard & Poor's, 1984). From 1962 until December 1976, Van Andel, DeVos, and Halliday were also the sole directors of Amway of Canada, Ltd. In addition, records show that Halliday was, at least, until August 1970 the corporation's Secretary, and thereafter was both its Vice-President and Corporate Secretary. Halliday also filled the position of Corporate Secretary of Amway of Canada, Ltd. for the period 1965 to 1980 (Regina v. Amway, 1983).

Discher functioned as the Treasurer of the Amway Corporation from 1965 until June 1978. He also served as the Treasurer of Amway of Canada, Ltd. until June 1978. From 1970 until he left in 1983, Discher was Vice-President of Investments of Amway (Standard & Poors, 1984). Together these four gentlemen, Van Andel, DeVos, Discher, and Halliday, appear to be the primary figures involved in Corporate decision making processes. All four were indicted by Canadian authorities for their part in defrauding Canadian Revenue officials of customs duties. For the purposes of this study, the organizational chart appears to be sufficient for it covers the time period of the FTC investigations and the Canadian investigations.
Analysis of the recent cases settled and/or filed in Wisconsin, Ohio, and California is not dependent on knowing the exact internal relationships within the company.

In 1984 after the Canadian trial and settlement, Amway underwent some major organizational changes. Both Discher and Halliday were let go as well as a number of other executives including Amway's chief attorney. The 1984 edition of Standard & Poor's Register Of Corporations listed, in addition to Van Andel (Chairperson) and DeVos (President), 5 Executive Vice-Presidents (including Halliday who was also indicated as a director), 15 Vice-Presidents (including Discher), a Treasurer, an Assistant Secretary and Chief Attorney (Forester), a Controller, 39 Directors, and 7,000 employees (See Appendix A). In the 1985 edition of the Standard & Poor's Register Of Corporations, Amway listed, in addition to Van Andel (Chairperson) and DeVos (President), 2 Executive Vice-Presidents, 1 Senior Vice-President, 13 Vice-Presidents, 1 Coordinator of Planning & Policy, 1 Controller, and 6,000 employees (See Appendix B). It appears that this corporate housecleaning was a calculated move on the part of Amway to (1) regain, or solidify, control of the Corporation, and (2) to control costs as Corporate sales declined from $1.4 billion in 1983 to around $1 billion in 1984.

Thus, while the current organizational chart of the Amway Corporation may not look too different in that controlling power within the company has not altered over time, it is certain that its
internal mode of operations have changed. In the face of environmental constraints, an entrepreneurial organization always has the option to alter its internal structure and/or operational procedures in order to become more cost efficient (Hughes, 1980). The revelations of wrong-doing on the part of the Corporation and some of its distributors as well as other changes altered the environment for Amway. The Amway Corporation was constrained in its efforts to achieve sales and recruitment goals because of the adverse publicity, the heavy fine imposed on the Corporation by the Canadian Government, and an overall decline in the direct selling industry.

Amway's Sales and Marketing Plan

Underpinning the whole Amway structure and method of operation is The Amway Sales And Marketing Plan. It is a complex, multilevel marketing plan. In the company's own words The Amway Sales And Marketing Plan is "based upon repeat sales of exclusive products and an incentive system designed to financially reward the distributor in direct relation to the amount of time and effort devoted to the business" (Amway: A Corporate Compendium, 1982, p. 9). Others have explained the program in the following manner:

Under the Amway Plan, a select few distributors known as Direct Distributors purchase products at wholesale directly from Amway and resell the products both at retail to consumers and at wholesale to the distributors they personally "sponsored" (that is, the distributors they recruited). Each second-level distributor resells the products both at retail to consumers and at wholesale to the distributors he personally sponsored.
... This multilevel wholesaling network ends with those distributors who have not sponsored any new distributors, and who make purchases from their sponsors solely for their own use or for resale to consumers. Thus there is beneath each Direct Distributor a "field" of distributors, each of whom receives products which have flowed through each level between himself and the Direct Distributor (In re Amway Corporation, Inc. et al., 93 FTC 618, p.712).

Amway's Pricing Structure -- PV/BV

Amway distributors are conditioned to think of their Amway businesses in terms of PV (Point Value) and BV (Business Volume). Obtaining higher PV and BV each month are goals stressed and rewarded in the organization. Briefly, each Amway product carries with it a number of different values which form the basis of the distributor's commissions, profits, bonuses, and overrides. For example, associated with Amway's standard package (6 lb. box) of S-A-8 Phosphate Free Laundry Detergent are the following values taken from its Distributor Wholesale Price list of January 1985.

S-A-8 Phosphate Free Detergent

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit net wt. or volume</td>
<td>6 lb.</td>
</tr>
<tr>
<td>Point Value (PV)</td>
<td>5.50</td>
</tr>
<tr>
<td>Business Volume</td>
<td>8.15</td>
</tr>
<tr>
<td>Basic Discount based on BV</td>
<td>25%</td>
</tr>
<tr>
<td>Wholesale price including Surcharge</td>
<td>$7.92</td>
</tr>
<tr>
<td>Suggested Retail Price</td>
<td>$9.95</td>
</tr>
</tbody>
</table>

POINT VALUE (PV), assigned by the Amway Corporation to each individual product. This number is used by Amway to determine...
the percentage of Performance Bonus paid to a Direct Distributor for the total amount of purchases he or she made that month from Amway.

BUSINESS VOLUME (BV), assigned by the Amway Corporation to each item representing the dollar amount associated with the costs of the product and it DOES change with inflation. Currently, the ratio of PV to BV is almost 1 to 2. One unit of Point Value (PV) is equal to about $2.00 BV; on September 1, 1983 the exact ratio was 1.8187 (The Amway Sales and Marketing Plan, 1984).

BASIC PRODUCT DISCOUNT, also established by the Amway Corporation, varies with each product but ranges from 15% to 35% with an average of 30%. It is calculated on the product's BV.

WHOLESALE PRICE INCLUDING SURCHARGE represents the price Amway charges its Direct Distributors for a product. For the most part, it also represents the price the distributors (other than the Directs) pay for the products when ordered from their sponsor.

SUGGESTED RETAIL PRICE is a cost that represents the sum of the product's Basic Discount and the suggested wholesale price plus surcharge. It is the price Amway suggests its distributors charge their retail customers.

While the above figures represent the financial costs and values associated with each of Amway's products and it's financial transactions of these products with its Direct Distributors, other distributors (those not yet in a direct relationship with the
company) are cautioned that "neither you nor your sponsor is required to follow the suggested discount or the suggested retail price" (The Amway Sales and Marketing Plan, 1984). An additional 4%, calculated on the suggested retail prices of the Amway products, was charged to the researcher by her sponsor.

The Amway literature and distributors showing the Plan to others suggest that each distributor should be responsible for "doing" 100 PV each month so that a PERFORMANCE BONUS can be earned. PERFORMANCE BONUSES, ranging from 3% to 25% and calculated on the Business Volume (BV), are paid each month by the Amway Corporation to Direct Distributors according to a predetermined schedule based on the Direct Distributor's PV group totals. In turn, the Direct Distributor is responsible for paying out to his or her "down-line" their "cut" of the bonus. The schedule for the payment of the Performance Bonus is found in Table 2.
Table 2.

Amway's Performance Bonus Schedule

<table>
<thead>
<tr>
<th>If Total Monthly Point Value (PV) is:</th>
<th>Performance Bonus is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>7,500 or more</td>
<td>25% of BV</td>
</tr>
<tr>
<td>6,000</td>
<td>23%</td>
</tr>
<tr>
<td>4,000</td>
<td>21%</td>
</tr>
<tr>
<td>2,500</td>
<td>18%</td>
</tr>
<tr>
<td>1,500</td>
<td>15%</td>
</tr>
<tr>
<td>1,000</td>
<td>12%</td>
</tr>
<tr>
<td>600</td>
<td>9%</td>
</tr>
<tr>
<td>300</td>
<td>6%</td>
</tr>
<tr>
<td>100</td>
<td>3%</td>
</tr>
</tbody>
</table>

Source: The Amway Corporation.

An Amway distributor's earnings or gross monthly income consists of the amount of money received from the retail sales of the products, less the cost of the goods sold, plus the amount of the Performance Bonus, if any, retained. Gross income does not include deductions for business expenses which will vary "according to the manner in which each individual distributor operates his or her own business. There may be significant business expenses, mostly discretionary, which may be greater in relation to income in
the first years of operation" (Amway Sales and Marketing Plan, 1984).

The Marketing Plan

Four essential steps comprise The Amway Sales and Marketing Plan. The key element in each of these steps is duplication of effort. While each Amway distributor is expected to do some retail selling the emphasis is on sponsoring. A brief explanation of the four steps and the "expected" earnings at each level follows.

Step 1: You Are Sponsored

Sponsorship by someone currently an Amway distributor is required. In applying to be an Amway distributor the individual agrees to the purchase of a sales kit and agrees to order all of his or her Amway products from the individual who sponsored him or her into the organization. A new recruit is expected to (a) buy Amway products for personal consumption; (b) purchase products for retail sale; and (c) recruit others into the organization. A distributor continues to work with and receives guidance from her or his sponsor and "up-line" (those in the line of sponsorship above the distributor). In Amway's own publications and in presentations of the Amway program to potential recruits, distributors use circle illustrations to explain the plan. Figure 3 shows the first step and the expected effort of a distributor selling ("doing") 100 PV/$200 BV a month.
Step 2: You Sponsor Others

According to the Amway Corporation the key to building a successful Amway business is found in both retailing products and sponsoring others into the (your) organization. The *Amway Sales and Marketing Plan* brochure proclaims that "active" distributors who sponsor others have higher average sales than those distributors who do not sponsor. In exchange for the sponsoring, training and motivating of other distributors in one's organization, the monthly PV and BV totals of those "down-line" from a sponsor are added to the sponsor's own PV/BV totals increasing the Performance Bonus eligibility of the sponsoring distributor.

Step 2 illustrates the benefits which accrue to a distributor who has recruited six other distributors. Duplication of effort is
both directly and indirectly stressed in presentations of the plan. Figure 4 represents the earnings of a sponsor who has sponsored six others each of whom duplicate his or her 100 PV/$200 BV each month. It is assumed that the sponsor (YOU) continues to do the same.

![Diagram of Amway's sales and marketing plan](image)

- **Total Monthly PV**: 700
- **Total Monthly BV**: $1,400

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>9% Performance Bonus ($1,400 x 9%)</td>
<td>$ 126</td>
</tr>
<tr>
<td>You Pay (to each distributor in your group his/her 3% bonus)</td>
<td>- $ 36</td>
</tr>
<tr>
<td>You Keep</td>
<td>$ 90</td>
</tr>
<tr>
<td>30% Basic Discount (on the $200 worth of Amway products you sold)</td>
<td>+ $ 60</td>
</tr>
<tr>
<td>Monthly Gross Income</td>
<td>$ 150</td>
</tr>
<tr>
<td>Annualized Gross Income</td>
<td>$ 1,800</td>
</tr>
</tbody>
</table>

Figure 4. Step 2 in Amway's sales and marketing plan. 
Step 3: They Sponsor Others

The next step in building a successful Amway business is to encourage those you sponsored to sponsor others. The Amway Sales and Marketing Plan suggests that the distributor encourage the six distributors he or she personally sponsored (Step 2) to each sponsor an additional four people into the organization. This would bring the group total to 31 distributors (including YOU, the sponsor) and would give the sponsor, a monthly gross income of $816. Again the example assumes duplication of effort. The chain effect of sponsoring in this suggested manner would look like figure 5 and would result in the following remuneration for the sponsor. (The Amway publications never chain out the circle illustrations as shown in figure 5).
TOTAL MONTHLY PV 3,100
TOTAL MONTHLY BV $6,200

18% Performance Bonus ($6,200 x 18%) $ 1,116
You Pay (to those you directly sponsored) - $ 360
You Keep $ 756
30% Basic Discount (on $200) + $ 60
Monthly Gross Income $ 816
Annualized Gross Income $ 9,792

Figure 5. Step 3 in Amway's sales and marketing plan.
Source: The Amway Sales and Marketing Plan, 1984
Step 4: You Continue To Grow and Become a Direct Distributor

Step 4 suggests that the four distributors added in Step 3 could each recruit two additional distributors bringing the group total to 79 (including the sponsor). If everyone in the group continues "doing" the suggested 100 PV each month, the original sponsor qualifies to become a Direct Distributor if the group continues the 7,900 PV sales level for three consecutive months. A distributor who achieves this goal "breaks away" from their sponsor and orders products directly from the Amway Corporation. However, the "up-line" relationships of the distributor do not change and the "up-line" continues to receive overrides on the sales of this new Direct Distributor group.

At the Direct Distributor level (Step 4), the original sponsor (YOU in the circle illustrations) would receive a monthly gross income of $2,138 and an annualized gross income of $25,656 if everyone in the group did the 100 PV each month. Figure 6 provides a visual example of the numbers of distributors needed to achieve this status.
Figure 6. Step 4 in Amway's sales and marketing plan.
Attaining the status of Direct Distributor in the Amway organization is one of the primary goals of a distributor. Prestige and corporate favor are accorded the individuals who make this sustained effort and achieve this goal. The status levels above Direct Distributor are named after semi-precious stones and represent increased achievements in sales and sponsoring. The status levels within the Amway distributor organization are as follows:

**DISTRIBUTOR:** The title given to an individual who is sponsored into the Amway organization.

**DIRECT DISTRIBUTOR:** The first significant achievement level in the Amway Distributor network. The Distributor deals directly with the Amway Corporation rather than his or her sponsor. The Direct Distributor is at the 25% Performance Bonus level and qualified for the position by having sales of at least 7,500 PV per month for three consecutive months during a given year. A Direct Distributor must requalify each year for his or her position.

**RUBY DIRECT DISTRIBUTOR:** Direct Distributors who achieve at least 15,000 in personal group Point Value in any one month.

**PEARL DIRECT DISTRIBUTOR:** Direct Distributors who personally sponsor three 25% groups in any one month.

**EMERALD DIRECT DISTRIBUTOR:** Direct Distributors who personally sponsor three 25% groups, each of which achieved sales at
the 25% Performance Bonus level for six months during a fiscal year.

DIAMOND DIRECT DISTRIBUTOR: Direct Distributors who personally sponsor six 25% groups, each of which achieved sales at the 25% Performance Bonus level for six months during a fiscal year.

DOUBLE DIAMOND DIRECT DISTRIBUTOR: Direct Distributors who personally sponsor twelve 25% groups in any one month.

TRIPLE DIAMOND DIRECT DISTRIBUTOR: Direct Distributors who personally sponsor sixteen 25% groups in any one month.

CROWN DIRECT DISTRIBUTOR: Direct Distributors who personally sponsor twenty 25% groups in any one month.

CROWN AMBASSADOR: A one time $20,000 award given to Crown Direct Distributors who sponsor within a fiscal year 20 groups each of which includes a qualified Direct distributorship.

Goals in the Amway distributor organizations revolve around the achievement of these sales and status levels. In addition to the monetary compensation garnered by achieving each of these sales/status levels in the Amway organization, high level achievers are eligible for special incentives which include trips to exotic places, seminars held in resort areas like Hawaii, and Hilton Head. Income and public recognition may also be realized through speaking engagements at Amway sponsored or distributor sponsored rallies, meetings, and seminars.
Corporate - Distributor Links (Symbiotic Ties)

The broken line in Amway's organizational chart between the Policy Committee and its Distributor Associations (see p. 95) affirms the fact that the independent distributor organizations (comprised of the independent contractors) and the Corporation are really separate legal entities. This fact can best be visualized by thinking of the direct selling organization in terms of two symbiotic (touching and interdependent) circles. The circle on the left would represent the corporation (Amway) itself and would include all of the company's manufacturing plants and all of its wholly owned subsidiaries (e.g. Amway's ownership of Nutrilite Products, Amway of Canada, Ltd., the Mutual Broadcasting System and so on). The circle on the right would represent all of the independent contractors and their organizations associated with a direct selling firm. Figure 7 is a visual representation of this relationship.

Figure 7. A visual representation of a direct selling organization.
The two organizations are symbiotically tied by an agreement under which the Amway Corporation (or any other direct selling organization for that matter) agrees to supply to its independent contractor groups (distributors) goods for consumption and/or for wholesale and retail trade. The distributors, in turn, agree to abide by company regulations governing the sale of the products, the use of trademarks, and the like. In the Amway organization the two organizational entities are further tied through (a) the Amway Distributor Association, (b) the Direct Distributors, and (c) the Ja-Ri Corporation.

The Amway Distributor Associations

One of the symbiotic ties that links the Amway Corporation and the independent contractors who distribute the Amway products is the Amway Distributor Associations of the United States and Canada. These two voluntary Associations are said to represent the interests of all Amway distributors to the Corporation but the power and the control in these Distributor Associations rests with the Direct Distributors. Upon reaching the sales level required for Direct Distributor, the distributor may apply for Voting Membership in the Amway Distributors Association. If the application is accepted, the distributor then becomes eligible (a) to attend the Annual Meetings of the Association; (b) for election to the Board of Directors of the Amway Distributors Association; and (c) to participate in any
profit sharing bonuses declared by the Amway Corporation and Amway of Canada, Ltd.

In the United States the Board of the Amway Distributors Association in composed of 11 members; the Amway Distributors Association of Canada has a 7 member Board. DeVos and Van Andel hold two of the positions on each of the Boards. It is not known if their status as Board members gives them voting privileges or not. The Distributor Boards are responsible for working with the Amway Corporation on issues of policy and procedure which effect the distributors. In addition, the Amway Distributor Associations serve as arbitration boards for disputes which arise among the distributors themselves and/or between the distributor(s) and the Corporation.

Direct Distributors

The Amway distributors who have achieved the level of Direct Distributor serve as the primary link between the corporation and all other distributors in the organization. The exact number of this elite is unknown. The Amway Corporation refuses to openly disclose this figure. Data from the FTC investigations reveal that in 1975 only 1500 of Amway's 200,000 (.75%) distributors were Direct Distributors. In 1977 the number of distributors had risen to 360,000 and the number of Direct Distributors had grown to 4000 (1%).
Current information on the number of Direct Distributors is "disclosed" in the 1984 edition of The Amway Sales and Marketing Plan. This brochure contains survey data drawn from distributor records during the year February 1980 through January 1981. The survey results showed that only 40% of the Amway distributors on record (registered with Amway for the year) were "active" during the month they were surveyed. An "active" distributor was defined as "one who attempted to make a retail sale, or attended a company or distributor meeting in the month surveyed". This would mean that only 300,000 of Amway's estimated 750,000 distributors in the United States are "active" in any given month. In The Amway Sales and Marketing Plan (1984) brochure under Step 4 (See pp. 108-109) the following statement is found:

One out of every 154 "active" distributors actually achieved the hypothetical monthly performance illustrated above in at least one month during the twelve month survey period.

If the above statement is applied to Amway's estimated one million distributors (nowhere in the brochure does it tell the reader that Amway has one million distributors worldwide and 750,000 in the United States), of whom only 40% are considered "active", this means that only about 6.5 distributors out of every 1000 reach the level of activity which would help qualify them to become a Direct Distributor. Said another way, the statement means that only 2600 of the 400,000 "active" Amway distributors ever achieve the performance level required to earn the 25% Performance Bonus. Keep in mind that one month of 7,900 PV (the Step 4 illustration) does
not qualify a distributor to become a Direct Distributor. A sales volume of at least 7,500 PV must be maintained for three consecutive months before a distributor can qualify at the Direct Distributor level. Either the number of Direct Distributors in the organization has declined from the 4000 claimed in 1977 or the statement is incorrect.

Another statement equally ambiguous and confusing appears on another page in the 1984 Amway Sales and Marketing Plan brochure. The statement in question, again referring to the survey data cited above, claims:

The survey and company records show that nearly 7% of all "active" distributors who sponsor others and approximately 2.5% of all "active" distributors achieve the Direct Distributor level! Once again, the survey demonstrates a substantial increase in achievement for those who share the business with others.

If this statement is applied to the one million distributors on record, 400,000 of whom have been defined as "active", it would mean that of the 400,000 "active" distributors 10,000 (400,000 x 2.5%) of them achieved the level of Direct Distributor. This data however appears to contradict the previous statement which said that only 2600 (one of every 154 "active" distributors) of the 400,000 achieve 7,500 PV per month at least once during the year.

Confused by the discrepancy between the two statements, the researcher contacted the Amway Corporation by telephone for clarification regarding the statements. The researcher was referred to a regional salesperson who suggested that in all the years he had been with the company "no one had ever questioned that before".
After attempting to explain the difference, suggesting that it might refer to two different time periods, the researcher was asked to put the question in writing and direct it to him. (See Appendix C for a copy of the letter subsequently sent to the Corporation). On March 8, the researcher received a response from the Corporation stating that the questions had been referred to "the attorney responsible for the disclaimers" and that they would be responding as soon as possible to my questions. In mid-April an attorney from the Amway Corporation contacted the researcher. After discussing the discrepancies with the researcher, the attorney agreed that there was some confusion and agreed to look into the matter further. To date (July 1985) there has been no further response from the Amway Corporation.

The "disclosures" featured in the 1984 edition of The Amway Sales and Marketing Plan supposedly represent the changes required by the Federal Trade Commission and the State of Wisconsin. However, in presentations of The Amway Sales and Marketing Plan witnessed by the researcher, no disclosures were ever made nor was a copy of Amway's marketing plan ever available at such presentations. In fact, during one presentation observed by the researcher, the distributor "drawing the circles" had a copy of the brochure in hand and stressed only the highest bonuses paid to distributors at the higher ranks -- data found on the second to the last page of the 1984 Amway Sales and Marketing Plan. The stress
that evening was clearly on the big income potentials in Amway and the ease of duplicating one's own efforts.

Amway's refusal to disclose the number of direct distributors in its organization has advantages for the Corporation. The "dream" that the average distributor can achieve the goal of Direct Distributor is sustained and distributors, who might otherwise have left the organization if they knew what their real chances of success were, continue in the organization. In like manner, failure to disclose data on the number of Direct Distributors who qualify and requalify the next year, may keep distributors, who qualify one year but not the next, in the ranks. While incomplete data concerning a desired goal may create motivation within an organization, it may also contribute to organizational deviance if repeated attempts fail to secure the desired goal.

The Ja-Ri Corporation

The founders of the Amway Corporation are symbiotically tied to the distributor network in another way. As noted earlier in this chapter, the Amway Corporation emerged from Van Andel's and DeVos's own line of sponsorship from the Nutrilite Company. When Van Andel and DeVos left Nutrilite they took with them the distributor organization they had built under the corporate name of Ja-Ri. Ja-Ri then became the original line of sponsorship in the newly formed Amway organization. The Ja-Ri Corporation is still intact and is now a private holding company for Van Andel and DeVos. As such it
apparently receives proceeds (profits) from the efforts of those still under its umbrella.

One individual in the Ja-Ri line of sponsorship, Dexter Yager, is said to have built a distributor organization under him numbering 200,000 - almost a third of all the Amway distributors in the United States. If the rules of Amway's Sales and Marketing Plan apply to the original line of sponsorship (the Ja-Ri Corporation) then Van Andel and DeVos are benefiting from Yager's efforts. The ties between the Yager organization, the Amway Corporation, and the Ja-Ri Corporation merge in the Board of the Amway Distributor Association (ADA) of the United States. In the last five years, Yager has been elected to the ADA Board (U.S.) at least three times (data could not be found for the year 1981-82). The available data also indicates that in the last four out of five years at least two members of the Amway Distributors Association of the United States were from the Yager line of sponsorship and for two of those four years (1982-83 and 1983-84) three members from the Yager line of sponsorship served as Board members. Clear symbiotic ties between the Amway Corporation, the Ja-Ri Corporation, and the distributor organizations are manifest in these relationships.

In essence, neither entrepreneurial organization - the Amway Corporation nor the distributor organizations - could exist without the other one. While the Amway Corporation may provide the products and some services to the distributor, the efforts of the distributors ensures the success and the survival of the
Corporation. Because of Amway's size and investments in manufacturing plants and equipment and the like, the Corporation is probably more dependent on the success of its distributors for its profits than vice versa for distributors are always free to take other work or join another direct selling firm. Amway's recent move to manufacture products for private label in the wake of a declining business (Behar, 1985) and its diversification into other areas (the purchase of the Mutual Broadcasting System, the Amway Grand Plaza Hotel in downtown Grand Rapids, the 500-acre Peter Island Yacht Club and Resort in the British Virgin Island, and Statitrol, Inc.) strengthens the Corporation against a sudden change of events in the direct selling market.

Summary

The Amway Corporation burst upon the direct selling scene in 1959 with its innovative marketing plan and almost overnight became a success setting new standards for the industry. Amway's entrepreneurs Van Andel and DeVos, like Stinchcombe's (1965) "new men," challenged the rest of the industry. They succeeded with a method of operation (multilevel direct selling) which as one author put it "is clearly THE method of the 80's" (Goings, 1982).

What may not be clear to the direct selling industry at this point in time is that while Amway may be the model to emulate, the costs for emulation might be corrosive to the industry as a whole. The disadvantages associated with direct selling combined with the
environmental and structural constraints which impact on both entrepreneurial organizations (the firm and the distributor organizations) may increase opportunities for organizational deviance which could result in bad publicity for the industry as a whole. Further, there appears to be a potential for each of the organizations (the firm and the distributor organizations) to be both victim and victimizer of the other. As each organization grows and becomes more powerful and dependent upon the other, the goals of each organization may conflict. The idea that subunits in an organization can have goals which are in conflict with the primary goals of the corporation has been observed by Kramer (1982a) and Vaughan (1983).

Given the chapter on direct selling and this chapter on the Amway Corporation, the following chapter will seek to identify the specific factors in the social structure of the Amway organization which created/creates and maintained/maintains the illegal and deviant behavior found in the Amway direct selling organizations.
CHAPTER VI

ORGANIZATIONAL DEVIANCE IN THE AMWAY CORPORATION:
THE STRUCTURAL IMPETUS

The first question this study seeks to explore is the extent to which the social structure aids in the creation and maintenance of illegal and deviant behavior on the part of a direct selling organization.

