

March 1, 2013

Mr. Donald C. Clark, Secretary
U.S. Federal Trade Commission
Room H-135 (Annex G)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Comments Regarding the Federal Trade Commission's Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, Project Number P087109

Dear Secretary Clark:

As an economist who studies the direct selling industry, I would like to comment on the proposal to increase the exclusionary limit associated with the Cooling-Off Period rule. While an inflation adjustment might seem appropriate, given the long span of time since the establishment of the exclusionary limit, there have been other important developments over that same time period that suggest the limit should remain unchanged.

During recent revisions of the Business Opportunity Rule, the FTC noted the potential overlap between pyramid schemes and multilevel marketing. While ultimately deciding to exclude multilevel marketing from increased regulation, your commission stated that "although there is significant concern that some pyramid schemes may masquerade as legitimate MLMs [multilevel marketing organizations], assessing the incidence of such practices is difficult and indeed, determining whether an MLM is a pyramid scheme requires a fact intensive, case-by-case analysis."

This is no small issue for regulators or the potential direct sales recruit, as multilevel marketing increasingly dominates direct sales activity in the United States. While only 25% of member firms in the U.S. Direct Selling Association (DSA) utilized a multilevel structure in 1990, MLM firms accounted for 78% of the trade group in 2000 and 96% in 2011. In addition to the increased use of recruitment-based business models, dramatic changes in technology and communications have increased the number and variety of business opportunity offerings. Debra Valentine's 1998 address to the IMF spoke to the changing and more precarious environment for consumers, investors and regulators.

As the overlap between pyramid schemes and multilevel marketing creates the potential for consumer harm, the FTC instructs the potential recruit to learn more about the company by conducting a careful search for complaints, legal actions, and other relevant company information. The Commission specifically warns the recruit to "Take your time to think over your decision." The FTC further instructs the recruit to study the plan and ask difficult and detailed questions on past earnings, refund policies and other important plan details. Beyond personal research, it is recommended that the recruit ask the advice of a friend or advisor. The cooling off period support new recruits who attempt to follow the FTC's recommendations.

Research points to the role of urgency in scam recruitment, encouraging decision-making during “hot” rather than “cold” moments. Langenderfer and Shimp (in *Psychology and Marketing*, 2001) note the emphasis on urgency in scam recruitment, aimed at limiting information search and processing. While it is hoped that a potential recruit would conduct necessary research prior to joining, many recruits will succumb to interpersonal influence and urgency and sign on, but use the cooling off period to re-evaluate that decision based on further deliberation. Again, this is the precise purpose of the rule, and any efforts to reduce its coverage (including increases in the exclusionary limit) will limit the individual’s ability to follow FTC recommendations.

I strongly recommend that the Commission leave the exclusionary limit unchanged, to support consumers in their ability to make careful and well-researched choices.

Sincerely,

Stacie Bosley, Ph.D.
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Hamline University