

Federal Trade Commission/Office of the Secretary

RE: Business Opportunity Rule, R511993

May 22, 2006

Dear Sir/Madam,

I am writing in response to the proposed New Business Opportunity Rule R511993, if not modified, will be a significant impediment and burden to the network marketing industry. This new rule, although well-intended, represents a significant burden to the free market trade.

The proposed rule would require a de facto seven day waiting period to enroll new distributors. In essence, one would have to sell a person twice on the same business—even if the start-up fee is less than \$20.00. While I support some of the disclosures with modification, I am opposed to a seven-day waiting period because it is excessive burden to any company and distributor who would be required to document and follow-up on the process and an impediment to new business development. Many companies already notify any new enrollee that they have the right to cancel within 3days of enrolling.

The earnings disclosure rule requires that any earnings claim statement made by the distributor or company to a prospect, whether written or oral, general or specific, be validated with a detailed “Earnings Claims Statement Required By Law.” Additionally, the distributor would be required to provide written substantiation of any earnings claim made upon request. I support the disclosure of an average earnings income statement because it is good business practices to establish realistic expectations. However, I oppose being forced to provide written substantiation because it is an excessive burden considering the investment of money to enter into the business is nominal.

The rule also calls for the release of any information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices, even if you were found innocent. In our lawsuit-happy culture, anyone can be sued for anything almost with impunity. Irregardless of the outcome, you would have to disclose it and explain it to a new business associate which is patently unfair. I would only support the disclosure of previous litigation of companies, executives, affiliated companies and the like involving fraud and misrepresentation *only if the party is found guilty*. If the defendant is found not guilty or if the opposing parties agreed to settle without admission of guilt, then it should not be necessary to disclose this information. If the parties agreed to settle without admission of guilt, there usually is some public document available, particularly if it involves a government agency and further disclosure therefore would be unnecessary.

Lastly, the rule *requires* the disclosure of a minimum of 10 purchasers closest to you. While it is a good practice to provide references of satisfied customers, this is a burden for small businesses and, as a requirement, is a violation of personal confidentiality. Unfortunately, requiring the release of this information can threaten the business relationship of the references who may be involved in other companies or businesses. In addition, it subjects these references to cross-marketing by competitors. I am recommending that contact information for purchasers be available upon request, that their availability be published on

company materials, and that due to Internet-marketing, they not be limited to geographic proximity.

The network marketing industry is one of the few remaining opportunities for people to leverage their time and limited resources to earn additional income or to create a new career. Once scoffed at by investors, many network marketing companies are publicly traded on Wall Street including Herbalife, Nu Skin, Pre-Paid Legal Services, USANA and others. Network marketing is being used by blue-chip corporations including Citigroup, MCI and IBM. Top business management leaders and *New York Times* best-selling authors Robert Kiyosaki, Paul Zane Pilsner, and Steve Covey have endorsed network marketing. Warren Buffet, well know extremely successful investor, owns three companies in the direct sales industry.

The industry is also growing in popularity and contributes to the US economy. This growth should be encouraged. There are 13 million Americans involved in this network marketing industry today. Lastly, the network marketing industry contributes to our growing economy. Sales of products and services through network marketing are estimated at more than \$29 billion in 2003.

I have been involved in the direct sales and network marketing industry twice – once for 20 years and now again for 6months. I have met some of the finest people and have been introduced to some of the best products. In my first 20 years I was able to earn a wonderful income for my family affording private school and college for my three children. I was able to retire having income from a wonderful profit sharing plan the company set up for us. I had the best of both worlds – home based business income earner plus wife and stay at home mom. It is so rewarding (more than just financial) to help people start a business and become successful. That is why I am now again part of network marketing. In my first career there were 3000 people in my organization – that’s a lot of jobs and they pay taxes. That is certainly a positive impact on our economy. So I am planning on doing this again in my second career with network marketing.

I understand and value the role of the FTC mission “to stand up for America’s free market process and for its consumers, who benefit from competitive markets in which truthful information flows.” However, I believe this proposed new rule exceeds what is necessary and needs significant modification. We live in a free market economy where people have the responsibility of making informed decisions based on best information. A better approach would be to provide consumers with objective criteria when analyzing a business opportunity and let an informed market proceed. I am in support of the disclosures should be made during the sales process without the requirement of a seven-day waiting period, only if modified as suggested.

Thank you, in advance, for reviewing and posting my comments.

Best regards,

Denise Gore
Independent Consultant / District Manager

Arbonne International

PS I also own another small business, an outsourcing agency / service industry. I know first hand that more federal rules make running a successful business very difficult. If small business is the 'engine' that runs this country, you need to focus on how to best help. The FTC has a challenging mission – protect the consumer plus provide opportunities for the consumer.