Numerous researchers, economists and sociologists alike, (Cole, 1959; Hughes, 1980; Kramer, 1982a; Vaughan, 1983) have noted the fact that organizations should not be studied apart from their environment or social structure. Following Vaughan (1983), social structure is defined as (1) the stable characteristics in the society that form the environment in which organizations conduct their business activities, and (2) the stable characteristics of the organizations themselves. These stable characteristics include: sets of social relations, laws, norms, groups, institutions, the organization's internal structure, its processes, and the nature of its transactions.

Organizations exist and operate in an environment which is not totally controlled by them. Factors in that environment, or social structure, influence and constrain the organization's activity. Hughes (1980) points out that entrepreneurial organizations are constrained in their activity by the following factors in their environment: the institutional environment (including law), economic
changes external to the organization, established property rights, and technological progress. In order to fully assess the impact of
the social structure on an entrepreneurial organization it is necessary that social structure be understood to comprise both the
sociological factors identified by Vaughan and the dynamic, changing constraints noted by Hughes. These combined structural factors
create operating strain and tension for an entrepreneurial organization which in turn produces pressure in the organization to
achieve its goals in an illegal or deviant manner.

Social Structure and the Direct Selling Firm

Direct selling firms in the United States are unique entrepreneurial entities. While many of the well-recognized, older
direct selling firms are no longer owned or controlled by their founder (e.g. Avon, Fuller Brush) most were the creation of a single
individual. Today's newer direct selling firms are primarily owned (or controlled) and operated by their owner/founder (e.g. the Amway
Corporation, Mary Kay Cosmetics, Discovery Toys). In 1982 a special report in Venture magazine noted that: "Direct sales remains one of
the few ways an individual can build a multimillion dollar organization almost single-handedly, often with very little capital"
("Why startups," p. 78). The same report also pointed out the proliferation of new direct selling organizations. The Direct
Selling Association's list of prospective members now numbers about four hundred. Each new firm enters the industry hoping to duplicate
the success of companies like Amway and Mary Kay Cosmetics. What is it in the structure of the American society that stimulates this kind of growth in this particular industry?

**Stable Economic Characteristics**

**Capitalism**

Capitalism buttressed by the free enterprise system is fertile ground for the development of profitable business enterprises. Capitalism, with its attendant rights to private ownership of the means of production and the accumulation of wealth, ensures and sustains the efforts of individuals and organizations to act accordingly. Hughes (1980) has noted that "in an economy in which the main productive resources are privately owned and controlled, the motivation for entrepreneurial response will be mainly private pecuniary gain -- profit" (p. 214). Coupled with the economic incentives to succeed is an emphasis on the accumulation of material goods and related success goals (luxury automobiles, education, private club membership, etc).

**Success Goals**

Merton (1968) recognized the fact that American society holds out the promise of success to all. However, he noted that while the social structure creates and sustains an emphasis on achieving the culturally approved success goals, the social structure constrains the actual achievement of these goals for many individuals.
Individuals are constrained by competition, social position or lack of status, lack of education, and the like. Some limited by the aforementioned factors in achieving the culturally valued success goals choose to achieve the same goals in an alternative, albeit illegal, manner. While Merton intended his thesis to serve as an explanation for individual deviant behavior, others (Gross, 1978; Vaughan, 1983) have argued that his theory is really more applicable to the understanding of organizational misconduct.

Vaughan (1983) has noted that:

Although organizations have many goals, economic success for organizations is not only culturally approved, but also is imperative for organizational survival. In fact, organizations must seek profits regardless of variability in the goals of a particular culture (p.56).

The attainment of an organization's goals however can be impeded by lack of funds, changes in the environment, declining sales, and the like. Given an uncertain situation and the need to attain its goals, it is likely that an organization may choose to engage in illegal and deviant behavior to attain its goals (Gross, 1978).

**Competition**

Direct selling organizations, like other organizations, compete with one another for status (ranking in the industry), sales, and recruits. Vaughan (1983) notes that a corporation's prestige is measured by the amount of wealth to which it can lay claim. In direct selling, status and profits have a direct affect on a
company's ability to attract new recruits (independent contractors) to sell its products. Without a consistent and/or expanding supply of distributors it is unlikely that a direct selling firm will succeed. Vaughan (1983) points out that while corporations may not practice profit maximization to the fullest, companies are concerned about their ranking relative to other companies.

Economic success is relative, and an organization's criteria for success are shaped by both financial conditions and by the other organizations with which it must compete. Standards for success reflect position in the organizational stratification system, and may take three forms:

1. A shift in economic and social position; higher status among competitors.
2. A shift in economic position; higher status among same competitors.
3. Maintenance of existing economic and social position (p. 59).

In the direct selling industry status can be achieved: (1) Socially, by acceptance as a member of the Direct Selling Association or by obtaining some equivalent national reputation; and (2) economically, by a high sales performance and the accumulation of corporate wealth.

In sum, while capitalist economies provide the incentives for organizations to seek their fortunes in profit making enterprises such organizations face many obstacles in achieving their economic goals. Some of these obstacles, or constraints to entrepreneurial success, come in the form of existing economic and legal conditions. When faced with economic and/or legal constraints which impede goal attainment a problem is created which the organization must solve. An organization faced with a problem has many options:
it can change its profit margins, change its production standards, raise prices, and soon (Hughes, 1980). It can also violate the law. There is evidence to indicate that one direct selling company - the Amway Corporation - has chosen on several occasions to violate the law in order to achieve its goals.

Amway's Corporate Misconduct

Tax Fraud

Since success and growth in direct selling requires a constant supply of new recruits and new markets, it is only natural that many direct selling companies, like other more traditional retail firms, have looked abroad in order to expand their market and increase their profits. Foreign markets have often been chosen because of the advantages that could accrue to the firm: new markets, less stringent health and safety laws, better wage concessions, better exchange rates, and so on. Several direct selling firms in the United States have operations in foreign countries including: Avon Products, Inc., Amway Corporation, Tupperware International.

The Amway Corporation entered the Canadian market in October 1962 with the incorporation of Amway of Canada, Ltd. When Amway began exporting its products to Amway of Canada, Ltd. Amway (U.S.) was actually two separate corporations: Amway Manufacturing Corporation and Amway Sales Corporation. The Manufacturing Corporation produced products which it sold to the Amway Sales Corporation. The Amway Sales Corporation in turn sold the goods to
Amway's Direct Distributors. On January 1, 1964 Amway merged these two companies in the United States and formed the Amway Corporation. As a result of the merger, the Amway Corporation ran into difficulties with the Canadian National Revenue over the value for duty of Amway goods shipped into Canada.

Canadian customs laws require that the value of goods for duty be "determined by ascertaining the price at which like goods are sold by the foreign exporter in his domestic market to arm's length purchasers who are at an equivalent level of trade and purchasing in the same or substantially the same quantities for home consumption as the Canadian importer" (Regina v. Amway, 1983, p. 9).

Prior to the merger, Amway products exported to Amway of Canada, Ltd. were valued at the same price as the products sold by the Amway Manufacturing Corporation to the Amway Sales Corporation. This "transfer price" was acceptable to Canadian officials because the Amway Manufacturing Corporation and the Amway Sales Corporation were two legally separate entities each with separate and distinct functions. And the function of Amway of Canada Ltd. was the same as the Amway Sales Corporation in the United States.

When the Amway Corporation was formed (after the merger) Amway's products were now sold directly to Direct Distributors in the United States. Amway shipped their goods to independent warehouses located around the country and there the products were received by Direct Distributors. The goods were sold to the Direct
Distributors at prices higher than the "transfer price" previously used by the Amway Manufacturing Corporation in its transactions with the Amway Sales Corporation. Thus, the first arms length transaction in the United States was no longer the Amway Sales Corporation but the Direct Distributors. This change in Amway's marketing practices meant that Amway goods exported into Canada would now be valued at the higher Direct Distributor cost.

Goods are sold to Direct Distributors at listed retail prices less a discount of 35%, 25%, or 15% depending on the product. In addition, direct distributors may also be eligible to receive an additional 28 1/4% in deferred bonuses in the forms of: (1) a deferred refund (Performance Bonus) from Amway of 3% to 25% depending on the volume of purchases made during a given month; and/or (2) a 3% bonus on the volume of sales of other Direct Distributors he or she may have sponsored; and (3) a yearly sales training bonus of 1/4 of 1%. Because these additional maximum bonuses (28 1/4%) ARE NOT ALWAYS EARNED by Direct Distributors each month, the goods invoiced to Direct Distributors do not show this deferred price. Apparently, the transfer price between the Amway Manufacturing Corporation and the Amway Sales Corporation did take into account these deferred costs.

The "assessment of customs duties is essentially a self-assessing system . . . because of the very large volume of goods which are imported daily into Canada, the Department, out of necessity, must rely on the truthfulness and accuracy of the
declarations" made by the importer (Regina v. Amway, 1983, p. 117). In October of 1963 the Department of Revenue initiated a routine review of the fair market value of goods exported by Amway Corporation to Amway of Canada, Ltd. In response to inquiries about the new merger and its trade relationships with Amway of Canada, Ltd., the following was written in a letter, dated July 1, 1964, to the Revenue Department of Canada by Halliday, an attorney acting on behalf of Amway Corporation. The letter defended Amway’s practice of valuing the goods it exported to Canada at prices lower than it charged Direct Distributors in the United States. The letter stated:

Amway Corporation sells the products to Amway of Canada, Ltd., at such a price that Amway of Canada, Ltd., can in turn sell the product to its distributors at substantially the same discount as is given Amway Corporation to its American distributors. It is obvious that, if Amway Corporation were to sell the product to Amway of Canada, Ltd., at the same price that it sells the product to its American distributors, Amway of Canada, Ltd., would be in no position to sell the product to its distributors at a price which would permit it to receive a profit. Please be assured, on the other hand, that the product is sold by Amway Corporation to Amway of Canada, Ltd. at a profit since there is no desire on the part of either corporation that the product be marketed in Canada without a profit to the American corporation (Regina v. Amway, 1983, Appendix E, p. 2).

Upon completion of its review of the Amway Corporation, the National Revenue Board of Canada issued a new ruling on February 4, 1965 declaring that Amway’s present method of valuing their goods (i.e. at the prices it formerly charged the Amway Sales Corporation) was no longer acceptable. Amway was asked to declare the fair
market value of goods at a value equal to that of the direct distributors in the United States. Since this price did not include the potential 28 1/4% deferred bonus, Amway thought the ruling was unfair and did not take into consideration Amway's unique marketing structure. Subsequently two meetings were set for March 1965 between Amway and Canadian Revenue officials.

The first meeting was held on March 12 and was attended by two Canadian Department officials, an attorney representing Amway Corporation's interests, the General Manager of Canada Ltd., Sheppard, and Discher, Amway's Corporate Treasurer. What transpired at this meeting is not altogether clear but an internal memorandum, dated March 16, 1965, by one of the Canadian officials summarizing the events states:

It is claimed that the 28 1/4% is always given in the United States and that if the distributor does not qualify for the full rebate, that portion of the rebate to make up the total of 28 1/4% is extended to a distributor who, by reason of his high volume of business, is now buying direct from Amway whereas he used to buy from the distributor in question. . . . Mr. Discher was advised that if their marketing set up was changed in order that the deferred rebate be shown, allowed and deducted on copies of the domestic invoices, such rebate would then become acceptable for regular duty purposes. Mr. Discher is supposed to visit the Department again on Wednesday, March 17th, to tell us what they have decided in this respect. Evidence to the effect that the additional 3 1/4% is given in the United States will also be submitted at that time (Regina v. Amway, 1983, Exhibit G).

In sworn testimony, Sheppard said that around this time period when the March 1965 meetings were held he suggested to Van Andel that a possible solution for the tax problem might be to have the
Amway Corporation sell its goods to the independent warehouses it was presently using for storage and handling purposes. The Corporation could sell its products to these warehouses at a cost equal to that of the direct distributors including the 28 1/4% deferred purchase price plus the fees already paid by Amway to the warehouses for the services of storage and handling. In turn the warehouses would be authorized to sell only to Amway's Direct Distributors. The warehouses, Sheppard stated, "would be performing a function similar to that performed by Amway of Canada, Limited and as such would be at the same level as Amway of Canada, Limited. In essence, I felt that creating more "Amway of Canadas" in the United States was the solution.... After making my suggestions, I left it up to VanAndel and Discher to consider the suggestion and, if they thought it would work or was feasible, it was up to them to implement it" (Regina v. Amway, 1983, pp. 127-128). The solution, while it might solve the Canadian tax problem, also meant that the Amway Corporation would also have to give up some of its potential income.

During the March 17, 1965 meeting between Amway officials and the Canadian Revenue people, Amway stated that pending discussion by the Amway Corporate Board on March 18 the Corporation intended on April 1 to begin selling its products directly to the warehouses. Agreement was apparently reached between Amway and the Canadian Revenue officials that when Amway put into operation its plan to
sell to the warehouses and could offer proof of such sales then the February 4, 1965 ruling would be revised accordingly.

The trial proceedings indicate that following this meeting in Canada, the Executive Committee of the Amway Corporation did meet on March 18, 1965. However, what transpired at that meeting attended by Van Andel, Halliday, Discher, and others, as indicated in the record, was that

a policy was adopted to create fictitious invoices evidencing sales by Amway Corporation to United States warehouses. The policy included the adoption of a plan whereby Distributors picking up goods at a warehouse would make out a check payable to the warehouse. The check would then be deposited in a special account held in the warehouse's name. However, the funds deposited to this special account were controlled exclusively by Amway Corporation and could be drawn upon only by Amway Corporation. In fact no sale was intended to take place between Amway Corporation and the warehouses; nor was title to the goods intended to pass between Amway Corporation and the warehouses. As was previously the case, the sale actually took place between Amway Corporation and its Direct Distributors; the warehouses still performed merely a storage and handling function (Regina v. Amway, 1983, Exhibit 1, pp. 17-18).

On June 3, 1965 Discher, on behalf of Amway, sent copies of 113 bogus invoices to the Revenue Department of Canada. On August 5 of the same year an additional 185 false invoices covering almost all of Amway's products were filed with the Canadian Custom's officials for their evaluation and approval. On August 10, 1965 the Canadian Revenue Department changed its ruling of February 4, 1965 to accommodate these "changes" in Amway's sales and marketing practices. This revised method of assessing the duty and sales tax for goods shipped to Amway of Canada, Ltd. by the Amway Corporation
was in effect from 1965 until January 1980 when the ruling was revoked upon confirmation that Amway had evaded Canada's customs laws and had misrepresented its marketing operations.

In January of 1968 customs officials again undertook a routine review of the value of goods shipped into Canada. In response to this review, Van Andel directed a memo to all directors in the corporation and to the General Manager of Amway of Canada, Ltd. advising them that "only the Treasurer and the General Counsel are authorized to communicate with the Canadian Customs Department or officials" (Regina v. Amway, 1983, p. 132). In response to the 1968 review false price lists and invoices were submitted as before to Canadian officials.

The trial record shows that in May of 1974, the Amway Corporation attempted to refine the scheme in case further evidence was required by Canada. By this time the Corporation had phased out its use of the independent warehouses and was building its own Regional Distribution Centers (R.C.D.'s). These R.C.D.'s were to be owned and operated by the Amway Corporation. In 1974 only two independent warehouses remained. One located in Denver and the other in Portland. The object of this new plan was to create not only invoices but cancelled checks as well. Two schemes were proposed. One by Discher that was laid out in a memorandum to Van Andel dated May 9th, 1974 which stated:

As soon as an invoice is prepared on a shipment (after the loading of a truck is complete), a telex will be sent to the warehouse with the amount of the invoice. The warehouse will immediately mail us a check for the
invoice amount. We will, at the same time, mail a check to the warehouse for the invoice amount.

This system will produce an invoice and a cancelled check in payment of the invoice for each shipment to a warehouse. Neither the warehouse nor Amway Corporation will have to commit any funds to the program since each will deposit the check of the other before their check clears back through the banking system to their own bank (Regina v. Amway, 1983, p. 136).

Concerned about a possible error in the above plan, Amway's Vice-President of Distribution, Hoxie, laid out an alternative plan, varying only slightly, in a memorandum to the Policy Committee (Van Andel and DeVos) dated May 15, 1974. That these plans were initiated with the intent to deceive the Canadian officials is evident in Hoxie's opening paragraph of his confidential letter.

C. Dale Discher, Vice President for Finance and Treasurer, has proposed a modus operandi for establishing documentary proof of our "arm's length transaction" with a disinterested third party in the event we are audited by Canadian officials. This memo is in response to Policy Committee's request for an evaluation from my office (Regina v. Amway, 1983, pp. 137-138).

Van Andel authorized the scheme by writing in the corner of Discher's letter: "Check this after 60 days to see if it works. If not -- try Hoxie's modification. 5/20/74 JVA" (Regina v. Amway, 1983, p. 140). Apparently the two warehouses did not agree to the scheme and the fraud continued as previously set - fictitious invoices and price lists were submitted but no cancelled checks were available.

In September of 1975 Canadian official undertook another review of the Amway's declared fair market values. As of November of 1975
Amway had not yet responded to Canada's September request for evidence of its arm's length sales to clients in a position similar to that of Amway of Canada, Ltd. The trial proceedings reveal that in December 1975 in response to a verbal request by Van Andel an Amway Administrative Assistant sent the following memorandum to Van Andel:

This memo is responsive to your verbal request of December 12, 1975 for a memorandum summarizing the procedures presently being used for distributing goods through the contract warehouses at Denver and Portland....

Salient points are:

1. No actual transactions take place between Amway and the contract warehouses.

2. The invoices are never sent to the contract warehouses and never paid by them. The contract warehouses are not aware of the existence of the invoices.

3. Periodically (every two years or so) Canadian tariff officials audit the Amway import tariff payments. They usually question the basis for valuing the goods, and Amway (U.S.) pulls a sampling of "dummy" invoices from the file and offers them as proof of proper valuation. These invoices, coupled with a letter on file summarizing the understanding and agreement which was negotiated with Canadian tariff officials approximately ten years ago by C. Dale Discher, have thus far satisfied auditors.

4. The danger, of course, lies in the fact that the "dummy" invoices are not actually proof of an "arms length transaction." They are evidence of only "half" of a transaction. A sharp auditor could request proof that the invoices were actually paid by the contract warehouses. No such proof exists.

5. The present contract warehouses operate in the same manner that all contract warehouses have for the last ten years except that distributor checks are
now made payable to Amway Corp. instead of the warehouse name as in the past (Regina v. Amway, 1983, pp. 143-144).

On the same day (December 17, 1975) the above memorandum was written, the Amway Corporation responded to the September 1975 review request by the Canadian tariff officials for sales invoices by sending them copies of "dummy" invoices showing shipments to the warehouses in Colorado and Oregon. The Canadian officials responded on January 14, 1976 asking for more invoices noting that the Department required invoices showing sales to at least three different customers at the same level of trade in the United States. In reply Amway submitted invoices showing sales to companies in Honolulu and Puerto Rico. Based on these documents the Canadian Revenue Officials issued a new ruling dated February 26, 1976 advising Amway that the prices shown on the submitted invoices would be acceptable as the fair market value.

From 1976 through 1978 the Amway Corporation explored ways in which it could better justify the prices it was providing on the "dummy" invoices it was submitting to the Canadian officials. On September 12, 1978 Amway Corporation incorporated the Hawaii Distribution Corporation (H.D.C.). This wholly owned subsidiary was to purchase products from the Amway Corporation for resale to distributors in Hawaii. The resulting paperwork (invoices, checks, etc.) would then be submitted to Canadian Revenue officials as evidence of sales to an "arms length" purchaser. In order to give evidence that a disinterested third party was involved, a trust
agreement was drawn naming a local bank as the trustee of the corporation. Beneficial owners of the Hawaii Distribution Corporation would be the Jay and Betty Van Andel Foundation and the Richard and Helen DeVos Foundation.

The operation of the Hawaii Distribution Corporation was to be evaluated for its effectiveness and ability to show profits for the Corporation. The plan was to form another corporation which would "create" reduced values for shipments to Canada. This intent is made clear in a Policy Committee memorandum dated September 5, 1978:

This will record Policy Committee's approval of the formation of the Hawaii Distribution Corporation,... Approval of this project is predicated on the after tax income projected ... This projects a three-year accumulative net income of $1,267,000.00 to the warehouse and a 3-year accumulative net income of $253,000.00 to the Amway Corporation.

This approval is also predicated on the understanding that every effort will be expended during the 3-year contract period to effect supply of Amway products to the Canadian Company through 1) Amway manufacture in Canada, 2) contract manufacture in Canada, 3) shipment from non-Amway resources in the United States, 4) supply through Amcon.

By the end of the 3-year period, a report describing the source of each product marketed in Canada should be available. It will then be possible to assess the duty costs that would attach to continuing direct shipment of the items which cannot be obtained through any of the above means, but only through Amway U.S. manufacture and shipment to Canada. This cost can then be compared to the additional expense penalty associated with operating through the Hawaii Distribution Corporation, and a judgment made as the the least costly method. If direct shipment with payment of duty into Canada is less costly, the Hawaii Distribution Corporation could then be dissolved. If the reverse is true, arrangements can then be made for continuing the Hawaii Distribution Corporation (Regina v. Amway, 1983, pp. 154-155).
Unbeknown to Amway in January 1978 one of its employees in its tax department disclosed to an employee of Border Brokers Limited (Amway of Canada, Ltd.'s customs broker and consultant) Amway's practice of submitting fictitious invoices to the Canadian officials. He stated that "he personally had procured and submitted "phony price lists and invoices" to the Department" (Regina v. Amway, 1983, p. 162). In May of 1978 new auditors (Arthur Andersen & Co.) hired by Amway of Canada, Ltd. also discovered the illegal practices of the Corporations (i.e. Amway Corporation and Amway of Canada, Ltd.). Both companies, Border Brokers Limited and Arthur Andersen, advised the Amway Corporation to make full disclosure to the Canadian officials and seek a resolution of the problem. Realizing that their advice was not taken and prevented from fully functioning in their duties both companies resigned their positions with Amway of Canada, Ltd. in the early months of 1979. Upon its resignation Border Brokers Limited informed the Canadian Revenue officials of Amway's non-compliance as required by Canadian law.

In May of 1979 Amway Corporation responded to another Canadian review by submitting invoices including ones from the "independent jobber in Hawaii". In establishing the Hawaii Distribution Center (H.D.C.), Amway had contracted with a jobber, P.M. & F. Enterprises, to operate the warehouse in Hawaii on behalf of the Hawaii Distribution Center. In May of 1980 the Canadian Revenue Department issued a statement advising the Amway Corporation that they did not
consider the transactions between Amway and the Hawaii Distribution Corporation to constitute "arms length" sales.

The rulings of August 10, 1965 and February 26, 1976 were revoked and the proper value for duty of goods entering Canada would be the price at which like goods were sold to Direct Distributors in the United States not including the deferred rebates. While this current ruling is being appealed by the Amway Corporation, the Corporation and its counterpart Amway of Canada, Ltd. pleaded guilty on November 10, 1983 to criminal charges of defrauding the Canadian Government from February 5, 1965 through January 31, 1980. Amway admitted that they:

unlawfully did, by deceit, falsehood or other fraudulent means, defraud Her Majesty the Queen in right of Canada and the Government of Canada of an undetermined amount of property, money or valuable securities of a value in excess of Twenty-eight million dollars ($28,000,000.00) ... with respect to goods purchased by ... Amway of Canada Ltd. from ... Amway Corporation and imported into Canada (Regina v. Amway, 1983, p. 103).

In sum, constrained in achieving its profit and growth goals by Canadian customs laws after the merger of the Amway Manufacturing Corporation and the Amway Sales Corporation, the Amway Corporation choose to systematically violate the customs laws of Canada. The executives of the Amway Corporation felt that the unique structural arrangement of the Amway Corporation could not be altered to accommodate this new constraint in the environment wrought by the merger. In their prepared statement read at the trial Van Andel and DeVos stated that:
Amway felt that the marketing plan was novel in that, by company policy, the manufactured goods were only sold to direct distributors employing a sliding scale of discounts to establish the price. Amway felt that the Customs Act did not "fit"... this novel direct sales operation. Nevertheless, Amway felt that the "transfer price" was still a fair value for duty purposes, but since it did not sell to outsiders at this price, although fair, it did not comply with the Act.... As time went on, sales by Amway of Canada Limited increased dramatically and the little problem became one of some considerable magnitude....Blinded by our belief in the "fairness" of the "transfer price" concept, we allowed ourselves and the companies to enter into a scheme that was illegal (Regina v. Amway, 1983, Exhibit 2).

Van Andel and DeVos may have rationalized their actions as the only possible solution available, but Cole (1959) has pointed out that "while economic conditions may define the problem for the entrepreneurial actors, they do not necessarily decide it". In like manner, Hughes (1980) notes that:

The existence of an external environment that set limits to individual entrepreneurial activities did not leave the entrepreneur a mindless automation ... He can still change his own profit margin, he still has partial control over the production and cost side of his business, and he can raise his profits by skillful management (p. 215).

The owners and executives acting on behalf of the Amway Corporation freely decided upon an illegal solution to the problem. The Amway entrepreneurs chose to illegally manipulate the existing ambiguities in the social structure in order to accomplish their goals. The Amway executives were aware of the fact that the Canadian customs system was basically one of "self-assessment". The Amway Corporation was also aware of the fact that activities carried on by it inside its corporate offices would be hard to detect much
less prove. Further, it would be naive to think that the Amway Corporate officials were not aware of the fact that the practices in which they engaged and/or contemplated were not in fact illegal. The judge in the Canadian trial came to these same conclusions during the trial when he stated:

This of course was not a small-type operation or an isolated occurrence, but a premeditated and deliberate course of conduct and action undertaken at least in the early stages, with professional advice, and with the knowledge that it would provide enormous profits and business advantages over a long period of years and I suppose, when you gamble, and all the stakes are high, if you win, you win big and if you lose, you lose big.... As the fraud was set up and improved upon, the risk of detection was minimal, and without the assistance of the customs broker, Border Brokers Limited, I would imagine that a prosecution was rather remote (Regina v. Amway, 1983, pp. 220-221).

International customs laws are not the only constraining force a direct selling firm has to face. Laws protecting the consumer and other companies from fixed prices also constrain the profit making ability of a business corporation. Price-fixing benefits the company or companies engaged in it by stabilizing competition and assuring a given profit level. While price-fixing has usually involved a number of companies acting in concert with one another, price-fixing can occur within a company. Price-fixing by the Amway Corporation is an example of the latter case.

Price-Fixing

All direct selling firms employ a sales force of independent contractors to distribute (sell) their products directly to the
consumer. When a direct selling company sells its goods to an independent contractor (distributor) title to those goods passes from the corporation to the individual. The individual distributor is then free to sell the goods for any price he or she may choose. The law bars the direct selling corporation from setting the prices at which the distributors can sell the products. Once the title of the goods passes to the distributor the only pricing option (control) the direct selling corporation has is to "suggest a retail price".

Some direct selling firms find it a "problem" when each of their independent distributors sells his or her products at a different retail price. In such cases it is assumed by the company and by other independent distributors selling for the same company that the customer will buy at the lowest prices available. Thus, in order to avoid disruption in the distributor ranks, particularly in multilevel organizations, there is a tendency for the company to stress or emphasize its price structure in lieu of discounts. When carried to the extreme because of the fear of internal competition and image within the direct selling company, this emphasis on price maintenance can take the form of price-fixing, an illegal act. The evidence shows that for a time in its history the Amway Corporation was guilty of price-fixing both its wholesale and retail prices.

In March 1975 a complaint was filed by the Federal Trade Commission (FTC) charging Amway with a variety of offenses including price-fixing, the making of deceptive and misleading statements.
regarding the potential earnings of its distributors, and with being a pyramid scheme. In regards to Amway's price-fixing activity, the FTC records show that in a number of ways Amway, with the consent of its highest officials and in combination with its distributors, openly discouraged other distributors from selling at prices lower than those suggested by the Corporation.

The FTC evidence shows that in 1963 the Amway Corporation listed the following rule: "No distributor shall sell products sold under the Amway label for less than the specified retail price". Distributors joining the Amway organization signed an application agreeing to "observe the spirit as well as the letter of the Code of Ethics and Rules of Conduct of Amway Distributors" (In re Amway, 93 F.T.C. 618). While Amway claimed that they abolished this rule in 1965 the FTC could find no evidence that the Corporation had clearly disclosed this information to their distributors. Rather, the record shows that Amway continued to support and encourage an established retail price structure in the interests of everyone involved.

In 1971 at a talk with Direct Distributors in Dallas, Texas, DeVos was asked about the problem of price cutting by a distributor:

(Question:) Are you as Amway going to do anything to distributors who are selling products at wholesale to retail customers? (DeVos:) If you have a distributor who is selling Amway products at wholesale to a customer, our action has got to be first of all to get a complaint on it and find out who the distributor is that's doing it. Our next move has got to be to work on his removal, but this isn't an easy problem, because if this person wishes to sell to anybody on the street at whatever price he wants to, you're getting into some touchy areas
on price fixing. Now the only thing you can point out is that sooner or later the distributor is going to go broke - because you can't go on selling the product at what you paid for it and survive in the business (In re Amway, 93 F.T.C. 618, p. 654).

The record also indicates that Halliday, a board member of the Amway Corporation, in another meeting with Direct Distributors in 1971 gave a response to a price-cutting question similar to the one cited above by DeVos.

In 1972 distributors reported to Amway that a distributor was distributing flyers featuring Amway products at prices below the Corporation's suggested retail prices. On June 8, 1972 the "offending" distributor received a letter from Amway's legal department with the following advice:

Amway ... cannot impose a fixed price schedule upon its distributors.... There are certain built in features about the Amway Sales and Marketing Plan which tend to discourage unreasonable and unrealistic price variances. Perhaps the most important of these is that any price reduction results in less net income to the distributor. ... A policy of "sales" is not consistent with a stable product line, since customers would become confused concerning why there would be a "sale" one month and not during the next. They would lose confidence in the stability of the distributor with whom they are dealing, at least from the standpoint of individual pricing policies.... Because of certain intricacies of federal law, and those of some states, it is not possible for Amway Corporation to dictate to independent Amway distributors the prices at which they should sell an Amway product. It has never been necessary for Amway to take any position such as that for the reason that the vast majority of Amway distributors, which means almost 100% of all Amway distributors, are aware of the principle stated in this letter and are thus more than content to realize the greatest maximum profit on their sales of Amway products. Therefore, we would certainly discourage any such "sale" (In re Amway, 93 F.T.C. 618, pp. 656-657).
In addition to the incidents related above, the FTC found that "Amway warns against writing letters to distributors concerning price cutting, to prevent the Federal Trade Commission from obtaining them" (In re Amway, 93 F.T.C. 618, p. 657).

Amway also controlled retail prices through their buy-back rule. The legitimate purpose served by a buy-back rule is to prevent inventory loading by the Company on the distributors and distributors on one another. However, the FTC felt that Amway carried this rule too far when it encouraged distributors not to allow damaged Amway products to be sold to salvage stores and encouraged distributors to purchase the products of any distributor leaving the business who offered Amway products at reduced prices.

Amway was also found guilty of illegally setting its wholesale prices. FTC data shows that the 1975 Amway Career Manual stated that a distributor "cannot make money by simply selling products to his sponsored distributors because he sells them for the same price he paid for them: the distributor cost" (In re Amway, 93 F.T.C. 618, p. 719). Amway enforced this policy by having the distributors sign an agreement agreeing to this policy under the guise of complying with the Amway Sales and Marketing Plan. Failure to comply with the Plan was grounds for revoking one's distributorship.

On May 8, 1979 the Federal Trade Commission ordered the Amway Corporation and the Amway Distributors Association and their representatives to cease and desist from: fixing prices both at the wholesale and retail levels; taking action or suggesting that action
be taken against distributors who choose to sell Amway products at prices other than the suggested retail price; discouraging retail sales to a customer on the grounds that the person is a customer of another distributor. The Company was also ordered to conspicuously print on its price lists the following: "The prices stated here are suggested prices only. Distributors are not obligated to charge these prices. Each distributor is entitled to determine independently the prices at which products may be sold to other distributors or to consumers" (In re Amway, 93 F.T.C. 618, p. 737).

It is not known how much the Amway Corporation or its distributors benefitted from these unlawful price-fixing practices. What is known is that for at least a decade or more systematic pressure was applied by the Corporation and by many distributors to keep prices at predetermined levels. The symbiotic relationship was such that the distributors found that they were powerful enough to create pressure for the Amway Corporation such that the Company helped them control the competition between themselves (i.e. the independent contractors). Conversely, the Corporation was able to "sell" or inculcate among the distributor ranks the idea that "stable retail prices" (fixed prices) were in everyone's best interests. In essence, the organizational structure of multilevel direct selling firms is such that reciprocal pressures are generated which can lead to illegal and deviant behavior if the goals of both entities are such that the action would be mutually
beneficial for both and cannot be satisfied through normative channels.
CHAPTER VII

ORGANIZATIONAL DEVIANCE IN THE DISTRIBUTOR RANKS

The second research question this study seeks to answer is:
How do the unique organizational features of the direct selling firm create and maintain illegal activity?

Earlier it was suggested that direct selling organizations, particularly those having a multilevel structure, are best visualized as entrepreneurial entities comprised of two legally separate but symbiotic organizations. Both entrepreneurial organizations (the firm and the distributor organizations) exist in a social structure (environment) which constrains their success. Evidence will be presented to show that the structure of the multilevel direct selling firm itself creates pressures and opportunities for deviant and illegal behavior.

Misrepresentation of Earnings Potentials

One major constraint faced by direct selling firms is ensuring that the companies have an adequate sales force in order to meet established sales goals. Without networks of independent contractors direct selling firms cannot survive. In multilevel direct selling structures like Amway the primary responsibility for the recruitment and training of independent contractors is left in the hands of those distributors already in the organization. This
sponsoring, or recruitment responsibility, creates pressures for the distributorship wishing to advance in the multilevel organizational structure.

**Competition for Recruits**

Competition between direct selling firms for a sales force is keen. A constant supply of new recruits is needed to replace those leaving the organization and to ensure growth in the organization. The direct selling industry experiences an overall turnover rate among distributors or representatives of almost 100% per year. In particular firms the turnover rate can be as high as 300% per year. Contributing to this significant turnover rate in direct selling are the following factors:

1. Alternative jobs are or become available in the traditional business sector.

High employment conditions in the society make recruitment efforts on the part of direct selling firms more difficult and expensive. Most people prefer regular hours, certain pay, and company benefits to an uncertain sales career. Of those choosing to work in direct sales about 80% do so on a part-time basis (Buell, 1954).

2. Average gross earnings for sales people are actually lower than promoted by the direct selling companies.

Several studies have noted that the majority of those who work in direct selling do not earn substantial incomes. In 1954 Buell
noted that in direct selling "average annual gross earnings for their salesmen vary from a low of $92 to a high of $700 -- and salesmen must pay their own expenses out of their earnings!" (p. 117). Nor are direct sellers provided any benefits - no insurance, hospitalization, or unemployment compensation. In 1983 Dollars & Sense a magazine published by the Economic Affairs Bureau, Inc. found that in: "the industry as a whole, the median number of hours that salespeople work per week is nine; median earnings per week are $27. By the hour, that works out to a paltry $3.00, less than the minimum wage" ("Direct selling gives," p. 7).

Specific data on the average earnings of distributors in each company is unobtainable. However, in an analysis of the income tax returns of Wisconsin Amway distributors it was shown that overall the average Amway distributor had a net loss of $918 (State of Wisconsin v. Amway, 1982). The average Avon representative earned approximately $1,851 in 1982 and sales directors at Avon made about $10,000 to $12,000. At Mary Kay Cosmetics Inc. sales directors earn about $30,000 annually (Pauly and Resener, 1983).

3. Negative attitudes about selling, particularly door-to-door selling.

Buell (1954) notes "few people really like to sell door-to-door. Many who take it up do so as a means to an end rather than through preference for this type of work" (p. 117). A study done for the Direct Selling Education Foundation (1982a) by the Nowland Organization, Inc. found that:
Consumers do not comprehend the direct selling industry as constituting a basic channel of distribution...relevant for any but the narrowest of purposes...or very useful and special in its characteristics. They feel decidedly insecure or unenthusiastic about it, reluctant to recognize and use it except in restricted ways (e.g. buying from a friend) and are failing to develop the direct buying habit. ... This unclarity or negativism spills over into recruiting. Most of those interviewed are not receptive to the idea of selling this way (p. 36).

4. Changing life circumstances

Divorce, death, geographic relocation, aging, and so on, are often reasons for turnover in the distributor ranks.

All of the above mentioned factors act as constraints on the recruitment efforts of direct sellers. It is suggested that illegal and deviant behavior may occur on the part of a direct selling company and, in multilevel direct selling organizations, on the part of a distributor organization when efforts to recruit sufficient numbers of new distributors are frustrated or constrained. Evidence to support this thesis comes from close examination of the structure and processes of the Amway Corporation.

Amway considers its independent contractors "to be in business for themselves but not by themselves". Individuals contract with the Amway Corporation to supply them with products and related materials which they in turn resell to other distributors or retail to customers following at all times The Amway Sales and Marketing Plan. While the commissions on products sold to customers averages about 30%, the primary source of "making money" comes from
sponsoring others into the organization. Under The Amway Sales and Marketing Plan a distributor is eligible to earn a bonus each month, ranging from 3% to 25%, on his or her own sales and the sales of those recruited by the distributor and their recruits. This fact creates a subtle pressure in the organization for the distributor to emphasize sponsoring in lieu of increased retail selling.

During the 1970's investigations of the Federal Trade Commission (FTC) into the structure of the Amway Corporation revealed the fact that the Corporation was responsible for unlawful practices in conjunction with its program of recruitment. The FTC found that the Amway Corporation had mislead and deceived potential recruits concerning the earnings potential of its distributors. In testimony to the FTC during its investigations, statements like the following were submitted as evidence that claims about earnings potential were misleading:

Sponsoring is easy! Recruiting new Amway Distributors is not difficult, just as selling Amway products is not difficult....When you have learned to sponsor one, then you simply repeat the process and sponsor two....From that point on, it is just simple multiplication!

By working just one hour per day and making 2 average sales of $4.00 PV each,....your total monthly profit.... $52.80. Good extra income for one hour per day." (In re Amway, 93 F.T.C. 618, pp. 625-626).

In addition to such statements distributors were also quoted as giving earnings for named individuals in amounts like "$1500 in one week", or "$150 a day". However, the Commission's investigation revealed that of Amway's 12,000 distributors selling in 1969 only
60, or one-half of 1 percent made profits in excess of $10,000. Because of this finding the Commission found these generalized earnings claims to be misleading and deceptive. The final report of the Commission stated:

We conclude that respondents have agreed and combined with each other and/or with Amway distributors to fix the resale prices of Amway products, at both the wholesale and retail levels, in violation of Section 5 of the Federal Trade Commission Act. Respondents have also made earnings and sales claims which have the capacity to deceive the potential distributors to whom they have been made; this too, is in violation of Section 5. We have decided that it is appropriate and necessary to order respondents to cease and desist from these violations, and from certain offenses reasonably related to them (In re Amway, 93 F.T.C. 618, p. 735).

In the Federal Trade Commission's final order issued May 8, 1979, Amway was ordered to cease and desist from:

1. Misrepresenting in any manner the past, present, or future profits, earnings, or sales from such participation.

2. Representing, by implication, by use of hypothetical examples, or otherwise, that distributors earn or achieve from such participation any stated amount of profits, earnings, or sales of all distributors in any recent year respondents may select, unless in conjunction therewith such average profits, earnings, or sales is clearly and conspicuously disclosed, or the percent of all distributors who actually achieved such stated profits, earnings, or sales in such year is clearly and conspicuously disclosed (In re Amway, 93 F.T.C. 618, p. 738).

Amway apparently failed to heed the 1979 orders of the Federal Trade Commission because in 1982 similar charges surfaced when the
State of Wisconsin filed suit against Amway and two of its distributor organizations. The suit alleged:

1. Misrepresentation of individual incomes.

The distributor defendants in this case were accused of misrepresenting their incomes and the incomes of other Amway distributors to be higher than they actually were. The defendants were also charged with failing to distinguish between gross and net income. It was also alleged that the defendants neglected to disclose the real business expenses associated with an Amway business.

2. Misrepresentation of potential income.

The defendants were charged with making the statement that a new Amway distributorship could, within 3 to 9 months working 6 to 12 hours a week, earn in excess of $12,000 a year and that incomes in excess of $55,000 were available after 3 to 5 years. In analyzing the returns of the 20,000 Amway distributors in the State of Wisconsin investigators found the average annual adjusted gross income of the Amway distributors to be $267. Only the 139 Direct Distributorships in operation during the two year period 1979-1980 (less than 1 percent of all the Wisconsin distributors) had an average annual adjusted gross income of $12,000 or more. The average annual net income, after business deductions, for all Wisconsin distributorships was determined to be a NET LOSS of $918. The average Direct Distributorship, comprised of two
individuals, was found to have an annual adjusted gross income of 
$14,349.

3. The use of unrealistic hypothetical examples.

Wisconsin charged that the Amway Corporation's example of
"growing through duplication" as presented in its brochure entitled
**A Business Of Your Own** (1980) and similar examples were untrue,
deceptive and misleading. In the hypothetical examples used it was
shown that a non-Direct Amway Distributor could achieve a gross
monthly income of $1,230. This amount would equal an annual gross
income of $14,760. Investigations by the State of Wisconsin
revealed that the "potential" gross incomes of $14,760 did not in
any way approximate the real gross income average of $267 declared
by Wisconsin distributors on their tax returns. The State of
Wisconsin also noted in its report that if every Amway distributor
in the State of Wisconsin sold the amount of goods projected by the
hypothetical example that "this would require the annual purchase of
$400 worth of Amway products by each of the 1,652,261 households in
Wisconsin" (State of Wisconsin v. Amway Corporation, et al., 1982,
p. 8).

4. Failure to disclose the nature and identity of the Amway Program.

The Diamond Distributor defendants in the Wisconsin suit were
charged with failing to disclose at the outset the nature and the
identity of the Amway program to potential recruits. Additionally,
the defendants urged other distributors to do the same i.e. not to
reveal the name of the company or the type of opportunity being presented to a potential distributor.

The Wisconsin suit garnered much publicity and was settled on February 21, 1983 by a consent judgment. The Amway Corporation was ordered to pay $17,500 in civil forfeitures and ordered in the future to disclose the actual sales of its active distributors. It was also ordered that Amway disclose the fact that only 40% of its distributors of record are active. Within 45 days of the judgment Amway was required to notify its distributors that failure to make the required disclosures, either orally or in writing, would be cause for discipline, including termination. The Diamond Distributorships in the case were enjoined from misrepresenting individual incomes, using hypothetical examples, and misrepresenting the nature of the opportunity and the name of the company to potential recruits. They also paid fines ranging in amounts from $280 to $560.

During the proceedings of the Wisconsin case, a letter from the Federal Trade Commission to the Amway Corporation was made public. The letter, dated August 19, 1982, disclosed the fact that the Amway Corporation was still not in compliance with the Federal Trade Commission's order of 1979. As a result of the FTC letter and the settlement of the Wisconsin suit, Amway updated its manuals and brochures to accommodate the rulings. The 1984 edition of *A Business Of Your Own* contains no mention or illustration of the Amway Sales and Marketing Plan. The sales and marketing data is now shown in a

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separate fold-out brochure entitled The Amway Sales and Marketing Plan which technically contains the required information. However, as noted in Chapter V, this latter document is confusing and ambiguous.

Deviance Associated With Recruitment Efforts

Closely related to the misrepresentations of the earnings potentials of Amway distributors are the illegal and deviant processes associated with recruitment efforts. The manner in which some distributors entice others to attend an Amway meeting is often highly questionable. In addition, some distributors engage in other illegal or deviant behavior as an extension, or on behalf of, their Amway business. Three primary activities mark the calendars of Amway distributors: meetings, seminars, and rallies.

Meetings

Meetings are generally held once a week at either the home of your sponsor or someone else in your up-line. "Alert and progressive sponsors help build enthusiasm within their group through weekly meetings in their homes or offices for the purpose of training, motivating and sponsoring" (Your Career With Amway, 1983, p. 10-D). On occasion meetings may be held in a more public place: a restaurant, a meeting room at a local hotel, or a room on the campus of a local college. The researcher observed that on the occasions when the meetings were held outside the home environment
distributors attending were usually asked to pay a charge (at
restaurants the fee included the dinner). While it was not clear
what the charges were for except perhaps room rental, etc. on one
occasion it was observed that some of the money was given to the
distributor who presented the Plan that evening. In these larger
meetings held outside the home environment usually a high ranking
distributor, an Emerald or a Diamond, is in attendance to "draw the
circles".

The format of these meetings is generally the same: (a) the
opening which is devoted to a discussion of goals and how extra
money would help you realize those goals (45 - 50 minutes); (b)
"drawing the circles" - the presentation of The Amway Sales And
Marketing Plan (30 - 45 minutes); and (c) some product
demonstrations (15 - 30 minutes). Attending many of these meetings
are individuals who have been invited by friends, relatives or
acquaintence not certain what it is that they are to hear.

The Invitation

An individual is generally introduced to The Amway Sales and
Marketing Plan by being invited to attend a meeting by an Amway
distributor who views the individual as a potential recruit. The
manner in which the invitation is initially extended has been a
manner of controversy. In its 1982 suit against the Amway
Corporation and four of its Direct Distributors, the State of
Wisconsin found that:
Defendants ... at public presentations ... have urged fellow Amway Distributors, in their efforts to secure non-Distributor attendance at said presentations, to disguise or not disclose the nature of the presentation to be given, the type of opportunity to be made available to the prospect or, when requested, the identity of the Amway Corporation. Plaintiff is informed and believes that said defendants use the same practices in their solicitation of prospects (State of Wisconsin v. Amway Corporation, et al., 1982, p.9).

The consent decree which settled the case enjoined Amway and its distributors from:

using any invitation to a presentation of the Amway sales and marketing plan in which any individual defendant:

a. Gives the reasonable impression that the invitation relates to an employment opportunity or a business venture of a nature other than that offered by Amway.
b. Gives a reasonable impression that it is an invitation to a social event.
c. Disguises the presentation as a market survey.
d. Promotes the event as a tax seminar.
e. Denies, if asked, that the presentation is about the Amway sales and marketing plan.
f. Implies that the invitation is to anything other than a business event (State of Wisconsin v. Amway Corporation, et al., 1983, p. 5).

While the researcher was never approached to attend an Amway meeting, documents obtained from other distributors, statements heard at meetings where the researcher was present, and news reports all attest to the fact that there is failure to disclose the nature and identity of these Amway meetings. In fact, evidence would indicate that "lack of full disclosure" may be a normative practice within Amway's distributor groups. One non-Amway produced document entitled Quick Start (obtained from a distributor in a distributor group using it) advises:
DO - enable your prospect to get a complete picture with an open mind about how we build our business. Among new distributors we find that almost 50% had erroneous pre-conceived notions about Amway and many would not have even looked at the business objectively had they not been properly invited.

THUS

DO NOT - mention products or selling. ... Avoid the words "business opportunity" or "meeting," but rather use the phrase "get-together" or "business session." ...

DO NOT - in any way do or say anything that could involve deception (check flow chart PG-4 and your sponsor in order to learn proper inviting).

Checking the flow chart referred to on page four of Quick Start it shows that in response to a question about whether the business is Amway the distributor is to respond with "What do you know about Amway?". If the potential recruit describes the program fairly well the distributor is then instructed to say:

Yes, however, maybe you're like me. At first I didn't understand some of the greater points that makes this unique and so fantastic. This is too big and much too important to your future for you not to take another look. $40,000 a year is nothing to pass up lightly. Let's get together and talk about it some more. Should we plan on you (nite & time).

Another non-Amway document entitled Your Next Move was given to the researcher after attending a meeting. This document appears to have been produced and sanctioned by the Britt distributor line of sponsorship. The document contains photocopies of checks in excess of $5,000 which are made out to Britt and photographs of Britt and his down-line appear in the manual. Besides the message of success that is conveyed in the publication, what is of interest here is the
advice given in a section of the monograph called "Proven Tips: Suggestions to Help You Build Your Business":

FIRST, start building your organization. Remember these basic things: NEVER, in talking with a prospect, should you mention the name of the company, the products, or selling. Why? Are you ashamed of the company, the products, or the concept of direct selling? OF COURSE NOT. But you could very easily lose a prospective DISTRIBUTOR by over-exposing them to the WHOLE STORY. Therefore, it is recommended that you not tell ANYTHING until you can tell them EVERYTHING.... THE APPROACH:

... if they press you for the name of the company, simply tell them this. "Mark, I wouldn't be at liberty to divulge that right now."

On April 27, 1983 DeVos was the guest on NBC's Donahue show. During the program a caller phoned in to complain about the manner in which invitations are extended to Amway meetings. What is instructive here is not so much the complaint but DeVos's statements regarding these practices.

Caller: I was approached two weeks ago by a person soliciting me to join a telemarketing organization. I asked them "is this Amway?" And they said, "no, it is the American Diamond Guild." Upon attending the meeting it was Amway. I would not have attended if I had known it was the Amway. Why was I so deliberately deceived?

Rich DeVos: Because they violated every rule and every principle that we talk about....

Audience: I've been approached by Amway too but they keep it a secret. They want you to come and make money, then you get there you sit for an hour of talking and then they say oh, this is Amway.

Caller: Just exactly.

Audience: Why are they so secretive about it?...

Audience: The State of Wisconsin now these distributors that were prosecuted they had them on tape
deceiving people yet Amway took their side. They did not reprimand these distributors for what they were doing. They supported them and backed them up. The court of ethics said you cannot deceive people and not tell them it's Amway if they support—

Phil Donahue: I think Mr. DeVos has already accepted some responsibility for what he understands is the imprudent behavior of some of the distributors.

Rich DeVos: What she says is in error because we have indeed reprimanded them, we have monitored them, we have in fact had other disciplinary procedures with them. Just so you get the facts straight.

Phil Donahue: Yes, sir. Briefly.

Audience: I guess I don't understand the difference—

Rich DeVos: That's the difference in firing people every day. You have a philosophy that says if somebody does something wrong can them. Part of that is the fear that runs across this country. As soon as you don't do it my way they throw you in jail. Our role is to win and correct people, not throw them in jail (Donahue, 1983, pp. 14-15).

While Amway may claim that they reprimand distributors who err in their ways, neither the nature of the reprimand or the number given each year are ever publically disclosed. It is not in Amway's best interest to revoke high level distributorships since some of these distributor groups number in the thousands. Revoking a distributorship with a loyal down-line could cause dissension in the ranks particularly when Amway's own publications recommend ambiguous invitations as well. In Amway's manual Your Career With Amway (1983) the following is found in a section entitled "How To Sponsor":

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Make a list in your Prospect Book of all the friends, relatives and neighbors to whom you want to offer the opportunity. Include even the names of those you know only casually. Experience has proven that they may be the ones most interested. Then call these people and invite them to a get-together at your home, or set up an appointment with them.

Give these friends, relatives and neighbors the benefit of a full presentation of the Amway Sales and Marketing Plan. Don't try to explain over the phone. Encourage them to attend the meeting by telling them that this is an opportunity to be in business for themselves on a part-time basis with no investment in inventory necessary. Tell them they may build a business where they set their own targets for earnings. Mention that you have started your own independent business on a part-time basis and that you would like to tell them about it (p. 1-D).

The evidence presented so far would indicate that it is normative practice in the Amway organization not to disclose to potential recruits the true identity and nature of the Amway opportunity. Such questionable practices are sustained by Amway's own ambiguity and directives regarding invitations, its lack of action against the illegal activities of its distributors, and by its own Rules of Conduct for Amway Distributors. Rule 4 states:

No Amway distributor who personally sells products other than Amway products, who personally sells literature or sales aids not produced by Amway, or who sell services (e.g., tax services, insurance, et cetera) will induce another Amway distributor whom he does not personally sponsor to sell such products, literature, sales aids, or services to any Amway distributor except those personally by him (Your Career With Amway, 1983, p. 20-B).

The above rule allows distributors to produce materials like Quick Start for use in their organizations. As a consequence
successful distributors can disseminate in a formal manner the
tactics which they found to be successful.

The constant pressure to sponsor in direct selling
organizations, particularly those with a multilevel structure, has
resulted in an accommodation of deviant behavior within direct
selling organizations. The ambiguities in the internal processes of
the Amway Corporation (including its rules and enforcement policies)
have been adroitly manipulated by distributors to their advantage.
In turn, the Amway Corporation appears reluctant to revoke the
distributorships of offending a high level distributors because of
the potential loss of business. Until recently with the court cases
there was not any real external countervailing pressure, or force,
exerted on the Amway Corporation to change its practices.
Individuals had been reluctant to report or take action against the
friends or relatives who invited them to attend Amway meetings under
false pretenses.

Full disclosure is not only a problem in relation to
invitations to attend Amway meetings but the problem of full
disclosure continues throughout the meeting. The typical Amway
meeting contains more hype than information. The format of the
meetings are geared to create excitement and motivation. There is
little room for serious business questions.
Goal Setting

Amway meetings epitomize America's affirmation of the achievement of cultural success goals. Meetings open with an emphasis on "cultural success goals" (Merton, 1968). Goals of a monetary and/or materialistic nature are stressed - a new home, a vacation, a bigger paycheck, a new car, college education for the kids. Questions like the following are always raised and discussed rhetorically: Do you want a new car? A vacation? More time with your family? Do you want to tell your boss to shove it? What do you want that you don't have now? Such questions are then followed by the answers: You can have that extra $100 a week, that extra $1000 a month. You can afford that family vacation you wanted. You can do what you want. You may have to sacrifice a little but you can do it if you really want to - if your goals are really important to you.

Amway's own recommended publication for recruitment entitled A Business Of Your Own (1984) is a glossy eleven page booklet with headline captions and sentences like the following:

Dare To Dream ... What are YOUR dreams? Will they always be "just dreams?" ... The Choice Is Yours ... If you're ready to take charge of your future -- to make your dreams a reality -- then you're ready to take the same step that approximately one million people have already taken. ... It's Your Business ... Count On Us ... Make A Commitment To Your Dreams ... You can do it, too!

Generally, the motivational remarks continue in a meeting for 45 to 50 minutes BEFORE THE WORD AMWAY IS MENTIONED. Interspersed
during this same time frame are the almost ritualistic stories of "How I was introduced to this business" and its variations: "This business is as successful as McDonald's"; "How successful you can be in a short time"; "It's more fulfilling than anything I've ever done before"; or "I'm earning more than I was as a banker, dentist, etc.". After the stage has been set and one's dreams are brought into the forefront, the Amway plan is presented.

"Drawing the Circles"

The most important event at an Amway meeting is "drawing the circles" (presenting Steps 1 through 4 of The Amway Sales and Marketing Plan). This is an opportunity for those who have not seen the plan to be introduced to its intricacies. The actual "drawing of the circles" is intended to visually illustrate to the potential recruit Amway's multilevel marketing concept and its potential for financial remuneration. It is in the "drawing of the circles" that failure to disclose full information about the plan is most evident.

Lack of full disclosure regarding Amway's marketing plan is sustained by practices observed by the researcher. At presentations of the marketing plan copies of The Amway Sales and Marketing Plan were never available. The prospective recruit had to rely on the distributor "drawing the circles" to give the full story. At no meeting observed by the researcher was full disclosure of the plan ever made. No data regarding the fact that only 40% of all Amway distributors on record are "active" or that the average monthly
sales of "active" Amway distributors are only $454 per month was ever provided. The researcher did witness one distributor, with a copy of the Plan in his hand to state as he was presenting examples of potential earnings levels: "The FTC requires us to do this" and he then commenced to give the data shown in the Plan for the average monthly bonuses paid by Amway to its high level distributors - "The average Profit Sharing Bonus earned during fiscal year 1982 was $1,716 ... The average Emerald Bonus earned during fiscal year 1982 was $3,478)" and so on. It was evident to the researcher that such failure to disclose all the relevant information was a highly questionable practice.

At all presentations observed, the stress was on the ease of making the plan work and how big incomes were easily achievable. The importance and ease of duplication was stressed. The Amway Corporation itself used the word duplication in its publication A Business Of Your Own until 1984. Retail selling was something you did with only a "few preferred customers". Yet Amway's career manual makes clear that such an emphasis on sponsoring is unethical: "A distortion of the Plan occurs when a distributor in any way de-emphasizes retail selling, or when he emphasizes sponsoring alone without placing emphasis on retail selling also" (Your Career With Amway, 1983, p. 7-D). However, Amway's own brochure entitled The Amway Sales and Marketing Plan (1984) is a prime example of Amway's own emphasis on sponsoring and de-emphasis on retailing.
The second paragraph in *The Amway Sales and Marketing Plan* (1984) brochure states:

You can begin building your business in any of several ways. You can merchandise products ... You can also sponsor others as distributors and train them to merchandise products. It's not important which you do first, as long as you do both. Merchandising products AND sponsoring others is the way you build a truly successful business.

Paragraph five states:

You earn PV and BV by selling to customers, other distributors, and using the products yourself. And the amount of your Performance Bonus is determined by PV and BV.

Basically these are the only places in the brochure where retail selling of the product is given much attention. The remainder of the sales and marketing plan focuses on sponsoring. In fact, in answer to the question "Why sponsor?" the brochure states: "'Active' distributors who sponsor others experience higher average sales than non-sponsoring distributors in all areas of the business".

Duplication of effort, not increased or increasing retail sales, is the clear message. There is no mention in the *Amway Sales and Marketing Plan* about Amway's requirement that in order to be eligible for a Performance Bonus 70% of the products bought by a distributor each month must be sold and that a sponsoring distributor must make retail sales to at least ten different customers each month. It was because of these Amway rules (the company's 70% requirement, its 10 customer rule, and a buy back
rule) that the FTC held that Amway was not a pyramid operation. However in interviews with distributors and ex-distributors no one from the Amway Corporation or the distributor organizations ever checked on or enforced the rules. No distributor interviewed by the researcher ever had to turn in copies of their sales receipts to show that they had made retail sales even though this is required in Amway's own rules.

One further piece of evidence which shows that Amway's policies and practices sustain an emphasis on sponsoring over selling is the fact that door-to-door selling is discouraged by the Corporation. Traditional direct selling firms, like Avon and Fuller Brush, have relied almost exclusively on the ringing of door bells for their sales volume. Amway however discourages such a practice: "DON'T engage in or encourage random door-to-door canvassing" (Your Career With Amway, 1983, p. 17-E). At the very first meeting attended by the researcher, and in some succeeding ones, it was emphatically stated that "Amway does not encourage people to sell door-to-door. You just sell to preferred customers".

The fact that potential recruits are invited to Amway meetings by friends or relatives coupled with the fact that such recruits usually do not possess enough knowledge about direct selling or Amway to ask informed questions allows the ambiguities in the situation to give rise to deviant and illegal behavior. Potential recruits are required to trust the judgment and ethics of the distributors presenting the plan. Problems arise when the goals of
the distributors are at variance with the goals and expectations of
the potential recruits and the Corporation. Besides the illegal and
deviant practices noted above in regards to recruiting and
sponsoring which occurred in conjunction with meeting activities,
the manner in which the product demonstrations are handled at some
of these meetings is also highly questionable.

**Product Demonstrations**

Generally the product demonstration(s) held at the end of each
Amway meeting involves simple tests showing a given product's
effectiveness or concentration. While the purpose of these
"commercials" is to introduce new products or newcomers to some
Amway products, it is also a time for a sponsor to "train" (by
example) the down-line in attendance on proper techniques for
presentation of the products. At the first meeting witnessed by the
researcher both false information and misrepresentation of the
products took place. While discussing the high quality of Amway
products, the distributor said that Harvard University had done a
study which showed that Amway's products ranked very high in
quality. When pressed by the researcher for the reference to the
study the wife of the distributor responded that it was "somewhere
upstairs among her papers and that she would get it later". Upon
phoning her the next day she said that the information came from her
up-line and she did not possess a copy of the study. The researcher
then contacted the Amway Corporation. After being switched to three
offices in the Corporation, it was confirmed that no such study was ever done by Harvard University. When asked where the distributor might have gotten the misinformation, the Corporate spokesperson replied that "sometimes the distributors get a little carried away." There was no further explanation nor was there any attempt on the part of Amway to identify the source of the misrepresentation. Since it did not appear to be a policy of Amway to rectify the misinformation circulating in its distributor ranks, the researcher assumes that such statements of misinformation continue unabated within the organization. "Successful achievement of organizational goals through unlawful conduct tends to reinforce the occurrence of this behavior, so that what the society defines as illegal may come to be defined in the organization as normative" (Vaughan, 1983, p. 61).

A further deviant action took place during the product demonstration at the first meeting observed by the researcher. The misrepresentation in the product demonstration involved a "test" of different bleach products. Amway's chlorine bleach and its rust stain remover were compared to a non-chlorine bleach product of a major manufacturing concern. Statements like the following were made: "See, the competitor's bleach did not get out the color." (A non-chlorine bleach is not suppose to remove the color). Further disparaging remarks like the competitor's product being filled with additives like peanut shells and baking soda were also made. What was intriguing to the researcher was not so much the questionable
nature of the particular demonstration but the fact that in a subsequent interview with a former Amway distributor, 400 miles away and from another line of sponsorship, the same demonstration was related to the researcher as an example of deviance within the Amway Corporation. Other than the single, blatant instance just cited the researcher found most of the product demonstrations to be fairly unobjectionable.

The importance of meetings to the Amway organization is evident. Meetings provide an opportunity to solidify and motivate a distributor line. It is time set aside by the organization to foster its own growth through (a) appeals to potential recruits and (b) dissemination of information about new products and ways in which to sell those products. Meetings become the focus of attention for individual entrepreneurs (distributors) wishing to succeed in terms defined by Amway (Direct Distributor, Ruby Distributor, Diamond Distributor). Attendance at and the outcome of meetings (increased sponsorship and sales) becomes a measure of performance for a distributor (entrepreneur). If success cannot be assured through legal and normative behavior at these meetings, distributors may manipulate meetings to their advantage. Such manipulations have often resulted in the illegal and deviant practices cited in this study.

In sum, deviant and illegal practices are sustained in the Amway distributor organizations' meetings and presentations of The Amway Sales and Marketing Plan by the following:
1. A reluctance on the part of those invited unknowingly and
deceptively to an Amway meeting to complain because it was a
friend, relative, or acquaintance who extended the invitation.

2. Amway's reward structure which affirms and rewards more
those distributors who choose to sponsor large numbers of other
distributors.

3. Ambiguities and discrepancies in Amway's own rules,
statement, and practices as noted in the above discussion on
meetings.

4. An inability and an apparent unwillingness by Amway to
control and/or correct the actions of their "independent"
distributor workforce numbering into the hundreds of thousands and
spread geographically around the country and the world.

5. The activities and transactions of an Amway business take
place for the most part in private settings which make the
detection of law-violating behaviors difficult. Meetings are held
in private homes or rented rooms closed to the public.

6. An unwritten norm that Amway distributors should not be
negative thinkers prevents questions about policies and ethics in
the organization.

Seminars

In addition to meetings, seminars and rallies sustain Amway's
emphasis on goal achievement. Seminars, also called workshops or
leadership workshops, are generally reserved for "producers" -
distributors who are achieving sales at the 15% level or above (i.e. selling 1,500 PV/$3000 BV in Amway products a month). Seminars are often sponsored by the Amway Corporation itself prior to an evening rally. The November 1984 Amagram featured the following seminar.

All-New Afternoon Program Leadership Workshop

3:00 - 6:00 p.m.
Open to All 15% Producers and Above
Admission: Free to qualified 15% Producers and Above.

A description of the program included the fact that "detailed merchandising and business-building techniques will highlight the session to help you increase your profitability." The researcher was unable to verify either the format or the contents of these Amway seminars. However, it was noted that shortly after this Amway seminar, special meetings with the researcher's line of sponsorship were scheduled and information about new products and the future plans of the Corporation were disseminated to the group.

Distributor organizations can also hold seminars. Information pertaining to distributor sponsored seminars comes from a set of newsletters issued by a Crown level distributorship to its down-line. The material was given to the researcher by a former distributor. In an issue of one of the newsletters dated December 15, 1982 the following is found:

A VERY SPECIAL WEEKEND IN YOUR NEAR FUTURE!! The weekend of Feb. 19th is going to be a very special weekend in your business if you qualify. The ... organization will be having a weekend at the "Barn". To qualify you must be at the 15% level at end of January,
or higher. This is a 15% leadership weekend!!! Yes, the ... group will have the "Barn" to themselves for the whole weekend. Who is going to be there to join us in the jaccuzi, surrounded by windows, while its snowing outside!!!! It's going to be a time long remembered by those who share it. Your Double Diamonds, ... will be in & out the whole weekend and Saturday night they will be doing a leadership meeting just for you!!! COME JOIN US!!! (The Crown Chronicle, p. 2).

Distributors are expected to pay all their own expenses to attend these seminars. While Amway sponsored seminars appear to be held only three to four times a year in different locations around the country, some distributor networks appear to schedule their seminars monthly or every six weeks. One distributor couple interviewed by the researcher complained that to make money in Amway you first had to have some. The couple were at the 15% level but they could not afford to attend seminars like the one advertised above because they could not afford the costs associated with attending i.e. babysitters, transportation, and the like. Their 15% earnings from their Amway business were not sufficient to cover such business expenses.

Rallies

Rallies are best described as large motivational meetings designed to encourage and stimulate distributors in their Amway business efforts. The attendance at Amway sponsored rallies often numbers into the thousands. A rally generally lasts two to three hours. The highlight of the evening is a featured guest speaker, or speakers, who are usually at the Diamond level or above in the Amway
organization. The latest rally attended by the researcher was on Friday, December 14, 1984. The event was held at the Amway Grand Plaza Hotel in Grand Rapids, Michigan and featured Crown level guest speakers from Colorado. The November 1984 issue of the Amagram advertised the event in the following way:

All-New Evening
"Passport to Excellence" Meeting
7:30 - 10:00 p.m.
Open to All Amway Distributors and Prospects
Admission: Advance passes $4.00. Passes at door $5.00.

There were in excess of 2000 people in attendance at this December rally. The format of the rally was similar to that of other rallies attended. A master of ceremonies (another distributor or an Amway Corporation representative) opens the event with miscellaneous facts or stories about successful distributors and the growth of Amway. Then the featured speaker(s) are introduced and enter the stage area amid cheers, applause, and the theme music from Rocky. The guests speak for about an hour delivering what may be termed their variation of "How we got involved in Amway and became successful". In addition, the speakers usually have with them color slides depicting some of their material possessions (homes, boats, cars) and pictures of the places they have travelled (Hawaii, Hong Kong) in conjunction with their Amway business. Interspersed throughout the night may be short promotional films either about new
Amway products or film footage with either DeVos and/or Van Andel encouraging distributors in their efforts.

Rallies, like seminars, are also organized and held by lines of sponsorship (distributor groups). The television program *60 Minutes* took note of one large rally organized by Yager, a Crown level distributor, in Charlotte, North Carolina. The rally promoted by Yager and attended by some 10,000 distributors prompted the television broadcaster to comment:

What are all these people so worked up about? What's going on here that causes 10,000 Amway distributors to behave like teenagers at a rock concert? The people on stage at this rally are Amway distributors who've made it to the top, the ones who've gotten rich climbing the Amway ladder of success. But their main purpose here is to tell these thousands of hopeful Amway distributors in the audience that they can earn six-figure incomes too (CBS News, 1983a, p. 2).

A further explanation and account of these Amway distributor rallies is offered by Kerns (1982) a former Amway distributor who was privy to the internal workings of one of the largest distributor networks in the country. He writes:

It was, indeed, a very interesting evening. Up on stage there was much talk of villas, cruises, expensive cars, banking practices and upcoming events. In the hallways, tables were heaped full of tapes, books and lots of American memorabilia.... Who ever sponsored the event was like any well-schooled promoter. He would make certain that he profited from absolutely everything, if possible, sold at this event. ... The guest speakers for this event were carefully handpicked. The enthusiasm they could generate was hard to believe without witnessing it firsthand.... This always brought a lot of fresh new "success" stories which fueled new excitement.
These special speakers and other members of the Board of the Amway Distributors' Association constitute a small elite private club. You scratch my back, and I'll scratch yours. Some have said that the company frowns on this activity, but its use is widespread. Possibly millions of dollars each year are spent in honorariums to cover the costs of these expensive guests.... Later I was to learn that the cost of these honorariums was a small price to pay in comparison to the enormous profits reaped by the host at these functions (pp. 39-40).

A distributor interviewed on the 60 Minutes broadcast affirms Kerns's findings that distributor rallies benefit those at the top of the organization. For the average distributor rallies constitute an expense with little return.

NANCY JOHNSON: And when you go to these rallies, you have to pay to get in 'em. You have to pay your expenses to get there. You have to get off of your regular work to get there. And that's a lot of money going out just for some motivation to come back in.

WALLACE: Beyond that, people who want to make it in Amway are told to buy the books and tapes and other motivating tools that will teach them how to do it. The market in these items runs into millions of dollars a year, and that cash goes not the Amway Corporation but to the high-level distributors who run these rallies, paid for by the hopeful Amway novices who come to those rallies by the thousands.

NANCY JOHNSON: And then when you get back home and you knock on the door, it's slammed in your face, time you Amway, because people are sick of hearing it.

WALLACE: Why, then, I asked, why do so many people go to work with Amway?

NANCY JOHNSON: And there are plenty of weak people that you can convince them that they can do most anything while you've got 'em under your spell.
The researcher attended a distributor rally in March 1983. The rally, attended by several hundred people, was held in the fieldhouse of a local college. The format was similar to that of Amway sponsored rallies except at this rally an awards ceremony was part of the evening's schedule. Various pins and plaques were presented to distributors who had reached certain achievement levels in the Amway organization. The investigator did not see any books, tapes, or other materials in the hallways although there was an admission charge.

The only event observed by the researcher that came close to matching the events described by Kerns and 60 Minutes occurred at a "products fair" held at a local high school in November 1984. A prior "products fair" sponsored by the researcher's own distributor up-line had been a low key event. The all day event was held in a church basement and open to the public. People were free to come in, examine the Amway products on display, ask questions and leave. Refreshments were available at a nominal charge and the atmosphere was very informal.

At the "products fair" held in November by another distributor line there was a $3.00 entrance charge per person. Along with the Amway products, there were tables with cassette tapes, sign-up sheets for a Tape of the Week Program/Book of the Month Program and
other non-Amway products. At set intervals throughout the day, speakers delivered talks on the various facets of the Amway business. Instead of the informal atmosphere present at the earlier "products fair", attendees at this November event were dressed in suits, ties, and dresses. It appeared to the researcher that this event was somehow more than just a "products fair". It's appearance was more akin to that of a small rally or seminar.

Meetings, seminars, and rallies can serve a legitimate function in a direct selling organization both for the company and for the distributor network. They can be a source of cohesion, motivation, and information. Meetings, seminars, and rallies can also be a source of tension, pressure and profit particularly when left in the hands of enterprising distributors.

When the success goals of an organization are held to be limitless as they are in direct selling organizations - "You can earn as much as you want", "You can reach any level of accomplishment you choose" - and the individual distributor is given license to operate as an entrepreneur (independent contractor), meetings, seminars, and rallies become vehicles or opportunities for the enterprising distributor to secure additional profits and benefits. Enterprising distributors, particularly those in command of large distributor organizations, may adroitly manipulate the constraining forces in their environment in order to ensure additional profits for their organization. It is suggested that some of this adroit manipulation may involve the use of illegal and
deviant behaviors which may victimize potential distributors, other distributors, and the direct selling firm. Evidence exists which supports this latter suggestion.

The Sale of Non-Amway Motivational Material

Motivation is a key factor in sales success. Sales people must be motivated to sell their products and themselves. To this end, the direct sales industry and particularly the Amway Corporation have found it advantageous to "utilize various techniques to motivate individual salespersons to devote efforts to maintaining or increasing their sales volume, including but not limited to, the use of meetings, seminars, rallies, tape recorded communications, newsletters, pamphlets and books" (Cairns, et al. v. Amway Corporation, et al., 1984). As noted earlier in this chapter, the Amway Rules of Conduct do not prohibit the use of non-Amway materials by distributors in their lines of sponsorship.

In 1982 The State of Wisconsin examined the tax returns of the 20,000 Amway distributors in the state and found that "direct distributors who make a gross income on average of over $14,000 wind up losing a thousand dollars after business expenses" (60 Minutes, p. 5). The business expenses of an Amway distributorship include such things as memberships in tape and book clubs, attendance at rallies and meetings, and purchases of both Amway and non-Amway produced materials for use in their business. While the Amway Corporation contends that such items are mostly discretionary
business expenses, there is evidence to indicate that some lines of
sponsorship make such items and their attendant costs mandatory.
Evidence also indicates that the Wisconsin case findings may not be
unique.

In 1982 Congressional hearings were held on the deductibility
of business expenses by self-employed individuals. At these
hearings the Internal Revenue Service presented data which
"illustrate actual situations in which individuals engaged in direct
selling activities have reduced the amount of tax liability shown by
them on their returns by using deductions claimed to arise from
their selling activities to offset wages and other nonbusiness
income" (U.S. Congress. House. Committee on Ways and Means.
Subcommittee on Select Revenue Measures., 1982a, p. 4). As
evidence, composites of 20 tax returns of direct sellers were
provided to the Committee. What is of importance here are two of
the categories of deducted expenses: Tapes & Recorders and Books &
Literature. Of the 20 returns provided to the Committee, 14 had
deductions for Tapes & Recorders ranging from $31 to $1,773 with an
average deduction of $630; thirteen returns indicated deductions for
Books & Literature ranging from a low of $10 to a high of $933 with
an average of $271.

There appears to be hundreds of dollars spent by direct sellers
for tapes, recorders, books, and other literature. The researcher
obtained from one ex-distributor a collection of tapes and books in
excess of 150 items. What the returns do not tell you is who
benefits from the sale of such tapes and literature. Earlier it was suggested that high level distributors profit from the sale of such non-Amway products. Clearer evidence to support this thesis comes from case documents filed in Ohio.

A law suit is now pending in the United States District Court, Southern District of Ohio, against the Amway Corporation, Van Andel, DeVos, some of Amway's largest distributor organizations in the country (the Yager, Britt, Renfrow, et al., lines of sponsorship) and some of the distributor's non-Amway businesses (American Multimedia, Inc., and so). The suit, initiated in 1984 by 79 Amway distributors from a five state region, charges Amway and the co-defendant lines of sponsorship with restraint of trade and corrupt organization. Although the law holds that Amway distributors are independent contractors operating independent businesses, the distributors filing the complaint argue that they were coerced into purchasing motivational materials produced by the defendants.

Each of the Plaintiffs was...coerced to purchase everlarger amounts of Defendants' motivational materials as a condition of continuous maintenance of their lines of sponsorship, or further advancement to higher levels of the Amway distributorship organization. Each plaintiff was further restrained from producing their own motivational materials and aids or purchasing same from third parties (Cairns, et al. v. Amway Corporation, et al., 1984).

In addition to the complaint that the plaintiffs were prevented from selecting, producing or purchasing motivational materials of their own choosing, the plaintiffs claimed that the prices they were forced to pay for these unwanted materials were fixed. "Plaintiffs'
businesses were likewise restrained by the Defendants' practice of controlling the resale price of cassette tapes distributed for motivational purposes" (Cairns, et al. v. Amway Corporation, et al., 1984).

The Ohio case further alleges that the defendants' made false statements and claims when saying their large incomes were the result of the sale of Amway products. The plaintiffs' argue that the "Defendants were not making such profits from the marketing of Amway Products but, in fact, the profits they derived were from the forced and coerced sales of motivational materials" (Cairns, et al. v. Amway Corporation, et al., 1984). One hundred thousand (100,000) cassette tapes were sold by the Yager/Britt/Renfrow organization (defendants) each month at a cost to the ultimate consumer (a distributor) of $3.50. These sales garnered the up-line organizations a gross of $1,400,000 per month. Other documents reveal the fact that "monthly, weekend rallies of 1,000 people at $8.00 per ticket could net $8,000" (Cairns, et al. v. Amway Corporation, et al., 1984). In 1982 one of the distributors in the Yager, Britt, Renfrow, et al. line of sponsorship grossed $59,000 from the sale of Amway products and an additional $500,000 from the sale of non-Amway motivational aids. In essence, each of the Plaintiffs felt they had entered into contracts with Defendant Amway with the understanding that the objective of the Amway distribution system was the marketing of consumer products. In fact, each of the Defendants conspired to pervert the system and established, conducted and participated in enterprises in order to utilize the sale of Amway products as a
facade for the true objective of the system: to foist unwanted and unnecessary motivational materials on unsuspecting business neophytes, aspiring to operate their own businesses (Cairns, et al. v. Amway Corporation, et al., 1984).

Distributors, particularly those with large organizations, have found it useful to use their Amway business as a vehicle to accomplish other goals and to accumulate additional revenues for their own Amway and non-Amway businesses. There is some indication that the coerced sale of non-Amway goods may benefit the high level distributorships as well as DeVos, Van Andel, and the Amway Corporation. The origins of the Yager, Britt, et al., line of sponsorship can be traced to the distributor group originally developed by DeVos and Van Andel -- the Ja-Ri Corporation. Figure 8 traces one line of sponsorship emanating from the Ja-Ri Corporation and the original efforts of Van Andel and DeVos.
DeVos and Van Andel
Ja-Ri Corporation


As noted earlier, the Ja-Ri Corporation is still in existence. Van Andel is Chairman of the Board and DeVos serves as the President of this Corporation. According to the Grand Rapids
telephone directory the Ja-Ri Corporation is headquartered at the
same address as the current Amway Corporation. Ohio case documents
reveal that the:

JA-RI Corporation is a personal holding company for
Messrs. DeVos and Van Andel’s profits from the Amway
Sales and Marketing Plan. Mr. DeVos and Mr. Van Andel
received monetary bonuses through the efforts of all of
the plaintiffs that were taken into the JA-RI
Corporation as the personal holding company, JA-RI
Corporation receives income that does not go through the
Amway Corporation. Plaintiffs’ Exhibit ... shows tapes
and a book that feature Mr. Devos, but are not produced
or sold by the Amway Corporation. Plaintiffs have been
led to believe that these profits are funneled through
the JA-RI Corporation (Cairns, et al. v. Amway

However, in January 1985 the Ja-Ri Corporation was successful
in its motion to be dismissed from the case. The Court ruled:

We find nothing in the record before the Court which
defeats the affidavit submitted by defendant DeVos ...
to the effect that Ja-Ri was wholly uninvolved in and
has not profited from the alleged actions of defendants
pertinent to the manufacture and sale of motivational
materials (Cairns, et al. v. Amway Corporation, et al.,
1985).

While the specific charges that Ja-Ri profited from sale of
non-Amway products in distributor lines are dropped, the
relationships described above still exist. While Amway or Ja-Ri may
not profit from the tapes and books produced and sold by the Yager,
Britt, Renfrow, and other distributor organizations the
relationships between Van Andel, DeVos, the Ja-Ri Corporation, and
the defendant distributor organizations suggests that entrepreneurs
Van Andel and DeVos have taken measures (manipulated the existing
ambiguities and constraints in the structure of their own business
organization) to ensure the survival and the profitability of both the Ja-Ri Corporation and the Amway Corporation. Amway's symbiotic ties to this large network of independent Amway distributors (estimated to be as high as 200,000) through the Ja-Ri Corporation constrains Amway from taking corrective actions against the abuses of its distributors.

In limiting its business contacts to a small segment of the distributors (Direct Distributors and above) and by rewarding those who attain these levels, Amway is able to foster a high degree of loyalty within this segment of the organization. As Direct Distributors achieve higher levels within the organization, their contacts and meetings with Corporate officials and each other increase via meetings of the Diamond Club and other seminars. There is evidence to indicate that as distributors move up the ladder of success in the Amway organization a unique socialization process occurs - distributors "learn" how to be more successful. Case documents reveal:

As the plaintiffs moved up in the organization, some of them reached a level at which they were admitted into the inner circle, at which time the secret of making money through Amway was revealed. What they learned was that the real money was not in soap but rather people - that each person in one's organization could be a source of profit. Each Amway distributor was a potential customer of his upline for motivational cassette tapes and tickets to seminars, rallies, conventions, etc. A carrot and stick approach was used to sell the tapes and tickets. Riches beyond the plaintiffs' wildest dreams were held out as the inducement, and more and more sales of tapes and tickets was claimed to be the key that would unlock the door to the upper levels of Amway. For those who resisted and desired to concentrate on selling soap, the stick was threats to take away one's downline
While it is not clear what Amway's role in the "socialization process" described above was/is, available evidence indicates that Amway was aware of the pressure and coercion used by some distributors to have their down-lines purchase large amounts of non-Amway produced materials. Amway was also aware of the fact that large amounts of such sales of materials without an end consumer was illegal. The data which follows comes primarily from a cassette tape made by DeVos and entitled Directly Speaking produced by the Amway Corporation in January 1983 and made available only to Direct Distributors. On the tape DeVos warns the Direct Distributors about their misconduct and abuses of the business. Because of the nature and length of the tape large sections are quoted to provide exact wordings in order to avoid the possibility of misinterpretation. DeVos states:

Let me talk to you about the legal side, beyond price fixing, that deals with pyramids, that deals with the illegal operation of a business that does not have an end consumer, where the product is not retailed. That would include all books and tapes. The sad new, folks, is that when those thing go out that way and they become excessive, beyond my ten or twenty percent theoretical guideline, ... then it becomes an out and out illegal pyramid (DeVos, 1983).

In an attempt to control the amount of sales and profits made by distributors on their sales of non-Amway tapes, the Amway Corporation moved to allow distributors to accumulate Business Volume (BV) on the cassette tapes purchased directly from the Corporation. This action by the Corporation caused considerable
controversy among some of the distributors. The tape *Directly Speaking* addresses this and other issues.

I'd like to get through some of the kind of negative stuff that's come on my desk, ... I also have a lot of horror stories; stories that must have been swept under the rug or hid behind the curtains, that should have been brought to our attention a long time ago — and I know, in some of the cases, they were brought to our attention, and we did nothing about it; ... Maybe we overlook some thing, maybe we are blind and maybe we swept some things under the rug, too, and thought it would just sort of go away. Only some of these things did not go away; they just got worse. ...  

You know, folks, it's time we got back to the fundamentals of this business. There is no way to put a lot of money in this Plan, other than a very simple one. ... I can show 'em how to get an extra fifty or sixty percent if they'll get out and sell some merchandise. I guess if I'd been told all those years you don't have to sell the product, all you have to do is wholesale it to people, then I guess maybe I wouldn't pay any attention to pricing either. But that's an illegal business. And those of you that preach it and foster it and talk about it are operating illegally. ... The problem is, some of you are trying to figure out how to make a lot of money without getting the volume that you need. ... The Board is, indeed, an organization that represents your viewpoints. It indeed does visit with us on this business. But some of your so-called experts ... don't know, is that for this company to discuss with the Board pricing on any product is a federal offense. It is known as price fixing. And we have a little experience with that and the FTC, by the way, that maybe your leader didn't tell you about or he forgot about it. ...

We didn't start out with BV on tapes ... We put it in by the way, to be a competing force and to draw your attention to the kind of potential abuse that we thought was there, which we now know is there, with a kind of power and pressure I never believed; and I am not going to take all afternoon to read you the horror stories of the people who say, "I'm connected with such and such a system. I have $8,000 worth of their tapes in my basement. They will not take them back," and the others who were told to mortgage their houses, cash in their life insurance, told to go to the bank to borrow because
this big weekend seminar was so important. Well, that's extracting money.

... We ... didn't take it to the Board, by the way, because we didn't really want to put a Board member on the spot. We have Board members who operate pretty big systems. It would have been a kind of embarrassment to put him in the crossfire; (DeVos, 1983).

The tape continues in the same vein on side two. What is most interesting is that while DeVos is acutely aware of the deviance within the distributor organizations he does not suggest that such distributors be terminated. Rather, he expresses some vague hope that things will improve - "I don't know what I'm going to do next. ... I do not wish to control your actions, your day-to-day work; but I don't want anybody else out in the field controlling them for you either. ... I need your help, folks. We must clean it up;..." (DeVos, 1983).

An internal document of the Amway Corporation dated December 1982 addressed to Van Andel reviews the "Distributor Activities Drawing Legal and Media Heat on Amway". This memo details problems Amway is having with the various State's Attorney Generals around the country particularly in New York and Wisconsin. The memo also makes clear that Amway was beginning to feel the pressure because of the illegal and deviant behavior of its distributors.

Because Amway has been blitzed by Canadian provincial authorities, that issue is preoccupying us all. However, that is not the only "war" Amway currently is waging. We're fighting on many fronts--publicly in New York, Wisconsin and with the Federal Trade Commission. All these negatives are part of Amway's file with both reporters and law enforcement authorities at the state and local levels. Assuits upon Amway's credibility stemming from irresponsible activities by some
distributors threaten Amway's key market--the United States. In today's climate, the likelihood of ambitious or merely curious reporters and prosecutors taking aim at Amway is escalating almost daily. It is likely to become an even stronger trend once 60 Minutes profiles Amway activities to this country's largest television audience. Amway currently is not set up to fight a multitude of legal challenges in a variety of states. The harsh fact is that if the number of these challenges increases significantly, Amway is bound to lose some of them. (Cairns, et al. v. Amway Corporation, et al., 1985).

The unique multilevel distributor organization created and maintained by the Amway Corporation evolved into an organization of its own tied to Amway by the symbiotic bonds alluded to earlier (Direct Distributors, the Amway Distributor Associations, and the Ja-Ri Corporation). Constrained by the direct selling structure in achieving the goals desired by some distributor organizations, unlawful and deviant measures were taken by enterprising distributor organizations to obtain their goals. Acting as entrepreneurs these distributors manipulated existing ties and relationships with the Amway Corporation and other distributors in their organization to secure and enhance the profitability of their business(es). These organizational lines of sponsorship modelled their behavior after the actions of Amway itself. DeVos must have been aware of this in saying:

Don't get me wrong. Don't say I said tapes were bad. I have never said tapes were bad, because we sold 'em long before you did. ... Do I have a problem with big meetings and rallies? Lands, no. I was putting on big meetings and rallies before some of you ever got out of your diapers (DeVos, 1983)
The illegal and deviant practices of the Amway Corporation and the distributor organizations were maintained within the organization because (1) both entities profited from the practices; and (2) the deviant practices remained hidden from the authorities and the public for a long period of time. However, upon exposure through legal actions in Canada, Wisconsin, Ohio and other adverse publicity, the Amway Corporation moved to counteract the deviant distributor practices. This supports Vaughan's (1983) view that:

Choice is not simply an output of structure, but a strategic input for the system as a whole. The successful become models for others in their environment who, initially less vulnerable and alienated, now no longer keep to the rules that they once regarded as legitimate. Decisions to use illegitimate methods to achieve desired goals thus feed back into the social structure, effectively maintaining the pattern "unless counteracting mechanisms of social control are called into play" (p. 61).

Internal Organizational Controls

There is some evidence to indicate that the Amway Corporation does try to correct and control some of the more blatant abuses in its distributor organizations. The distributor alluded to earlier (see page 185) who grossed $59,000 from the sale of Amway products and another $500,000 from the sale of motivational aids in 1982 became the subject of disciplinary action by the Amway Corporation in 1983. In June 1983, Amway had obtained affidavits from 16 distributors stating that the distributor in question, Siciliano, used pressure to sell motivational products to his down-line and had engaged in other deviant practices as well. Case documents allege
that the questionable behavior of Siciliano included:

threatening loss of favor, withdrawal of support, interference with achievement levels, and physical intimidations. In addition, Siciliano coerced female down line distributors to engage in sexual acts with him under the guise that such activity was a necessary show of support and loyalty to Siciliano, to their husband's distributors, and to the "Amway" system when, in fact, Siciliano knew that such representations were false (Cairns, et al., v. Amway Corporation, et al., 1984).

On August 15, 1983 the Amway Corporation terminated Siciliano's distributorship due to violations of the Amway Code of Ethics. Siciliano appealed Amway's decision to the Board of the Amway Distributors Association (ADA). The Board of Directors reversed the decision of the Amway Corporation and Siciliano was reinstated as a Direct Distributor subject to undisclosed disciplinary actions. The 1983-84 Board which was responsible for hearing the Siciliano case included: Van Andel, DeVos, Britt who was serving as President, and Yager who was serving as Treasurer. However it must be noted that at the Board meeting where the decision to reinstate Siciliano's distributorship was made DeVos, Van Andel, and Yeager were absent and Britt was present but not able to vote. It is important to note that both Britt and Yager are up-lines of Siciliano (see Figure 8, p. 187). This action by the ADA Board to reinstate Siciliano's distributorship prompted the original complaintants to seek redress in the courts. The suit they filed is the one that has been under discussion -- Cairns, et al. v. Amway Corporation, et al. The case is currently tied up in claims and counterclaims. Defendants Yager
and Britt have each filed counterclaims stating that Siciliano, in conjunction with others, acted without their knowledge or consent.

What is instructive in the foregoing is not so much the particular deviance involved but the relationships and the processes at work between the two organizations - the Corporation and the distributor organization. In the Siciliano case the structural arrangement of the Amway Corporation - the fact that it provides for the Amway Distributor Association Boards to arbitrate distributor problems - prevented the Corporation from taking corrective action. While it is not known why the ADA Board overruled Amway's decision, it is clear that the Board does have the power to alter Corporate decisions if those actions are perceived not to be in the best interests of the Board and/or its members. This symbiotic tie not only benefits the parties but it can also constrain and victimize one organization or the other. Each organization has become so large and powerful in and of itself that mutual survival depends on accommodation -- even accommodation of illegal and deviant behavior. The dilemma for the Amway Corporation is aptly stated by DeVos (1983):

It is our firm belief that unless we clear up our abuses, we won't have to worry about what's next; we won't be here to worry about it. At this point in our history, we will either take charge of this business and operate it correctly, according to the rules and regulations that the Amway Corporation has given you, or we will not deserve to exist. I do not wish to control your actions, your day-to-day work, but I don't want anybody else out in the field controlling them for you either.
Besides the illegal and deviant practices associated with the sale of non-Amway produced motivational material, some distributors have also devised ways to ensure that they achieve profits and certain status levels within the Amway organization. One of the methods for achieving a high volume of business (a high PV/BV level) is to load inventory onto your down-line. At least one distributor group in California appears to be engaged in such an illegal practice.

Inventory Loading: A Pyramid Operation

Characteristically an illegal pyramid scheme involves a payment to a company by a participant for the right to sell a product and "the right to receive in return for recruiting other participants into the program rewards which are unrelated to sales of the product to ultimate users" (In re Amway, 93 F.T.C. 618, p. 715). The FTC investigations of Amway during the 1970's found Amway's multilevel marketing plan to be in conformity with the law and not a pyramid scheme because Amway had argued successfully that it had rules which prevented inventory loading and required distributors to sell products at retail to end consumers. These Amway rules and policies included the following:

1. The sponsoring distributor receives nothing from the pure act of sponsoring.

2. The Amway Corporation has a buy-back rule, which provides that a sponsor "purchase back from any of his personally sponsored
distributors leaving the business, upon his request, any unused, currently marketable Amway products and/or currently marketable Amway literature and sales aids" (*Your Career With Amway*, 1983, p. 22-B).

3. Amway's 70% rule was also found by the FTC to prevent inventory loading and to encourage the sale of products. The rule states: "A distributor must sell at wholesale and/or retail at least 70% of the total amount of products he bought during a given month in order to receive the Performance Bonus due on all the products he bought; if he fails to sell at least 70%, then his sponsor may pay that percentage of Performance Bonus measured by the amount of products actually sold, rather than the amount of products purchased" (*Your Career With Amway*, 1983, p. 21-B).

4. The 10-customer rule was also held by the FTC to be a rule which encouraged selling rather than sponsoring. The rule requires that in order to remain a sponsor a distributor must "continue to make not less than one sale AT RETAIL TO EACH of 10 different customers each month and produce proof of such sales to his sponsor and Direct Distributor in order to retain the right to earn a Performance Bonus on the volume of products sold by him to his sponsored distributors during that month" (*Your Career With Amway*, 1983, p. 22-B).

While the FTC investigations in the 1970's may have found the Amway Corporation adhering to the rules and policies cited above, there is evidence to suggest that compliance with such rules is no
longer the norm. In interviews with Amway distributors who had sponsored others, the researcher asked the distributors if they had ever been asked to turn in copies of receipts to their Direct Distributor. No one ever had. At the meetings attended by the researcher there was never any mention of sales receipts, the sending in of sales receipts, or a 70% rule. It was stressed however that Amway will buy back unused products. Evidence exists to show that inventory loading is occurring within some distributor organizations.

In California Amway distributors, the Bartletts, have filed suit in California against their up-line sponsors, the Patterson's, and other distributors, the Amway Corporation and three of Amway's officers: Van Andel, DeVos and Mix. The Plaintiffs are charging among other things: breach of contract, fraud, deceit, conspiracy, infliction of emotional distress, interference with prospective economic advantage, and racketeering.

Case documents show that the Bartlett's joined the Amway organization under the sponsorship of the Patterson's in January, 1979. Between January, 1979 and February, 1983 the Bartlett's purchased approximately $50,000 of Amway products believing that: (a) this action would help them realize their goal of financial success by becoming a Direct Distributor; and (b) that if such actions were not successful that Amway, according to its own statements and policies would repurchase the unsold stock worth about $20,000. The Bartlett's claim that they took this action
around March, 1980, when their own group consisted of 20 distributors, because the Patterson's

advised Plaintiffs that there was a shortcut to success, that it was sure and certain, and that Plaintiffs should take advantage of it by the expedient of buying enough Amway products to qualify as "Direct Distributors", ignoring the fact that Plaintiffs' then-existing Amway sales organization could not reasonably be expected to market such a quantity of products. Plaintiffs were told by Defendants THE PATTERSONS ... that Plaintiffs ... owed a duty of loyalty to the persons they had recruited to act in the best interests of such persons by taking such steps as might be necessary to become Direct Distributors immediately (Bartlett v. Patterson, et al., 1985).

The Bartletts were "sworn to and honored a secrecy regarding the true method by which they had become Direct Distributors; they recopied in their own handwriting and submitted reports prepared for them by The Pattersons" (Bartlett v. Patterson, et al., 1985). In 1981 the Bartletts learned that other distributors sponsored by the Pattersons had also been made Direct Distributors in the same manner i.e. they had ""purchased" their distributorships by buying large quantities of Amway products" (Bartlett v. Patterson, et al., 1985).

Around June, 1982, the Plaintiffs notified the Pattersons that "they had come to realize the folly of "buying" their Direct Distributor status" (Bartlett v. Patterson, et al., 1985). At this point in time the Bartlett organization was still viable and the Plaintiffs hoped that future sales to their organization would reduce their inventory stock. However concerned about the Bartletts' misgivings, the Pattersons informed the distributors in

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the Bartlett line of sponsorship that they should now do business with the them (Pattersons). Some of the distributors in the Bartlett organization complied with the Patterson request. The Bartletts argue that this action by the Pattersons was maliciously done and that it damaged their business.

In February 1983 the Bartletts requested the defendants to repurchase the inventory as they planned to leave the Amway business. During the summer, around July 29, 1983, the defendants, including the Amway Corporation, "refused, and have continued to refuse, to repurchase from Plaintiffs at full purchase price said remaining products sold by Amway Corp. to Plaintiffs for resale" (Bartlett v. Patterson, et al., 1985). The case is still pending.

While the heart of the case revolves around the question of inventory loading, other actions revealed in the case documents are similar to other illegal and deviant activity already cited: i.e., conspicuous displays of wealth calculated to show other distributors that financial success is achievable through Amway; coercion, or pressure, to purchase unwanted goods; and threats to a distributor's Amway business if the distributor fails to cooperate with an up-line sponsor.

This California case illustrates the point that pressures to obtain organizational goals which cannot be achieved through normative channels may result in illegal and deviant conduct on the part of the organization. The Pattersons' goal of achieving a higher rank in the Amway distributor organization was dependent
upon their successful sponsorship of a number of Direct Distributors. Finding that those they sponsored were not achieving this level, pressure was exerted upon these down-line distributors to "buy" their Direct Distributor status. The potential for victimizing a down-line may be inherent in multilevel organizations particularly when the direct selling corporation does not enforce its own rules.

Discussion

The entrepreneurs of the Amway Corporation, perhaps unwittingly, created an organizational structure which evolved into two powerful, symbiotic organizations. The survival of the Corporation and the distributor organizations are now dependent upon and constrained by the other. The Amway Corporation is constrained in its ability to garner desired profits because of the amount of money it must allow for distributor incentives and the fact that distributors are more inclined to sponsor rather than sell (retail). Corporate profit levels are also constrained by the legal "wars" it must wage because of the illegal and deviant behavior of some of its distributors. Corporate profits can also be constrained by legal changes, e.g., custom laws. Finally, the Corporation can be constrained in its decisions regarding distributors by actions of the Boards of the Amway Distributors Associations.
The distributor organizations are dependent upon the Amway Corporation for products and visibility (through advertising). The distributors actions are constrained by Amway's Code of Ethics and Rules of Conduct. Distributors are also under pressure by the corporation and its top distributor organizations to sell more and recruit more. Additional sales and recruits however are constrained by uncontrollable external social and market conditions.

Structural constraints impede the efforts of both entrepreneurial organizations (the corporation and the distributor organizations) in obtaining their goals. As a consequence, each organization adroitly manipulates, often in an illegal and deviant manner, its constraints in order to ensure its success. When the goals of the corporation and the distributor organizations coincide, as they do in recruitment and sponsoring efforts, then accommodation and tacit support by the corporation for the successful but illegal and deviant practices of the distributor organizations may occur. When the goals of the corporation and the distributor organizations conflict, as they do in sales of non-Amway goods, some attempt may be made by the corporation to control such activities but the structure of the Amway organization is such that real enforcement efforts by the corporation would threaten the survival of the total enterprise. The independent contractor status of distributors, the sheer numbers of distributors involved, and Amway's policies which allow distributors to produce their own materials, combine to make such questionable practices normative. Illegal and deviant behavior
exists in the organization because it benefits either directly or indirectly each organization.
CHAPTER VIII

ENVIRONMENTAL INTERACTIONS

Researchers (Clinard et al., 1979; Clinard and Yeager, 1980; Cole, 1959; Geis, 1967; Hughes, 1980; Kramer, 1982a; and Vaughan, 1983) have noted that organizations cannot be studied apart from their environment. "Corporate decisions and actions are shaped significantly by the environment in which the organization exists" (Kramer, 1982a, p. 87). "The relations to entrepreneurial performance of economic, political, and social forces external to individual enterprises are manifold" (Cole, 1959, p. 19). The success of an entrepreneurial organization is dependent upon its ability to order the constraining factors in its environment (Hughes, 1980).

Believing that the environment in which a corporation conducts its business does influence the behavior of that organization, a question for exploration becomes: Are there systematic patterns of interaction between a direct selling organization and other organizations and institutions in its environment which are aimed at enhancing the goals of the direct selling organization?

An organization's environment consists of political (including legal), economic, and social factors which can constrain the success of the organization. Laws or changes in laws, competition, and changing demographics can affect an organization's ability to obtain
its goals. It is important to organizations, particularly profit making enterprises, to have an environment conducive to their continued success. One of the primary factors ensuring continued success is environmental stability. Corporations prefer stable environments over unstable and changing environments, even though some of the factors in a stable environment may not be to their liking. One of the primary mechanisms used by corporations in American society to affect change or help maintain the status quo in their environment is the formation of trade associations.

Trade associations unify the goals of similar albeit competing firms and represent to the public and to government the importance of their industry in the American economy. Trade associations also lobby Congress, the regulatory agencies, and work with many state and local organizations to ensure the acceptance, role, and profitability of their member firms. Most of the major direct selling firms in the United States have united their efforts to ensure a stable environment in the Direct Selling Association and the Direct Selling Educational Foundation.

The Direct Selling Association

The Direct Selling Association (DSA) is a national trade association headquartered in Washington, D.C. It represents over 100 of the nation's leading firms "which manufacture and distribute goods and services marketed directly to consumers by independent salespeople using the party-plan or person-to-person methods"
Not all direct selling firms are members of the Direct Selling Association. Tupperware is not a DSA member. Of the estimated 1000 direct selling companies in the United States only 115 of them were members of the Direct Selling Association in December 1983.

The Direct Selling Association traces its industry heritage to the founding of the Agents Credit Association in Binghamton, New York in 1910. There were ten original members of this Association including the California Perfume Company now known as Avon. The original purpose of the Association was to deal with matters relating to the financial transactions of direct sales such as credit, collection of monies, extended credit, and cash payments upon delivery of the goods. In 1920 in an effort to attract new members into the organization and to counteract an apparently negative or constraining climate, the organization declared its purpose:

1. To protect against unjust taxation, license fees or other illegal restraint or interference with their business.
2. Co-operation, promotion, and protection of the business interests of our members.
3. To prevent and discourage misleading advertising and all dishonest practices in the agency and mail order field.
4. To assist in the enactment and enforcement of laws, which in their operation shall deal justly with the rights of the Agency Houses and consumers.
5. To promote confidence between the Consumers and the agency Houses in our Association.
6. To foster and promote good will among our members (Direct Selling Takes a New Direction, n.d., pp. 5-6).

Between the years 1910 and 1969 the Association went through a series of organizational and name changes. In 1969 the organization
took its final name - The Direct Selling Association with its stated goals to be:

1. Serving the public interest while promoting, maintaining and protecting the opportunity for direct selling firms to market their goods and services.

2. Promoting entrepreneurship and income-earning opportunities within direct selling for all Americans.

3. Increasing professionalism and expertise among the corporate and field management people and to help members to maximize their potential in the market place.

A clearer picture of how the DSA translates these goals into practice can be seen from its statement of purpose. According to its own publications the primary purpose of the Direct Selling Association is:

to promote the direct selling method of marketing. It lobbies on the federal, state and local levels to protect the industry from unreasonable restrictions, and to support fair and effective consumer protection legislation. In addition to lobbying efforts and consumer protection activities, DSA has an ongoing media relations program which promotes the industry's unlimited and diversified income-earning opportunities. DSA also works closely with allied groups which share its interest in the continuation of free enterprise and high ethical standards in the marketplace (Direct Selling Association & Direct Selling Educational Foundation, n.d.).

The functions of the Direct Selling Association are carried out by a committee structure. Nine separate committees concentrate on specific areas including: government affairs, finance, international affairs, long-range planning, public relations, and
member services. The work of these committees is accomplished by executives from the member companies who volunteer their time and talent to work along with the Association’s staff to plan and carry out specific programs. The DSA headquarters is staffed by a director and other assistants. An elected, twenty-eight member voluntary Board of Directors is ultimately responsible for all the Association’s activities. Financial support for the DSA comes from dues paid by the member companies and contributions from independent direct salespersons.

The Direct Selling Education Foundation

In 1973 the Direct Selling Association established a legally independent non-profit organization called the Direct Selling Education Foundation (DSEF). The stated objectives of this Foundation are to "serve the public interest in the marketplace through educational, informational and research activities. DSEF programs also help create acceptance of and appreciation for direct selling's contribution to the American economy" (Direct Selling Association & Direct Selling Education Foundation, n.d.). The DSEF is funded through voluntary contributions by direct selling companies and independent direct selling salespeople.

Together the Direct Selling Association and the Direct Selling Education Foundation work to influence various institutions and organizations. The intent of the DSA and the DSEF is to create an environment favorable to direct selling. Justification for this
effort by the DSA and the DSEF comes from their own research data which revealed structural constraints impeding the success of the industry. The survey data revealed:

Consumers' lack of clarity about -- and lack of appreciation of -- the industry's image or prospective buying advantages.

Generally negative views about the generic direct selling idea which heighten resistance to sales calls and buying this way.

Growing consumer unavailability for sales calls -- today's hectic schedules and "empty neighborhoods" with more and more people not home during the day.

The persistence of some poor consumer experience with the salespeople -- overly aggressive, capitalizing on friendships or selling business opportunities or premiums rather than merchandise and delivery system advantages, lack of motivation and effort on the salesman's part, substituting transitory contact for true salesmanship (The Direct Selling Education Foundation, 1982a, p. 5).

Structural barriers, like those noted above, pose threats to the growth and the survival of the direct selling method of distribution. Direct selling accounts for only about 4% of the total retail sales in the United States. It is imperative that in order to maintain even this small, but very profitable, segment of the market much work will be required to sustain an environment conducive to direct selling. As one author put it

Door-to-door and at-home party selling, at one time major sales methods for the cosmetics industry, have been brought up short -- fewer and fewer customers are at home. Moreover, many of the women who formed the backbone of the sales forces have found greener pastures for their services (McGuire, 1984, p. 27).
The challenge to the direct selling industry is to survive in a climate that is rapidly changing. Additional pressures on direct selling have come from adverse publicity surrounding pyramid schemes; attempts to change the independent contractor status of direct sellers by the Internal Revenue Service (IRS); Congressional and IRS attempts to ensure more compliance with the tax laws by independent contractors, and attempts to ensure proper disclosure in the recruiting practices of some direct selling organizations.

It is instructive to examine some of the ways in which the DSA was, or tried to be, influential in preserving or creating a legal, economic, and political climate conducive to the successful operation of direct selling organizations. Data for this section is drawn from the Congressional Information Service (CIS) which indexes all Congressional hearings, reports, and documents. All of the documents, since 1970, which contained testimony from the Direct Selling Association or from the Amway Corporation were examined.

Interactions Influencing the Political/Legal Environment

Interactions with Congress

Antipyramid Legislation

Multilevel marketing plans became prevalent in the United States during the 1960's and early 1970's. Several new direct selling companies, particularly the Amway Corporation, entered the market and became an overnight success. At the same time, other
multilevel programs like Koscot, Dare To Be Great, and Holiday Magic, were found by authorities to be little more than thinly
disguised pyramid schemes which bilked the American public out of an
estimated $300 million by 1974 (U.S. Congress. Senate. Committee on
Commerce., 1974). While several states had laws banning the
operation of pyramid schemes, there were no federal laws protecting
the public against such practices. On June 4, 1973 Senator Mondale
proposed a bill to prohibit pyramid sale transactions.

Senate hearings on the bill were held on July 10, 1974. The
bill received widespread support from all sectors of the society
including business and industry. Records indicate that the Direct
Selling Association supplied Mondale's "staff with all information
requested and that which we also thought would be helpful in finding
64). The final proposed bill however was not exactly to the DSA's
liking. The DSA wanted some changes to clarify what they deemed
potentially ambiguous statements which they felt could damage
legitimate multilevel direct sellers.

In response to a request by the Senate Committee to review the
bill and the recommended changes, the Department of Justice replied
that modifications should not be made. Specifically, the Department
felt that the suggested revisions offered by the Direct Selling
Association "would seem to reduce the effectiveness of the bill in
its present form" (U.S. Congress. Senate. Committee on Commerce.,
1974 p. 10). While it was in the best interests of direct sellers
to have some sort of antipyramid legislation passed, they were
cognizant of the fact that problems would surface around the issue
of recruitment. The newly established and very profitable
multilevel direct selling firms would be especially vulnerable. As
Brouse, President of the Direct Selling Association, testified:

   The name of the game, however, is recruiting. ... they will earn money based not only on their own sales, but some override on the sales of other people as they go up the management ladder. ... The problem is, of course in the distinction of recruiting of salespeople verses the recruiting of investment (U.S. Congress. Senate. Committee on Commerce., 1974, p. 65).

By 1978 the proposed antipyramid legislation found its way to
the House Judiciary Committee hearings on Legislation To Revise And
Recodify Federal Criminal Laws. On February 28, 1978, Offen,
representing the Direct Selling Association before the House
Committee urged passage of the legislation in order to clarify
present ambiguities surrounding definitions of pyramid schemes. The
issue was particularly salient to the DSA at this point in time
because the FTC was in the process of examining the structure of the
Amway Corporation to determine if it was a pyramid scheme. In his
testimony, Offen declared:

   The FTC is contending that Amway Corp., which is one of my member firms and a leading firm at that, is structured as a pyramid scheme. There are some antitrust allegations, as well, in the complaint. But, the whole theory as espoused by the Commission, has been one that shows a lack of understanding there. ... here is where you're bringing up the distinctions between a legitimate multilevel company like Nutrilite, like Mary Kay Cosmetics ... which are clearly distinguishable from the pyramid scheme in that the profits that will be derived are not through the movement of inventory, but
rather have to be related to the ultimate sale to the ultimate consumers of the product.

Now, we do have problems with the subdistributorship type arrangement. If it cannot be documented, if a company cannot document that the profits that will come to the people involved primarily — not "exclusively," but primarily — come from sales to the ultimate consumers, then we say there's something wrong with it (U.S. Congress. House. Committee on the Judiciary., 1978, pp. 395-396).

To the DSA's satisfaction the antipyramid legislation was finally passed. Further, the FTC found the structure of the Amway Corporation not to be a pyramid operation. The DSA's efforts to distinguish multilevel direct selling structures from pyramid schemes was successful.

Franchise legislation

In 1977 direct sellers were again able to separate themselves from certain marketplace abuses. This time Congressional hearings were taking place regarding abuses associated with the practice of franchising. The Direct Selling Association appeared before a House Committee to clarify for the Committee the differences between franchising and direct selling and to ensure that this separation was maintained.

DSA believes that H.R. 5016 is not meant to cover direct sellers and in fact does not do so. However, because we know that the bill will be used as a model piece of legislation in the States, because we fear misinterpretations of this legislation, we respectfully request the following exemption language be added . . . With the addition of this language, there cannot be any doubt that the 4.5 million relationships found in direct sales per year, will not be burdened by a layer of regulatory or legislative requirements (U.S. Congress.
Interactions with Regulatory Agencies

The direct selling industry, like other industries, is subject to regulation by the independent regulatory agencies - the Federal Trade Commission, the Food and Drug Administration, the Securities and Exchange Commission, and so on. In 1975 and in 1976 the House of Representatives held hearings on the Regulations Of Various Federal Regulatory Agencies And Their Effect On Small Business. On April 6, 1976, individuals representing the Chamber of Commerce’s FTC Issues Working Group appeared before the House Committee. This voluntary working group of the U.S. Chamber of Commerce was formed in September 1975 for the purpose of monitoring activities relating to the FTC. The group, comprised of about 270 businesspersons, association representatives (including the Direct Selling Association), and attorneys, also serves as a clearinghouse for information on the FTC. In addition, the Chamber group analyzes proposed trade regulations and assesses the potential impact for the regulated industry and business as a whole.

Testifying on behalf of the Chamber group, Offen, also associated with the Direct Selling Association, and two other gentlemen, Joseph and White, presented arguments against the Federal Trade Commission’s expanded rule-making authority provided for under the Magnuson-Moss FTC Improvement Act. Specifically, Offen
testified against the FTC's proposal to formulate Trade Regulation Rules Embodying Case Law Principles. He argued:

we wish to express our general concern with the potential for misdirection inherent in the Commission's codification project, to identify several areas particularly susceptible to problems and to indicate our intent to work constructively in cooperation with the Commission while at the same time to carefully monitor Commission proposals and to take whatever steps are necessary to protect our individual and constituent interests (U.S. Congress. House. Committee on Small Business. Subcommittee on Activities of Regulatory Agencies., 1976a, p. 115).

In a later statement, Offen illustrated for the Committee the inherent danger he saw in the FTC attempts to establish Trade Regulations.

In the protein supplement proposal, the Federal Trade Commission would require that the consumer be told that, in effect, the product offered for sale is unnecessary for most Americans. The FTC cites the Public Health Service as the source of this information. Of concern to business: The expansion of this concept beyond the health area and into consumer goods and services.

The theory is that people must be told of all negatives associated with the product. However, there is a great controversy over whether or not the Public Health Service data is accurate and, yet, the Federal Trade Commission will have the power to basically require protein supplements to be labeled as unnecessary for most Americans.

Of course, the effect on the seller with that type of label would be disastrous and the question is whether the FTC has the expertise to pass judgment in this area. This is an attempt by the Commission to stretch their authority which they view as a congressional mandate to protect consumers and to promote competition (U.S. Congress. House. Committee on Small Business. Subcommittee on Activities of Regulatory Agencies., 1976a, p. 120).
White's testimony also addressed the FTC's rulemaking authority. He argued that the FTC now held the power to change the nature of entire industries. He declared:

The FTC was originally intended to be a "cease and desist" agency. But under rulemaking, it may apparently order any affirmative or negative action it wishes to obviate the practice it deems unfair. Indeed, it may alter the very structure of an industry. The FTC is today the second most powerful legislative body in the United States (U.S. Congress. House. Committee on Small Business. Subcommittee on Activities of Regulatory Agencies., 1976a, p. 124).

It is evident that business and industry were not pleased with the rulemaking and enforcement activities of the Federal Trade Commission. For the Direct Selling Association and the other business associations, what is at stake in the controversy surrounding the enforcement and rulemaking activities of the FTC is the concept of unfairness and who should be able to determine or define it. The consumer movement of the 1960's and 1970's had altered significantly definitions of what is fair and unfair in business. Business and industry, caught off guard with this shift in policy and definition, reacted by appealing to Congress to limit the powers of the regulatory commissions.

"Cooling-Off" Legislation

During the 1960's consumers began to complain about the high pressure tactics used by salesmen in soliciting sales. By the mid-1970's several states and the FTC had reacted to these complaints by passing "cooling off" legislation. Under the "cooling-off" rule
customers making a purchase in excess of $25, in a location other than a business establishment, were to be given a printed notice advising them that they had three business days in which to cancel the sale. When the Federal Trade Commission finally issued its "cooling-off" rule, the direct selling firms found themselves embroiled in a controversy between the states and the FTC regarding the FTC's preemptive authority.

In 1976 before the House Committee on Small Business, Offen, Senior Vice President and General Counsel of the Direct Selling Association, complained that the states were not recognizing the authority of the FTC to preempt their state statutes. "When the State is asked can we print the FTC rule, they say, no, you have to print ours and when the FTC is asked, they say, you have to print the Federal rule. And if we print the two, you have a composite banned by both" (U.S. Congress. House. Committee on Small Business. Subcommittee on Activities of Regulatory Agencies., 1976, p. 131—132). The debate between the direct selling industry and the FTC continued to rage.

In 1977 the DSA again returned to Congress and argued for clear directives from Congress regarding the controversy between their industry and the FTC. Offen, now President of the Direct Selling Association, appeared before a House Subcommittee on Consumer Protection and Finance, and asked:

My question to you today is: Has the Commission, through its striking down of an act of Congress, come one step closer to being equal to the first most powerful body? Am I seeing a precedent that is so
narrow as to not be a precedent at all or is the second advisory opinion only a degree away from a more sweeping expression of the FTC's perception of its power? (U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Consumer Protection and Finance., 1977a, p. 301).

Offen also argued that the direct selling industry would like to see an alternative to the present "cooling-off" rule. He proposed that direct selling companies offering a money-back guarantee be allowed to print that guarantee in lieu of the FTC "cooling-off" notice. Before ending his statements during this hearing in 1977, Offen again raised the issue of the FTC's ability to set regulations for an industry and Congress's willingness to allow this to happen.

Another area that concerns us is, is that there is becoming a blur between a remedial provision and a substantial violation of the FTC Act? ... It may be necessary for a totally fraudulent operation and the Commission may be acting properly by ordering a punitive remedy ... but to take that order and mail it to a whole industry involved and hold them to their remedial provision rather than the substantive violations, I think unfair and that it will have to be litigated. It is unfortunate these issues will have to be litigated rather than answered through provision of greater guidance by the Congress and the Commission (U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Consumer Protection and Finance., 1977a, pp. 314-315).

It is evident that the direct selling industry was in conflict with changes occurring in its environment. Decisions and actions by the FTC exerted pressure on the direct selling industry and impeded some of its standard operating practices. The direct selling industry felt that the FTC's rulemaking authority created undue pressures for organizations within their industry which were not in
violation of the law. The industry was also angry about the constraints and ambiguity surrounding the "cooling off" rules. The constraints imposed by the FTC's actions and legislation were deemed costly in terms of businesses expenses (additional printing costs for the "cooling off" notices) and/or costly in terms of lost sales (consumers might not purchase products which contained warning labels).

Interactions Influencing the Economic Environment

Stable economic environments, like stable legal environments, are preferred by corporations. An organization operates on the assumption that there is some degree of predictability and consistency in its environment. Without some stability and predictability, organizations can not successfully plan for their future. During the 1970's the Direct Selling Association felt that their business interests were being harmed because of contradictory and ambiguous policies of the federal government.

As noted in the section above the direct selling industry felt that they were being subjected to conflicting and costly directives from the Federal Trade Commission. In addition to the pressures of the FTC, the direct selling industry felt that they were under additional pressures because of actions by the Internal Revenue Service to alter the tax status of the independent contractor. These things taken together, the DSA argued created "at best, massive uncertainty for our small companies" (U.S. Congress. House.
The proposed changes in the independent contractor status was viewed by the direct selling industry as a clear threat to its survival.

**Independent Contractor Status**

One of the factors which makes direct selling so profitable is the fact that the sales force is comprised of independent contractors for whom the direct selling company does little.

Direct sales companies are cheaper to run than conventional, mass-merchandising firms. Because distributors are independent contractors, the companies pay nothing beyond a complex system of commissions under which distributors receive a set mark-up and commission on their own sales and a small percentage ... of the sales of people whom they bring into the company. ... There are no retirement or insurance plans, no unions, and little paperwork (for taxes) ("Why startups," 1982, p. 79).

Since the 1960's, however, the status of independent contractors has come under increased questioning by the Internal Revenue Service (IRS). As a consequence many industries, including the trucking industry, direct selling, insurance, and real estate, are finding themselves a target of enforcement and/or embroiled in controversy with the IRS over attempts to change the status of their workers.

The issue became salient to the direct selling industry when the Internal Revenue Service tried to force a change of status for the sales force associated with the direct selling firm Queen's-Way to Fashion, Inc. (later renamed Aparcor, Inc.). The case eventually found its way to the U.S. Court of Claims where the Court...
ruled in favor of the direct selling company. Another case involving a direct selling company, Beeline Fashions, Inc., was also settled favorably in the interests of the company. Although these individual direct selling firms won their cases, the direct selling industry does not feel secure as other events occurred which made the issue more complex.

At issue is not only a clear definition of "independent contractor" but also the independent contractor's compliance with the tax code. A study done by the Internal Revenue Service in 1978 showed that tax compliance among independent contractors was low. Only about 53% of the independent contractors reported their compensation for income tax purposes, and only about 28% paid any social security taxes. It was estimated that the Treasury is losing upwards of one billion dollars a year in revenues through noncompliance. To stem this abuse, proposals to clarify the status of the independent contractor and proposals to recommend withholding tax for independent contractors have been introduced.

The Direct Selling Association was quick to react to this altered climate. The DSA refuted the data presented in the Internal Revenue Service's 1978 study by offering the results of its own commissioned study. On September 17, 1979 in hearings before the Senate Subcommittee on Taxation and Debt Management Generally, the Direct Selling Association argued that:

The economic viability of the direct selling industry requires certainty in defining the status of independent contractors. Continuation of the uncertainty which has permeated this issue since 1975 can only dampen growth
and innovation by existing companies and hinder the entry of new firms, thereby also foregoing income earning opportunities for direct salesperson. The significance of this issue is illustrated by the consequences if direct salespersons were to become employees: up to two-thirds of the direct sales force would be eliminated with a serious contraction in industry sales and profits. The benefits of providing definitive criteria to assure certainty (as in S. 736 and H.R. 3245) will not be accompanied by a shift of persons from employee status to that of independent contractor.

The proposal to extend tax withholding to independent contractors should not be adopted. This proposal, constituting a major tax change, emanates directly from a recent Internal Revenue Service study of tax compliance of independent contractors. The study's sample is not representative of independent contractors, nor can conclusions be drawn from this study concerning tax compliance of direct salespersons. Because of its many limitations, the IRS study should not serve as the basis for introducing a fundamental tax change.

Tax withholding would have serious economic ramifications for the direct selling industry. Reduced sales and profits would be incurred due to salesperson terminations because of tax withholding and as the costs of recruiting new salespersons increases. In addition, the industry would bear costs for administering a tax withholding system -- estimated to be $10 million for start-up alone and $70 million annually for continuing costs. Small firms in particular would be adversely impacted (U.S. Congress. Senate. Committee on Finance. Subcommittee on Taxation and Debt Management Generally., 1979, pp. 213-214).

Debate over the independent contractor status and the issue of noncompliance in tax matters by the independent contractors continued well into 1982 when further hearings on the issues were held. Involved in testimony this time for the direct selling industry was the DSA's Vice Chairman, Barber who was also the Vice President and General Counsel of Mary Kay Cosmetics, Inc. Van Andel and DeVos, representing the Amway Corporation, also made an
appearance before the Congressional Committee on these issues. All three men offered support for the proposed definitions of independent contractor but continued to argue against some of the proposals for increasing tax compliance.

Tax Deductions for Direct Sellers

In the mid-1970’s Congress began hearings on tax reform measures which would "improve the equity of our tax system at all income levels" (U.S. Congress. Senate. Committee on Finance., 1976a, p. 11). As part of the reform package, measures were proposed to limit the number of deductions professionals and independent contractors could take. Of particular concern to the Congress was the home office deduction. The Internal Revenue Service felt that too many individuals were converting ordinary living expenses into business deductions under this home office rule. The direct selling industry saw this proposed change in the tax code as an immediate threat to its profitability and survival. The homes of the individual direct sellers (independent contractors) were their sole places of business.

On April 7, 1976 the Direct Selling Association reacted to the proposed tax law changes by sending its president, Brouse, and its Senior vice-president and general counsel, Offen, to testify before the U.S. Senate Committee on Finance. In stating the DSA's position concerning the home office deductions, Brouse argued:

Frankly, we have no objection to denying a deduction for such expenses, but in drafting language to curb those
deductions, that authors, inadvertently, I think, infringed on the rights of salespeople, whose homes are the sole fixed location of their business and who need the deductions in order to make a profit and compete effectively in the marketplace (U.S. Congress. Senate. Committee on Finance., 1976b, p. 2124).

Offen summed up the direct selling industry's position regarding the proposed tax changes when he declared "we are asking for the status quo under present law" (U.S. Congress. Senate. Committee on Finance., 1976b, p. 2127).

The issue of tax deductions for direct sellers surfaced again in 1982. The precipitating cause for concern this time was the fact that it appeared that large numbers of people were being recruited into the ranks of direct selling because of its alleged tax advantages. In March of 1980 a former Internal Revenue Service agent (who was also at the time an Amway Distributor), by the name of Fields, presented a tax seminar to a group of direct sellers where he offered the following advice:

"I'm going to go into the areas of expenses that are different. I'm talking about the areas where you're already spending money, expenses you already have and converting those personal expenses into business tax deductions . . . A quiet business meal does not need to have business before or after. What a quiet meal is is when you sit down with someone over lunch or dinner and you say -- "Tell me, are you happy doing what you're doing?" "Are you looking for something else?" That is having a quiet business meal and you can take the deduction for that meal including your own expenses . . . If you give them something from this business that is a business gift and you can deduct $25.00 of it. Give out 10 Christmas gifts $250.00 tax deduction . . . An important area in getting large tax deductions, if you remember in the beginning I said I was going to show you an area where you can save $8,000, $5,000 and $6,000 in just the one area is the area of income transfer. Through this business in the form of salary you can
transfer legally to each of your children . . . $3,800 in the form of salary . . . Even a three year old can stock shelves (U.S. Congress. House. Committee on Ways and means. Subcommittee on Select Revenue Measures., 1982a, pp. 68-72).

The record indicates that Fields' seminar presentation was apparently taped by an unknown party and in the course of the next two years was subsequently reproduced, and distributed with the name of Amway on its label. From March 1980 until probably 1982, the tape found its way into the hands of several hundred distributors and direct sellers who were using it for recruiting purposes. With the issue of tax compliance still on its mind and following the Internal Revenue Service investigations into the returns of some direct sellers, the House Committee on Ways and Means began hearings on some of these tax abuses in the Spring of 1982. In testimony given by Egger, the Commissioner of the Internal Revenue Service, some of the problems (with direct selling) were detailed. Egger stated:

The returns reviewed to date have several common characteristics. Typically, the gross receipts are minimal and often there is a significant loss at the net profit level. Often recorded receipts are from wholesaling where the taxpayer acts as a conduit for other distributors. Since the merchandise being offered frequently is purchased and sold at cost, sometimes no gain results.

In nearly every return, there is a net loss, usually in excess of $1,000. These losses are used to offset wages from the taxpayer's salaried position or income from other sources, resulting in a large tax reduction for the individuals involved.

Some examples of the types of deductions being claimed on the returns may be instructive:
A husband and wife will deduct the cost of many meals eaten out. Since both are officials of the business, these become business meetings. . . . Taxpayers have deducted expenses for their pet dogs, since these guard dogs protect the business. This expense item was referred to on the tax return as a security device. . . .

In other instances, our review of returns from individuals involved in direct selling has uncovered cases where a taxpayer with $200 in total income claimed a net loss of nearly $5,600 and another where a taxpayer with a total income of just under $2,100 claimed net losses of over $24,600. These instances reinforce our belief that compliance in this area is low and in need of attention (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p.38-39).

Testimony like that cited above indicates that the climate for direct selling was in a state of flux. The Internal Revenue Service was trying to pressure Congress to reform the tax system by changing the tax laws which governed independent contractors. News stories about the tax loopholes being enjoyed by direct sellers threatened the reputations of the companies involved in direct selling and the survival of that method of distribution. Executives of direct selling companies, including Amway and Shaklee, as well as the DSA reacted to this change in events with arguments that their salespeople were, more often than not, in compliance with the present laws.

The debate between the Direct Selling Association and the Internal Revenue is important. The economic and political issues are clearly played out in the following sections taken from the House Committee hearings. Offen, on behalf of the Direct Selling Association, argues:
Basically, to summarize some of the relevant factors, these are people who are in the business to earn a small amount of money, generally speaking, to supplement a family income.

They are in it for a specific objective, to buy Christmas present money, or to buy clothes when the kids go back to school, and they only work a portion of the year. Only 89 percent work part time. So the basic nature of the business is in conflict with the allegation that ----

Chairman STARK: The person they suspect, the mythical person that I want to describe is a highly paid professional who is married and his or her spouse has no job. They decide that by buying a cosmetic sales kit for $25 or a home products kit for $100, that is all they have to do to suddenly have a business ... It is suddenly a way to save $2,000 or $3,000 a year in taxes, to write off the car, write off the convention trip and without, in my opinion, the faintest intent to get out and really hustle and sell to earn a good living, as so many of your members do (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p. 138).

Central to the Internal Revenue Service's case against direct sellers was the Fields tax tape previously mentioned. Since the tax tape bore the name of Amway on its label, Van Andel was asked to make a statement before the House Committee on the issue. Van Andel's testimony and appearance before the House Committee is instructive. First, unlike other witnesses testifying that day, Van Andel was warmly welcomed by the Committee and introduced by Michigan's Representative Guy Vander Jagt to the Committee.

Chairman STARK: I would be honored to have you introduce our distinguished witness.

Mr. VANDER JAGT. I welcome him with great pleasure because he is a good friend, but also because of the remarkable business that he has built in Michigan. As you perhaps have heard, Mr. Chairman, Michigan is a disaster area in terms of employment. It is wonderful
to have a company that doesn't know there is a recession, where sales keep increasing and therefore jobs keep increasing. That is a real glimmer of light in an otherwise bleak picture in my State (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p. 93).

Second, the committee also felt it necessary to apologize to Van Andel for the fact that the tax tape bore the name of his company - Amway.

Chairman STARK. Thank you, Congressman Vander Jagt.

Welcome, Mr. Van Andel. I am not sure whether you were in the room at the beginning of the hearing and my opening comments. I would like to apologize to the Amway Corp. And to you, sir, for the cover of our transcript of Mr. Fields' tax tape which says an Amway tax tape. And it is my understanding that the Amway Corp. had really nothing to do with the tape, although the company may be indirectly referred to in the tape. It was neither an official or unofficial relationship, and the record will show that it was an inadvertent mistake (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p. 93).

Third, while Van Andel's statement disclosed Amway's activities regarding the Fields tax tape and Amway's enforcement mechanisms, evasive answers were given by Van Andel to direct questions from Committee members. In his initial remarks, Van Andel reported that Amway had taken measures to halt the distribution of the tax tape in its distributor lines. He stated:

For example, earlier this year we notified the distributor leaders of the misinformation contained in the Fields tape. Just recently, we surveyed the distributor leadership on their response to our notice. Of all distributors we contacted, 32 had distributed the Fields tape at one time. Thirty of them had discontinued use of the tape and destroyed all copies at the request of Amway Corp. prior to our
inquiry. The two remaining distributorships have pulled the tape out of circulation immediately after our survey questions (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p. 96).

In later questioning by the Committee, however, Van Andel did reveal that Amway had known about the contents of the tape since October 1980. A copy of the tape had been sent to Amway in August of 1980 and was reviewed by the Company in October of 1980. In January 1981 Amway contacted Fields and was assured that he did not produce the tape. In March 1981 after several more reports about the use of the tape came to its attention, Amway contacted Fields and again he declared that he was not supporting or distributing the tape. Finally, in May 1981 the Amway Corporation wrote to Fields and asked him to declare in writing his retraction and nonpromotion of the tape. In August 1981 Amway closed the case because Fields had not responded to its letter nor had any more complaints been received.

In November 1981 the problem with the Fields tax tape surfaced again and Amway took additional steps to correct the problem. Several news bulletins were issued to distributors and in January 1982 a meeting with the top distributors was held to discuss the problem. Apparently this January 1982 meeting is the one referred to in the cited quote of Van Andel (see p. 229) when he declared that Amway had found that 32 of its distributors were using the tape in their organizations. At the time of the House hearing (April
1982), Van Andel said that he thought the problem was under control because of Amway's intensive efforts to eradicate the problem.

In further questioning by one of the members of the House Committee Van Andel was asked how many distributors were terminated in the prior two years. Van Andel replied that he could not answer the question and offered instead the following explanation of Amway's discipline procedure.

We have a disciplinary system which is three steps; three tier. It starts with counseling. Counseling is done by mail, by telephone or in person. Obviously the first thing to do is to try to get people straightened out on that basis if they will straighten up.

The second step, if counseling does not work is to move into what we call censure. Now, censure freezes the activity in a distributorship and requires the distributorship to go through a retraining period. While under censure, they are not authorized to add to their business by sponsoring new individuals and so forth. After censure they are, of course, given a period of time to show us that they now are operating in a proper fashion and if that doesn't take, then the final step is termination (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, p. 106).

Asked what offenses might cause Amway to initiate discipline proceedings, Van Andel stated that distributors had been censured and terminated for presenting the Amway plan as a tax shelter, misrepresentations of the plan and/or the products.

One final point regarding Van Andel's testimony before the House Committee must be examined. Although Van Andel came to offer a statement on the Fields tax tape issue, one of the Committee members took the opportunity to ask Van Andel about Amway's political activities. Representative Fowler from Georgia, inquired:
If the chairman will indulge me I would be very interested in talking to you a little bit about Amway's political activities.

There is no question that with 1 million distributors that go door-to-door, basically, that that could be a tremendous political organization which would certainly be your right under our free society.

I note that your partner and cofounder, Mr. DeVos is the chairman of the Republican National Finance Committee. That your ads seem to be more and more political in the newspapers, large ads, and I just wondered if you would share with us your thoughts as to the proper extent of political activity by an institution the size of Amway and what efforts you try to make through all of these publications and advice to your distributors as to what are the lines of business and the promotion of business and what is your advice on the promotion of yours and Mr. DeVos' political theories?

Mr. VAN ANDEL... We do believe that as a corporation, we can and should spend some of our resources to attempt to preserve the free American way of life, free enterprise, if you want to call it that, because a system such as ours, a business such as ours, obviously could not operate in the Soviet Union. When we talk about those issues, especially to the general public with regard to so-called advocacy advertising, as you may know, much of that kind of advertising is a nondeductible business expense. We do believe, however, that as individual Americans, my partner and I just as well as our employees, have every right to be involved in the personal advocacy of political positions or religious positions or whatever else we want to do in this country of free speech. We have to be very careful, of course, that we do this as individuals on an individual platform and not on a Corporate platform. Therefore, you might see me or my partner in a forum making a political speech to Americans but you will never see us on an Amway platform making such a speech. That would be a completely separate situation and we are very careful to keep those separate. We publish advocacy advertising in national newspapers. We do, of course, have a corporate PAC (U.S. Congress. House. Committee on Ways and Means. Subcommittee on Select Revenue Measures., 1982a, pp. 104-106).
Van Andel's remarks show that the Amway Corporation is adhering to the present law maintaining a separation between specific political endorsements and its corporate activities. However, the fact that Amway's advocacy literature, which is conservative in nature, is printed not only in national newspapers but in the Corporation's distributor publication Amagram is somewhat troublesome. While arguing that it is certainly within the legal parameters to have Amway publications contain news columns on political issues, suggest letter writing campaigns, or solicit readers (distributors) to join independent political organizations, some comments regarding the potential effects of such activity are in order.

In 1976 Van Andel became the founding chairman of a new citizens lobby called Citizen's Choice. In the August 1977 issue of the Amagram Amway inserted a special four page membership application for Citizen's Choice and "A Special Message from Jay Van Andel" which said:

Over the years special interest groups have traditionally made their point of view known to government leaders through organized lobbies and professional spokesmen. The Unions have strong lobbyists in Washington and they are powerful persuaders. Other special groups maintain offices in Washington where paid professionals "watch out" for their particular interests and do their best to present their point of view to government policy makers. . . . There's nothing wrong with it -- except WHO IS REPRESENTING YOU? Who is watching out for the interest of the average taxpayer? Who is standing up before Congress and saying we don't want to spend more taxpayers money for bigger, less efficient government programs? . . . To speak with authority in Washington on your behalf, CITIZEN'S CHOICE must be able to point to
its wide grass-roots support. ... Our aim is to enroll a million Members this year.

At the end of VanAndel's message, in a boxed section labelled "The Citizen's Choice Platform", it was suggested that with the support of Citizen's Choice Congress could be persuaded to: (a) enact "Sunset laws" which would automatically review all government programs and agencies every four years; (b) require government agencies to provide cost/benefit statements before initiating any new regulations; (c) require, where possible, each federal program costing in excess of $10 million to test the program at the state or regional level first; (d) limit food stamp recipients to only those individuals with household incomes falling below the poverty line; and (e) to ban public employee strikes or slowdowns.

It is not known how many Amway distributors responded to the Citizen's Choice Amagram insert, but in the December 1981 issue of the Amagram a one page advertisement providing the address of Citizen's Choice appeared. In this one page advocacy statement, it was noted that membership in Citizen's Choice was presently 70,000. The conservative nature of the organization was more clearly defined in this ad.

The changes in direction of government brought on by the Reagan administration and by a more fiscally responsible Congress are exactly what Citizen's Choice has been fighting for since it came into existence. But the Congress and the Administration can't do it alone. They must have organized citizen's pressure to get the kind of tax reduction, spending cuts and regulatory relief this country so desperately needs (p. 16).
In the December 1984 Amagram a note signed by both Van Andel and DeVos urged its distributors to cut out a printed coupon for return to Citizens Against Waste urging the President and Members of Congress to cut waste from the government bureaucracy.

What is troublesome about advocacy positions, which are certainly the right of every American, is the fact that in the hands of powerful and influential people they carry an undue weight. Newspaper advertisements and Corporate publications like the Amagram which advocate specific political positions have the potential to misrepresent the issues to readers. Advocacy literature is just that, it advocates a particular stance, it does not necessarily show the complexity or the other side of the issue. Advocacy literature requires that a reader be politically sophisticated. A random review of several years' of the Amagram made no mention of the fact that Amway has a Corporate PAC or that it maintains an office in Washington that lobbies for Amway's interests. The reader of the Amagram is left with the impression that positions advocated in the Amagram are in his or her best interests. While the positions advocated in the Amagram may be in the best interest of the citizens and the consumer, the positions are definitely in the best interests of Amway.

Another problem with advocacy literature which is paid for or which appears in private publications is that equal opportunities for the other side to present its views are limited or non-existent. The other side which often includes welfare recipients, children,
handicapped people, the aged, and minorities have few organizations and even fewer resources to represent them and their needs. One former Amway distributor who is now working full time at a union job told the researcher in an interview that she was surprised to learn how anti-union and conservative Amway is. She felt that she had been mislead by Amway's publications and statements.

Finally, it is interesting to note that while Amway is a member of the Direct Selling Association, and DeVos was once its President, the researcher could find no mention in selected issues of the Amagram anything about the availability of publications from the Direct Selling Education Foundation (DSEF). One particular publication of the DSEF entitled At Home With Consumers, issued quarterly, is concerned with current political issues like deregulation, product liability, right-to-know legislation, and the like. The format of this publication is debate. Each publication has leading advocates presenting BOTH sides of a given the issue.

Changing Social Patterns

One final environmental pressure affecting the economic health of the direct selling industry is the changing social and demographic patterns in American society. With more and more women seeking full-time employment in the traditional sectors of the job market there has been a decrease in the pool of potential recruits for direct sellers. This has also meant that fewer people are at
home when direct sellers call, or, if at home, fewer people are willing to allocate time to a direct seller.

Direct mail marketing is showing a dramatic increase in popularity and this is posing a threat to the direct selling method of distribution. Already the industry giant Avon boosts a line of products available by direct mail. These environmental changes over which the direct selling firms have little control will probably strain the direct selling industry and its operations. There is some indication that direct selling firms are reducing staffs, streamlining their programs, increasing their incentives, expanding their product lines, and diversifying into other areas. It might also be argued that such operating strain might lead to an increase in organizational deviance.

Summary

Direct selling firms, including the Amway Corporation, interact with institutions in their environment primarily through the auspices of the Direct Selling Association (DSA) in Washington, D.C. When conditions in the environment threaten to change the profitability and methods of operation for the direct seller, the DSA responds to these threats on behalf of its member organizations. The evidence indicates that, to a limited degree, the DSA and direct sellers have been able to protect their economic advantages in the marketplace.
Even though it has had some success in stabilizing its environment, the direct selling industry labors under strained relationships with some of the organizations and institutions in its environment. The continuing controversies between the direct selling industry and the Federal Trade Commission, the Internal Revenue Service, and Congress produce pressures and frustrations for the individual direct selling firm. It may be argued that the ambiguity and indecisiveness of the regulatory agencies and Congress act as a criminogenic pressure which contributes to organizational deviance in the direct selling organization. In the absence of clearly established rules and during times of vacillating policy and enforcement practices, organizations may deem it advantageous to violate the law.
CHAPTER IX

A MODEL OF ORGANIZATIONAL DEVIANCE IN A MULTILEVEL DIRECT SELLING ORGANIZATION

As direct selling evolved from an individual enterprise into an organizational phenomenon it did not lose its suspect reputation. Misrepresentations of products, services and programs, high pressure sales tactics, and other fraudulent activities are still frequent occurrences in some direct selling organizations. The intent of this study was to develop a theoretical model which would explain the creation and maintenance of organizational deviance in a direct selling organization. Based upon the work of Cole (1959), Finney and Lesieur (1982), Hughes (1980), Gross (1978), and Vaughan (1983) the utility of the model was illustrated with data gathered on the Amway Corporation.

The research has shown that in the absence of fully operative controls or constraints, structural conditions and pressures have made the Amway Corporation and its distributor organizations prone to make "rational" business decisions which are illegal in order to obtain a blocked or desired organizational goal. Factors in the society produce pressures within the organization to achieve certain goals. If these goals cannot be obtained through normative or legal channels and if the controls or constraints governing such illegal behavior are not present or not fully operative, decisions may be made by the organization to engage in illegal behavior. Such
illegal actions are viewed as "rational" business decisions because the benefits accruing to the organization outweigh the costs and/or the potential for detection.

A model of organizational deviance in a multilevel direct selling organization which follows closely the Finney and Lesieur model outlined earlier (see Chapter II) is purposed. Like the Finney and Lesieur (1982) model, this model "attempts to integrate the effects of cultural, societal, social-psychological, organizational and task-environmental factors into a single sequential paradigm at the organizational level of action" (pp. 259-260).

A flow chart illustrating the sequences, or stages, of the creation and maintenance of deviance in a multilevel direct selling organization is found in Figure 9.
Figure 9. A Model of Organizational Deviance In A Multilevel Direct Selling Organization
Cole (1959) has pointed out that successful entrepreneurial organizations (like direct selling) can only exist in a society which supports individual free enterprise, the accumulation of wealth, social mobility, and innovation. Other researchers (Barnett, 1981; Finney and Leiseur, 1982; Gross, 1978; Merton, 1968; Vaughan, 1983) have noted that these same structural/cultural factors associated with capitalism create an impetus towards, or are conducive to, the production of deviance within organizations.

Unlike more traditional business organizations (automotive manufacturing, retail stores, banks) direct selling organizations epitomize and proclaim the structural/cultural values of capitalism, entrepreneurship, free enterprise, and materialism. Individuals are encouraged to join direct selling organizations in order to realize their goals of owning their own business, increased wealth and/or income. Multilevel direct selling organizations like the Amway Corporation are comprised of (a) individuals (DeVos and Van Andel) who own and/or operate the direct selling firm, and (b) individuals (the distributors) who, in combination with others, form independent business organizations to distribute the goods of the direct selling firm.

There is some indication that American society is not unique in its conduciveness to the production of organizational deviance in direct selling organizations. Structural/cultural factors found in other capitalist economies appear to foster illegal and deviant
behaviors in direct selling organizations as well. Japan's direct selling industry which ranks second to the United States in sales is under investigation by authorities in that country for abusive practices. "The Tokyo Consumer Center, an ombudsman service, received more than 4,000 complaints in 1982 about shady door-to-door sales, more than double the total three years earlier" (Katayama, 1984).

Performance Emphasis/Goals (Box B)

The structural/cultural factors of a society find expression in an organization's performance emphasis and/or its desire to obtain "culturally-approved" goals. One of the primary goals of a business organization in America is profitability (Vaughan, 1983).

In an economy in which the main productive resources are privately owned and controlled, the motivation for entrepreneurial response will be mainly private pecuniary gain -- profit (Hughes, 1930).

Business organizations, including direct selling firms, are encouraged to accumulate wealth, to grow and expand, to meet production quotas, to obtain an increased share of the market, and to achieve a higher ranking or status among their competitors (Finney and Lesieur, 1982; Gross, 1978; Vaughan, 1983). In like manner the distributor (entrepreneurial) organizations in multilevel direct selling organizations are encouraged towards similar goals. The distributor organizations have performance expectations and goals for growth, increased profitability, and enhanced status. Amway's rise in the direct selling industry (ranking number two in
industry sales) in less than twenty-five years is testimony to its ability to set and achieve its goals. Distributors have goals of building their businesses to certain defined levels within the Amway organization -- Direct Distributor, Ruby Direct Distributor, Diamond Direct Distributor, and so on.

It must be understood that performance emphases or the desire for certain goals do not themselves cause illegal and deviant behavior on the part of organizations. Rather, the obtainment of these performance emphases or goals are a reflection of the values in the society and are necessary for the survival of the organization. Organizations are created to fulfill certain functions or achieve certain goals. If an organization fails in its attempts to achieve its goals its very existence may be threatened. If an organization cannot obtain its goals or meet its performance expectations through legitimate actions it may choose to engage in illegal behavior when "the expected costs of its illegal action are acceptably low relative to perceived gains, other things being equal" (Barnett, 1981, p. 5).

**External Performance Pressures and Constraints (Box C)**

Impeding the success of entrepreneurial organizations are certain external performance pressures and constraints. These include: the law, changing market conditions, and competition. Laws limit the range of actions which may be taken by an organization to ensure its profitability, growth, and market share. Besides the
general body of law (civil, regulatory, and criminal) which governs most business practices, there are some specific laws which govern direct selling namely, the Green River ordinances and the cooling-off legislation. While laws constrain the activities of an organization they lose their effectiveness when enforcement practices are lax and/or non-existent. Further, one may hypothesize that a regulation to which conformity involves higher costs (due to opportunities or profits foregone) than those from possible penalties for violation will be perceived as a criminogenic pressure rather than a control (Finney and Lesieur, 1982, p. 273).

While the Amway Corporation and its associated distributor organizations are under orders from the FTC to disclose to potential recruits the actual earnings of its distributors, the research data presented in this study shows that Amway is not in compliance with these rulings. It is suggested that if such compliance were to occur that the Amway Corporation would experience decreased recruitment and sales. The benefits -- increased sponsorship and sales -- outweighs the potential costs of detection and prosecution. The Amway Corporation's decision to evade Canadian customs laws is another action which appears to have been predicated on similar thinking -- the costs of complying with Canadian customs regulations in 1965 were too high given the size of the Canadian business at the time.

Unstable market conditions also produce pressures for organizations to deviate. Corporations/organizations prefer stable market environments over unstable, changing conditions. Corporate
success and survival is dependent on being able to predict and plan for the future. Stable market conditions make the task easier. In trying to establish a stable environment for its products and its distributors the Amway Corporation engaged in price-fixing. Fixed prices in Amway assured both the Corporation and the individual distributor a consistent income or profit level. It made future planning for the Corporation more predictable and it made sponsorship easier and equal for the distributor organizations (i.e. distributors and distributor organizations would not be in competition with each other).

Researchers (Finney and Lesieur, 1982; Gross, 1978; Vaughan, 1983) have noted that competition is another external pressure for organizational deviance. Direct selling organizations compete with traditional retail outlets (stores), other direct selling companies, and other industries (e.g. cosmetics). The most acute competition in direct selling occurs between direct selling firms over the available labor pool for their sales forces. Sales force size is the primary key to profitability in a direct selling organization (Granfield and Nicols, 1975; Jolson, 1971b). Competition for an adequate size sales force has lead the Amway Corporation, in combination with its distributor organizations, to misrepresent the potential earnings and benefits its distributors receive. Amway's recruitment literature and its use of potential earnings examples have been judged by the FTC and the State of Wisconsin to be misleading.
Gross (1978) has noted that "those parts of the organization most exposed to its environment will be those parts most subject to pressure to deviate" (p. 64). In multilevel direct selling organizations it is the distributor organizations which are the parts of the direct selling organization most exposed to the environment. The selling and sponsoring activities of the distributor take place in the ever-changing external environment of the organization. The pressure to make a sale, to recruit, to overcome customer and public resistance to direct selling falls directly upon the distributor. Given these external pressures, it is likely that a distributor may succumb to the pressure and misrepresent the product and/or the direct selling program to a potential customer/recruit.

Internal Performance Pressures and Constraints (Box D)

Internal performance pressures and constraints in direct selling organizations which are conducive to the production of organizational deviance come from the nature of their sales force, a performance emphasis on selling and sponsoring, and the poor profitability experienced by most of the direct sellers. Inherent in all direct selling organizations are unique pressures which result because of the nature of the sales force. Because its sales force is comprised of independent contractors, the direct selling firm is under a constant pressure to move its products, to motivate its sales force to sell more, and to recruit others into the
organization. In multilevel organizations the recruitment and most of the motivational responsibility is passed to distributors desiring to build their own organizations. If recruitment falters the organization is at risk and is under to pressure to improve its incentives and/or compensation plans, increase its efforts, or make misleading statements about the benefits of being a direct seller. In the Amway organizations competition and labor pressures resulted in what the FTC found to be misleading Corporate recruitment literature and misleading statements by its distributors concerning the potential earnings of an Amway distributor.

Managing an independent sales force which often numbers into the hundreds of thousands (Amway claims to have over 1 million distributors) strains the corporate structure. In multilevel organizations like Amway the management of the majority of the distributors in left in the hands of distributors who have attained the rank of Direct Distributor or higher in the organization. The problem with this arrangement is that some of the distributor organizations can development patterns of behavior and goals which are contrary to the parent organization.

Pressures to attain certain performance goals (increased sales and sponsorship) are another internal source of strain within the direct selling organization. Distributors in the Amway organization are under pressure to improve their performance by the Corporation, their up-line, and their sponsor. The pressure is manifest in the organization's meetings, seminars, and rallies where there is a
display of the benefits, usually material rewards, which accrue to high ranking individuals in the organization -- the Direct Distributors, the Diamonds, and so on. It may be argued that such displays of materialism and potential wealth are more criminogenic than motivational for those desiring to duplicate such organizational success.

Another internal source of strain in the direct selling organization is poor profitability. Expectations encouraged by the direct selling companies through their literature and through the statements of their high ranking distributors do not match the accomplishments of the average independent contractor working in the direct selling organization. The consumer magazine Dollars & Sense (1983) reported that the median earnings of a direct seller in the industry as a whole were only $27 per week or about $3.00 an hour -- less than minimum wage. Data from the State of Wisconsin showed that on the average Amway distributors in that state experienced a net loss of $918. The fact that profitability is dependent on commission, and in multilevel organizations on sponsorship too, there is additional pressure to misrepresent the products or the program in order to make a sale or sponsor someone into the organization. Pressures from poor profitability may also result in the formation of a secondary and more profitable business enterprise in multilevel organizations (see Chapter VII). Still others may find it more expedient to use their direct selling business losses to off-set other taxable income.
Perceived Operating Problems (Box E)

Routinely in organizations the above mentioned pressures and constraints (Boxes A - D) cause operating problems to occur. The nature of these operating problems is such that decisions by the organization are required to solve the problem(s). In multilevel direct selling organizations one must bear in mind the fact that more than one organization is involved -- the Corporation, and each of the independent distributor organizations must make decisions on behalf of its own organization. In some cases, the problems of the distributor organizations and the problems of the corporation may be similar (overlap) as in the areas of recruitment and product quality. At such times when there are mutually shared problems, the decisions about solutions may be mutually shared or supported.

Organizational Decisions (Box F)

Organizational decisions are usually based on rational calculations which take into consideration the internal and external controls which confine the activities of the organization. Both Cole (1959) and Hughes (1980) make it clear that entrepreneurial organizations are not mindless entities which react to external stimuli and constraints. Entrepreneurs make decisions on behalf of the organization and all decisions have options. A decision on the part of an organization to engage in illegal behavior is dependent on rational calculation which takes into consideration the
effectiveness or absence of internal and external controlling factors.

External Controls (Box G)

One of the factors influencing an organization's decision to engage in an illegal act in order to achieve a blocked goal or desired end is the current effectiveness and enforcement of the law. If the current laws are rarely or inconsistently enforced, and/or if the chances of detection are small, and/or if the laws themselves are ambiguous, then the likelihood that an organization will choose to engage in an illegal act increases. "A corporation will tend to circumvent those constraints whose violation will yield the greatest expected net change in profits" (Barnett, 1981, p. 5). The Amway Corporation's violation of Canadian customs law in a case in point.

Several factors in direct selling mitigate against the controlling force of law. First, most of the sales and recruitment in direct selling take place in private settings -- usually a home environment. Second, much of the direct selling activity (selling and sponsoring) usually takes place between family, friends, and acquaintances. This combination of factors reduces the likelihood that illegal activity will be detected much less reported to authorities. Third, the fact that direct sellers are considered independent contractors rather than employees of the direct selling corporation allows the company to maintain that it is not
responsible for the actions or misrepresentations of its distributors who are in business for themselves.

Ambiguities or weaknesses in current law also make it easier for direct selling organizations to engage in illegal behavior. The fact that the Canadian customs laws operated basically on a system of self-assessment was a major inducement for the Amway Corporation to risk violation of those laws. Tax laws in the United States which provide for certain business deductions (advantages) for those operating small businesses is another incentive for many to continue money losing direct selling organizations because such losses may be used to offset other taxable income.

Finney and Lesieur (1982) have noted that "the most significant of all external control factors is the extremely lax and permissive attitude of American policy makers and enforcement personnel toward organizational crime" (pp. 281-282). In discussion with an FTC official in 1984 the researcher asked about the priority of complaints concerning the direct selling industry. The official admitted that it was not a priority at all. Asked why by the researcher, the official stated that "direct selling was not an important factor in the society -- it didn't have much impact. The FTC was more concerned with problems of a more severe or wider impact. The person who buys from a direct seller is only out about twenty bucks or so." Asked about the problems and overstatements (misrepresentations) of potential earnings made by various direct selling companies the FTC official replied: "By now most people
realize you don't get rich in direct sales". The attitude towards direct selling in the FTC seems to be "caveat emptor" (let the buyer beware). We (the FTC) did our job by warning you about direct selling in the 1960's and 1970's.

Public concern can be a powerful controlling force on an organization's activity. By the same token, lack of public concern can mean that certain harmful or illegal industry practices continue unchecked. While isolated concern may emerge over the actions of some direct sellers, there is no general outcry against the industry as there was in the latter part of the 1960's and early part of the 1970's. When the focus of concern does come to rest on the illegal or deviant practices of a specific direct selling firm other direct selling firms and the industry as a whole seem to be able to distance themselves from such practices.

Internal Controls: Personal and Structural (Box H)

Personal controls

Finney and Lesieur (1982) point out that popular explanations of organizational deviance attribute such deviant actions to a desire for greed, a criminal mind, or other character flaws of an individual executive, manager, or worker. No evidence exists however to show that individuals associated with deviant organizations are less moral than their counterparts. While personal morality may prevent organizational deviance as in the case of the whistle-blower, "a more fruitful approach is to identify the
organizational processes by which organizational requisites and individual values are harmonized" (Finney and Lesieur, 1982, p. 275).

Selective recruitment and promotion, and organizational socialization are two organizational processes which have been identified as contributing to patterns of organizational deviance. Studies on selective recruitment and promotion show that an organization tends to attract people who are receptive to its goals and practices. It has been argued that certain individuals join the military, the police force, or other potentially violent organizations because they are receptive to the use of aggression and potentially illegal activity. Other studies have shown that an internal process of selective recruitment may also take place with promotions. Individuals who are particularly aggressive, ambitious, shrewd, or morally flexible are often promoted over those who are not. Clinard (1983) in his study of the role of middle management in organizational deviance found that:

When compared with the role of a "corporate culture," over half of the respondents emphasized the role of top management one way or another, including the tendency for some corporations to select ethical (or unethical) top management personnel, particularly CEO's, to fit their patterns of doing business (p. 71).

The data presented in this study concerning the Canadian fraud reveals the fact that DeVos and Van Andel were able to surround themselves with men (Halliday, Discher, and probably numerous others) who also believed that Amway's multilevel marketing structure was so unique and Canada's tax laws so unjust that evading
the Canadian customs laws was a fair and rational act. The fact
that four of Amway's top executives were named in the scheme to
evade Canadian custom's laws is further testimony to the fact that
they shared similar goals for the organization and were willing to
see those goals attained even if it meant engaging in violations of
the law. These executives are clear examples of what Stinchcombe
(1965) and Vaughan (1983) called new leaders - individuals less
committed to traditional business practices.

The values of the individual and the direct selling
organization appear to harmonize in another way as well.
Recruitment in direct selling is not only non-selective it is aimed
at the vulnerable -- people unhappy with their present income or
status level and who are motivated enough to do something about
it. While the majority of those who join direct selling
organizations may do so only to accomplish certain goals or ends --
extra money for Christmas presents, school clothes, or to help out
in times of family distress -- others have the expectation of
earning the high incomes promised by the direct selling
organization. When people join a direct selling organization with
the expectation and goal of earning a large income and are
continually encouraged by the company and other distributors to
believe that their expectations and goals are justified the
"controlling force of the average distributor's experience" (which
may or may not be disclosed by the company) looses its impact and
the individual may do almost anything to "beat the odds".
Future research is needed to see if the nature of the direct selling organization acts as a self-selecting tool in the recruitment process. Are individuals with short-term and perhaps limited financial goals more attracted to the traditional party-plan or door-to-door direct selling organizations like Avon, Fuller Brush, Stanley Home Products, while others who think of direct selling more in terms of large potential incomes, or businesses, or careers are attracted to the multilevel direct selling organizations like Amway?

Organizational socialization is another factor which can aid in the production of organizational deviance. Sutherland's theory of differential association which postulates that criminal behavior is behavior which is learned in association with others was one of the first attempts to address this issue. Individuals can become socialized to accept, learn and participate in illegal patterns of behavior. Clinard's (1983) study of the role of middle management in the production of organizational deviance found that the middle management executives emphasized internal factors within their corporations as the chief causative factors for unethical and illegal behavior, with the two most important being the role of top management and the various corporate pressures placed on middle management (p. 132).

Middle management felt pressure to acquiesce to the demands of top management even if it meant violating the law.

To speak of organizational socialization in the Amway organization is a very subtle and complex matter. There is the organizational socialization which takes place within the
Corporation itself; there is the organizational socialization which takes place between the Amway Corporation and the distributor organizations (Direct Distributors and higher); and there is the organizational socialization that takes place within a given line of sponsorship. The Canadian trial proceedings provided some insight to the socialization process within the Corporation -- memos were sent out from the policy committee forbidding communication with Canadian customs official except through specified individuals, individuals were trained to produce and submit false invoices on request to Canadian customs officials, and top management was involved in refinements of the scheme.

Although incomplete, the research data presented gives some scope to the organizational socialization which takes place between the Amway Corporation and its distributor organizations. The best data are provided by court documents and DeVos's own statements on the tape sent to Direct Distributors called Directly Speaking. DeVos makes it clear that he is not against the distributor organizations having seminars, rallies, or engaging in non-Amway businesses which use their Amway businesses as a base. He is against the rallies and non-Amway businesses becoming the primary focus of attention -- an act which would be illegal. At issue, of course, is the definition of "primary focus of attention" -- the line separating illegal and legal business practices is often very ambiguous. The fact that Amway is reluctant to take strong
enforcement measures against offending distributors is another factor which plays into the socialization process.

While the relationships and the socialization process between the Amway Corporate executives and the high level distributors is not clear, data cited in this research indicate that there is some accommodation between the Corporation and the illegal and deviant activities of the distributors in regards to misrepresentations of the Amway program, profits earned from non-Amway businesses, and coercion in their lines of sponsorship to purchase non-Amway products. The exact processes which maintain this deviance within the organization are not known but certainly the power of the Amway Distributor Associations is a factor. It is also suggested that attempts to take advantage of the ambiguities surrounding sharp business practices and illegal actions by the Amway Corporation, manifest in its willingness to produce misleading recruitment literature and to engage in price-fixing activities, become a model for the distributor organizations hoping to replicate DeVos's and Van Andel's success. Further, Amway and its founders have been quite successful in their attempts to neutralize bad publicity about their organization proclaiming the Canadian fine as a legal misunderstanding about Amway's unique multilevel marketing structure.

Organizational socialization also occurs within lines of sponsorship in the Amway organization. The fact that it is the distributors who are responsible for the recruitment and training
of other distributors in multilevel direct selling associations like Amway means that new distributors learn the business techniques from their sponsors and up-line. Contributing to the process of organizational socialization is the fact that most people recruit or sponsor their friends, relatives, or acquaintances -- people willing to trust them (the sponsors) and/or people wishing to duplicate or emulate a given characteristic of the sponsor like his or her wealth or status.

Distributor meetings and the use of certain non-Amway training materials like *Quick Start*, *Your Next Move* and the Fields tax tape which are disseminated throughout some distributor lines indicate that there is an effort by some distributor organizations to ensure socialization to a given set of norms. Data from *Cairns, et al. v. Amway Corporation, et al.* and Kerns (1982) suggests that the distributor organizations in Amway may vary from one another in their adherence to the law and ethical standards. Further research is needed to determine the factors which contribute to this variability in the distributor groups. In addition to the factors already suggested here (performance pressures, competition, the values of the up-line and the top distributors) the size of the organization may also be a contributing factor to organizational deviance. It is suggested that as an organization's size increases the pressures and incentives for its top distributors to engage in non-Amway businesses (the sale of motivational tapes, literature, etc.) and/or marginal Amway activities (meetings, seminars, rallies
for which there is a charge) also increases so that the primary activity of the distributor organization becomes the support of these new enterprises and not the retail sale of Amway products.

**Structural controls**

Finney and Lesieur (1982) point out that size and complexity of an organization may indirectly contribute to organizational deviance by reducing subordinate visibility and therefore magnifying problems of internal control. This happens because as organizations grow larger and more complex they tend to become more decentralized. It then becomes much easier for subordinates to hide illegal activities from superiors or from specialized control agents (p. 278).

Direct selling organizations are extremely large and complex entities. Decentralization is inherent in organizations which rely on independent contractors. By law the companies engaging independent contractors are prohibited from setting the hours, the prices of the products, and so on for these individuals. Lack of control over the independent contractors is not only a contributing factor to organizational deviance but it is also a potential source of victimization for the company. From the data presented in the study it is evident that distributor organizations in Amway are able to influence certain Corporate decisions because of their position and role on the Amway Distributor Association Boards.

It has been argued that organizations which are highly innovative "may also be more creative in devising illegal solutions to operating problem" (Finney and Lesieur, 1982, p. 278). When
first introduced by Van Andel and DeVos, Amway's multilevel marketing plan was considered to be highly innovative. Its attendant success has made it an industry standard and a model for emulation. The fact that DeVos and Van Andel considered their Amway Sales and Marketing Plan unusual and worthy of special consideration is evident in the Canadian lawsuit. One of the factors contributing to the decision to evade Canadian customs duties was the feeling among Amway officials that the Canadian customs laws did not "fit" the uniqueness of Amway's multilevel marketing structure.

Legal Actions (Box I)

Not all organizations engage in organizational deviance. It is probably safe to say that most decisions made within an organization fall within a normative framework. Many operating problems are solved by legal solutions with little or no additional cost to the organization. The presence of performance pressures, internal and external pressures, constraints, and controls do not automatically lead to, or cause organizational deviance. The actual decision process leading to an illegal act within an organization is much more complex.

Illegal or Deviant Actions (Box J)

It has been argued here that decisions to engage in organizational deviance are the result of rational calculation in which the benefits of the illegal action are considered to outweigh
the potential risks and consequences of detection and prosecution. It should be pointed out however that "rational calculation" is impeded by selective or subjective perceptions of reality. Most business decisions require a vast amount of information on such things as the current legal situations, market conditions, industry norms, potential customer and/or consumer reactions. The fact that an organization rarely has the time or the resources to garner all relevant information means that decisions are made on the basis of selective information and subjective judgment. "(T)his subjective and rationally imperfect nature of the decision process frequently invites illegal solutions, for crime may often promise a practical solution when the legally optimal course seems to lie beyond reach" (Finney and Lesieur, 1982, p. 283).

Norm erosion is another factor in the society which contributes to subjective perceptions and "rational calculation". In societies experiencing high rates of change, definitions of sharp business practices and violations of law become blurred (Stinchcombe, 1965; Vaughan, 1983). The fact that decisions by courts of law (with ever-lengthening case dockets) are then needed to establish the boundaries of the law and acceptable business practices mitigates against clear-cut societal norms and chances that such decisions will be made.

To take one of several examples in the area of regulatory law, actions by the Securities and Exchange Commission against the largest industrial and service companies have fallen from thirteen a year ... to eight a year ... When the staff recommended prosecuting Citibank in 1981 for alleged improper foreign bank
transactions, the commission refused to bring the case to court because, ... the transactions constituted a "standard business judgment" to maximize profits (Green and Berry, 1985b, p. 732).

Societal Reactions (Box K)

This study did not specifically examine the issue of societal reaction to revelations of corporate wrong-doing on the part of Amway. However, some general remarks may be made. Since 1982 when the news of the Canadian fraud first appeared in the press, sales in Amway dropped to $800 million from their peak of $1.2 billion in 1981; some of the top distributors in the organization sold out; and Amway sought outside help in cleaning up the abuses in its organization (Behar, 1985). It now appears that Amway is recovering. At its annual convention in June 1985, Amway officials reported that sales and recruitment were on the increase and that the retention rate of distributors was the highest it has ever been. The full impact of Amway's organizational deviance awaits further research. The current cases pending against Amway in Canada, Ohio, and California will certainly have an added effect on the public's perceptions of the organization when these cases are settled.

Societal reactions to abuses in the direct selling industry peaked during the consumer movement of the 1960's and early 1970's. Public reaction to high pressure sales tactics, misrepresentations of goods, and other direct selling abuses precipitated the passage of the "cooling off" legislation by the
Federal Trade Commission. The controlling and constraining effects of societal reaction are shown in the model by the broken line which extends from Box K, Societal Reactions to Box G, External Controls and to Box C, External Performance Pressures and Constraints.

Current problems with and investigations into direct selling abuses seem unlikely to elicit the same public outcry as they did in the 1960's. While an occasional direct selling company may be sanctioned the industry as a whole is not threatened. The renewed emphasis in society on entrepreneurship has meant greater freedom for the individual and/or the organization involved in operating an enterprise. The fact that more than 5 million people (entrepreneurs, independent contractors) currently distribute products for direct selling companies also mitigates against the likelihood that stringent actions will be taken against the industry as a whole -- "the strength of capitalism and individualistic values generates dissention and resistance to reform" (Finney and Lesieur, 1982, p. 285). Thus, patterns of organizational deviance feedback into the system and are reproduced.

Organizational Defenses (Box L)

Organizations interact with other organizations and institutions in their environment in order to retain and obtain given advantages. Lobbying efforts and the manipulation of public awareness are two defense tactics often used by organizations to reduce the controlling impact of law, to fight against potential
reforms, and to influence societal reactions or public perceptions of the organizations. Organizations influence government through legal and illegal means to obtain from it many types of benefits including government contracts, subsidies, favorable legislation, and favorable enforcement outcomes (Clinard and Yeager, 1980). An organization's ability to influence policy and legal outcomes reduces the effectiveness of the environmental constraints and the controlling forces of law.

The Amway Corporation and other direct selling organizations generally rely on the Direct Selling Association (DSA) to promote and lobby for direct selling's interests. Numerous times the DSA has appeared before Congress to express its concern and offer its viewpoint for consideration. The DSA has been particularly active and successful in defending the independent contractor status for its distributors in the face of Internal Revenue threats to alter such statuses for tax purposes. The Direct Selling Association has also supported limits to the Federal Trade Commissions rule-making powers. Antipyramid legislation which incorporated some of the suggestions of the Direct Selling Association has also been passed.

The co-founders of the Amway Corporation are noted for their connections to the Republican party. During the Corporation's troubles with the Canadian government one newspaper reported the following:

During a Nov. 17 press conference, De Vos was quoted as saying Amway might use its political connections with the Reagan administration in the company's fight with
Canada. De Vos and Van Andel both are generous contributors to the Republican Party (Luke, 1982, p. 3).

The manipulation of public awareness through advertising, the mass media, and corporate acts of philanthropy is another defensive strategy used by organizations to influence public perceptions of the organizations. Such positive, or favorable, messages and acts tend to lessen the impact of disclosures of organizational wrongdoing—a process illustrated in the model by the broken-line extending from Box L, Organizational Defenses to Box K, Societal Reactions. It has also been noted that mass media is often reluctant to publicize cases of organizational deviance because of its ties to corporations either through ownership or its dependency on corporate advertising for revenue (Conklin, 1977).

Amway's ownership of the Mutual Broadcasting System, its involvement in the Easter Seals National Telethon, its corporate gifts to and renovations in the City of Grand Rapids, its national advertising campaigns which support the free enterprise system and reduced government involvement in business affairs, Amway's Center for Free Enterprise which distributes materials to schools and other educational institutions, and the publicly expressed religious values of Amway's co-founders portray to the public an image of an organization dedicated to the ideals of good citizenship and American democracy. Possessing these defensive "pluses" it is little wonder that the Amway Corporation chose to run an advertisement in national newspapers the day following its payment of a $25 million criminal fine to the Canadian government. The ad
declared the Canadian fine to be "One Settlement lawyers didn't recommend" (1983) and went on to explain:

The Canadian authorities now assert that their understanding of the events in 1965 differs significantly from that of the Amway officials who participated at that time.

The results were unfortunate. Amway's co-founders, Rich DeVos and Jay Van Andel, who are widely respected business executives, acting under great pressures due to their company's amazing growth, misplaced their confidence and wound up paying a high price for the unfortunate advice they were given.

The ability of an organization, like Amway, to publicly define and/or shape issues and events gives it a controlling power over the environment which other organizations and/or consumers may not possess. The danger in this situation lies in the fact that other points of view may never be known or discussed. The likelihood of a countervailing force in society arising to impede the reproduction of organizational devianace is thereby reduced.

Conclusions

A model of organizational deviance illustrating the utility of the Finney and Lesieur model, is proposed to explain the creation and maintenance of illegal and deviant behavior in a multilevel direct selling organization. Both the model and the data from the study make it clear that no single factor is responsible for organizational deviance. Decisions by an organization to engage in illegal or deviant behavior are the outcome of a "rational" process whereby the advantages, or outcomes, of the illegal act are assessed.
to be greater, or more beneficial, than the potential risks of
detection and prosecution. If the deviant or illegal actions go
unchecked they tend to feed back into the organizational processes
and become normative patterns of behavior within the organization.
Contributing to the processes described above are the factors
elaborated upon in this study: structural and cultural
conduciveness, internal and external performance pressures and
constraints, internal and external social control factors, corporate
defenses, and societal reactions.

The data presented in this study show patterns of
organizational deviance within the Amway Corporation and its
attendant distributor organizations. The Amway Corporation's
decisions to engage in price-fixing, misrepresentations of the
potential incomes of their distributors, and violations of Canadian
customs laws were predicated on a belief that the advantages
(profit) derived from the illegal outcome were greater than the
assessed risks of detection and sanction. The organizational
deviance displayed by certain distributor groups was also predicated
on similar beliefs about the outcome advantages of the illegal
behavior although they (the distributor groups) labor under some
different pressures and constraints.

Is the Finney and Lesieur model useful for understanding
organizational deviance in direct selling organizations? The answer
is that it is certainly a start. The model is helpful in
identifying contingencies which can produce organizational deviance
and it is useful for understanding the deviance of the Amway Corporation and its distributor organizations. It may also be useful for understanding deviance in other multilevel direct selling organizations. However, its usefulness in understanding deviance in the direct selling industry as a whole may be limited. The complexity of the direct selling industry, the role, function, and influence of the founder/entrepreneur, and the nature of transactions (Vaughan, 1983) are factors not explicitly addressed in the model.

The complexity of direct selling is evident in the different organizational structures (multilevel, party-plan, door-to-door, and the like) which are subsumed under the name "direct selling". What is not clear from the research is whether the Amway organization is an exception in the direct selling industry. Research is needed to determine if multilevel direct selling structures are more criminogenic than other direct selling organizations (e.g. the party-plan or traditional door-to-door canvassing). In other words it is not yet known if all or only some of the direct selling organizations are deviant, or if the direct selling industry as a whole is a "criminogenic market structure" (Leonard and Weber, 1970).

The research and proposed model suggests that there may be certain features in multilevel direct selling organizations which may be inherently criminogenic. Such criminogenic market factors include: a set commission scale on the sale of products; an emphasis...
on sponsorship over the sale of products; a reward and incentive structure linked to sponsorship goals; a recruitment and training process which is out of the hands of the corporation; the independent contractor status of the sales force, and the fact that distributor organizations can number into the thousands. In door-to-door structures like Avon, there are assigned territories but no distributor organizations per se and it is unclear if the illegal and deviant behavior manifest by a representative in that case would be an extension of the organization or a case of occupational deviance.

A weakness of the Finney and Lesieur model is that it does not fully recognize organizational deviance engaged in by a subunit on behalf of the organization as a whole (Kramer, 1982a; Vaughan, 1983).

Tensions to attain resources unlawfully affect the various parts of the organization differently. The subunits with skills and resources most relevant to profit-seeking goals are most likely to be affected. Because of the many and changing goals of organizations, the subunits affected may vary over time, and some may never experience such tensions. Members of subunits not subject to these tension will not be motivated to engage in illegal behavior in the organization’s behalf (Vaughan, 1983, p. 71).

If the independent contractors are considered a subunit, albeit an "independent" and profitable one, of a direct selling organization more research is needed to clarify:

1. the nature of this relationship and how it changes in different direct selling structures.
Does the independent contractor interact directly with the company or with a sponsor who is an other independent contractor?

What communication channels exist between the company and the distributor? (Stone, 1975)

How does one advance in the organization?

Does the nature of the relationship change as the power and influence of the subunit grows?

2. The source and nature of the pressures exerted on the subunit.

Does the corporation exert pressure? How?

Is there a sponsor who exerts pressure?

Are there pressures to sell?

Are there pressures to sponsor?

Are there pressures to purchase "business aids" e.g. tapes, books, etc?

Are there pressures to misrepresent the product or the program because of customer resistance?

3. The degree of freedom or discretion that the subunit has in making decisions.

Can the independent contractor sell anywhere or is he or she given a territory?

In organizations which allow sponsoring are there limits to this activity (e.g. number, or selection)
What controls, if any, are exercised by the direct selling corporation itself.

Do independent contractors have input into how the organization is run? If yes, how formalized is that input and what impact does it have?

In Chapter II of this study it was noted that one of the weaknesses of the direct selling industry was the fact that the reputation of a direct selling firm could be harmed (victimized) by the disreputable actions of its distributors. Another explanation of this "victimization" might be that it is not victimization at all rather it is the result of structural conditions including market forces and the actions and policies of the company itself. In their work on the automotive industry Leonard and Weber (1970) have pointed out that certain market structures have a criminogenic influence on certain occupations. Citing the work of Taft, Leonard and Weber note that "socially dangerous people" (those not technically criminal themselves but who create conditions which result in crime) are often responsible for illegal behavior because these "socially dangerous people" are the "causers of the causes" of crime. Because direct selling organizations have a subunit relationship similar to the franchising organizations the literatures of franchising and criminogenic market structures need to be examined for insights which they may offer.

The second weakness in the Finney and Lesieur model is that it neglects the role of corporate culture and top management's role in
the formation of that culture. Although Finney and Lesieur do address the issues of selective recruitment and organizational socialization in their model, the literature of corporate cultures is ignored yet the research (Clinard, 1983; Deal and Kennedy, 1982; Schein, 1983) would indicate that this is an important variable to be considered -- particularly for direct selling organizations which are very often under the control of their entrepreneur/founder.

Clinard's (1983) innovative study of the role of middle management in organizational deviance revealed:

Throughout the interviews, the general theme expressed by most middle management executives was that top management, and in particular the chief executive officer (CEO), sets the corporate ethical tone. . . . Over half of the interviewees went ever further, believing top management to be directly responsible for the violation of government regulations. In fact, top management's influence takes precedence, in their views, over the possibility of a preexisting ethical (or non-ethical) general corporate pattern (pp. 132-133).

From the data presented in this study it is clear that top management in the Amway Corporation was responsible for the violations of the Canadian customs laws, price-fixing, and many of the other illegal acts detailed in this investigation. However, how the illegal and deviant behavior by Amway's top officials influences the rest of the corporate organization and the distributor organizations is still to be fully determined.

A second reason to study corporate culture and management's role in the formation of that culture is because many of the newer direct selling companies have been started by individuals who have been associated with other direct selling organizations prior to the
formation of their own companies. One such entrepreneur/founder disclosed to the researcher -- "You learn the sources for the raw materials and you find out how cheaply things can be made. And you wonder why you're not doing it yourself rather than working for someone else". It appears that the "the successful become models for others in their environment" (Vaughan, 1983, p. 61). What does this reproduction of success mean in terms of spreading illegal and deviant practices throughout the direct selling industry?

In summary, the case study of the Amway Corporation and news articles from traditional indexing sources about deviance in other direct selling organizations suggests the fact that organizational deviance in the direct selling industry may be widespread. However, what is not clear is the exact nature and scope of this deviance. While the models of organizational deviance discussed here may be heuristic devices for understanding some of the deviance in direct selling organizations they are by no means comprehensive explanations of that phenomenon.
APPENDIX A

Top Management in the Amway Corporation 1984

Chairman ......................................... Jay Van Andel
President .......................................... Richard M. DeVos
Exec. Vice-Pres. (Corp. Serv) & Secy .......... Wm. J. Halliday, Jr.
Exec. Vice-Pres. (Operations) .................... Orville D. Hoxie
Exec. Vice-Pres. (Marketing) ..................... Gordon A. Teska
Exec. Vice-Pres. (Sales) ........................ Laurence S. Malham
Vice-Pres. (Finance) & Asst. Treas ............. James J. Rosloniec
Vice-Pres. (Investments) ...................... C. Dale Discher
Vice-Pres. (U.S. Sales) .......................... Wm. R. Campbell
Vice-Pres. (Distributor Services) ............... Randall Preston
Vice-Pres. (Manufacturing) ..................... Roger Beutner
Vice-Pres. (Human Resources) .................. Dwight A. Sawyer
Vice-Pres. (Administ. Services) ............... Gerald Hausser
Vice-Pres. (Distribution) ...................... Patrick Conlon
Vice-Pres. (Purchasing) ...................... Donald MacDonald
Vice-Pres. (European Sales) .................... George Howden
Vice-Pres. (West Pacific Sales) ............... John Brockman
Vice-Pres. (Intl Admin & Strat Plan) .......... Al Meder
Vice-Pres. (Person Shoppers Cat) .............. Robert Simpson
Vice-Pres. (Policy Adm & Corp Devel) ......... Chester Grochoski
Vice-Pres. (Research & Development) ......... Gregory Grochoski
Treasurer ...................................... William Falkenstern
Assist. Secretary & Chief Attorney .......... John P. Forester
Controller ..................................... Robert Henry
Director Financial Planning .................... Richard E. Wayman
Director Product Development .................. Tommie H. Edwards
Director Paper Products ....................... J. Speed Gray
Director Corporate Security ..................... Jim B. Hiaeshutter
Director Canadian Manufacturing ............. Ray Mulder
Director Special Events ....................... Richard Myers
Director Public Relations ..................... Casey Wondergem
Director Product Pit .......................... Gerald F. Price
Director Aviation ............................. Donald G. Reininger
Director Shift Operations ..................... Robert E. Rooker
Director Distributor Communications .......... Nan Van Andel
Director Product Marketing .................... James A. Stover
Director Intl Distr & Invest Con .............. Michael D. Tofolo
Director Adv & Audio-Visual ................... Norman Vance
Director Manufacturing Engr .................. Roger A. Wallis
Director Sales (Western) ...................... Ronald Lindblom
Director Sales (North East) .................... Larry Allyn

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Director. Sales (South East) .................................. Robert Kerkstra
Director. Sales (South West) .................................. James E. Hussey
Director. Sales (North West) .................................. Patric Sullivan
Director. Sales (Central) ........................................ Larry Alsgaard
Director. International Law ..................................... Wm. H. Shaw
Director. International Public Aff ............................ Noel A. Black
Director. Federal Govt Affairs ................................. M. Robert Ostrow
Director. Purchasing ............................................ Robert Bartholomew
Director Systems .................................................. Tom Hummel
Director Affiliate Systems .................................... John Timmerwilke
Director Employment .......................................... Gary B. Bylsma
Director Employ Benefit & Compensat ...................... Tom Cole
Director Machine Maintenance ............................... John Davis
Director Regional Distribut Centers ......................... Alvin Koop
Director Sales Forecasting .................................... Jan Mangnuson
Director Literature ............................................ Ken J. McDonald
Director Distributor Services .................................. James Salik
Director Quality Assurance .................................... Michael Schmidt
Director Marketing Serv. (Europe) ............................ James Sykes
Director Corporate Engineering ............................... Charles Bellotti
Director Spec Rep CEO ......................................... Richard M. DeVos, Jr.
Director International Audit .................................... Fred Rugg

* Directors

APPENDIX B

Top Management in the Amway Corporation 1985

*Chairman ......................................... Jay Van Andel
*President ....................................... Richard M. DeVos
Exec. Vice-Pres. (Administration) .................... Otto Stolz
Exec. Vice-Pres. (Sales & Marketing) ................. Gordon A. Teska
Senior Vice-Pres. (Operations) ...................... Roger E. Beutner
Vice-Pres. (Distribution) ......................... Patrick J. Conlon
Vice-Pres. (International) ......................... Dick DeVos
Vice-Pres. (Policy Adm. & Corp. Dev.) ............. Chester Grochoski
Vice-Pres. (Research & Development) ............... Greg Grochoski
Vice-Pres. (Administrative Services) ............... Gerald A. Hauser
Vice-Pres. (Int'l Oper Support) ..................... William A. Hemmer
Vice-Pres. (Amway Prop.& Peter Is.) ............... Vernon Johnson
Vice-Pres. (Purch & Engineering) ................... Donald MacDonald
Vice-Pres. (Special Projects) ...................... Randall R. Preston
Vice-Pres. (Finances) & Asst. Treas ............... James Rosloniec
Vice-Pres. (Human Resources) ...................... Dwight A. Sawyer
Vice-Pres. (Pers. Shoppers Cat.) ................... Robert G. Simpson
Vice-Pres. (Communications) ...................... Nan Van Andel
Coordinator Planning & Policy ..................... Wm W. Nicholson
Controller ....................................... Robert Henry

* Directors

APPENDIX C

LETTER TO AMWAY CORPORATION

February 25, 1985

Mr. Dan Beahan
Sales Department
Amway Corporation
7575 East Fulton Road
Ada, Michigan 49355-0001

Dear Mr. Beahan:

As per our phone conversation this morning I am putting my questions to you in the form of a letter. Specifically, my questions are about the AMWAY SALES AND MARKETING PLAN (1984-SA-4400). Under Step 4 in the brochure the following boxed note is found:

One out of every 154 "active" distributors actually achieved the hypothetical monthly performance illustrated above in at least one month during the twelve month survey period.

If we assume 400,000 of Amway's distributors are active, then the statement means that during the 12 month period surveyed only about 2600 distributors achieved this level--it does not mean that all 2600 were Direct Distributors that year. Correct?

One the following page of the brochure the following statement is found:

The survey and company records show that nearly 7% of all "active" distributors who sponsor others and approximately 2.5% of all "active" distributors achieve the Direct Distributor level.

Again, if we assume that 400,000 of Amway's distributors are "active", the second statement says that 10,000 of them became Direct Distributors (400,000 x 2.5%). The data does not reconcile with the first statement unless the time periods, as you suggested, differ. To what time period does the second statement refer?
I would appreciate receiving a response from Amway within 10 business days. Thank you for your cooperation. I feel as a distributor it is important to be able to explain such "problems" when asked.

Sincerely yours,

Carol Juth
17399 Wood Drift Drive
West Olive, MI 49460
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