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VIA ELECTRONIC TRANSMITTAL

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex S)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Comments to Business Opportunity Rule, R511993

Ladies and Gentlemen:

Melaleuca, Inc. submits the following comments to the Federal Trade Commission's revised proposed Business Opportunity Rule ("RPBOR"). Representatives of Melaleuca met with FTC staff in July 2006 to discuss the FTC's initial revised Business Opportunity Rule ("IPBOR"). Melaleuca also submitted written comments to the IPBOR by letter to the FTC dated July 17, 2006. Melaleuca refers to that letter for an explanation of Melaleuca's business.

We wish to thank the FTC for its consideration of the business interests of companies like Melaleuca and the negative impact the IPBOR would have had on legitimate direct selling companies. Melaleuca supports the FTC in its efforts to shut down "bad actors" and agrees with the FTC's conclusion that it already has a powerful and flexible tool in Section 5 of the FTC Act for combating pyramid schemes and fraudulent multi-level marketing companies. We appreciate the thorough and well reasoned analysis set forth in the FTC's revised notice of proposed rulemaking ("RNPR") regarding the Business Opportunities Rule and support the FTC's conclusion that legitimate direct selling companies should not be covered by the RPBOR. However, the application of certain provisions of the RPBOR may result in inadvertently sweeping legitimate direct selling companies into its coverage. The comments below address those provisions.

Concurrence with Comments Submitted by the DSA

Melaleuca is a member of the Direct Selling Association ("DSA") and has actively participated in the preparation of the comments to the RPBOR submitted by the DSA. Melaleuca endorses the DSA's comments.

Melaleuca's Comments

Without repeating the comments made by the DSA, Melaleuca submits the following additional comments to the RPBOR.

1. Definition of "Business Opportunity"

The RPBOR's definition of "business opportunity" could easily be construed to include direct selling companies. Section 437.1(c)(3)(ii) of the RPBOR states that one of the factors in identifying a business opportunity is that the seller represents that it will "*provide outlets, accounts, or customers, including but not limited to, Internet outlets, accounts, or customers, for the purchaser's goods or services.*"

Section 437.1(l) defines "*providing locations, outlets, accounts or customers*" as including the following, (with our commentary in parentheses):

"furnishing the prospective purchaser with existing or potential locations, outlets, accounts, or customers." (Although Melaleuca does not, some legitimate direct selling companies may provide their representatives a personal website on the Internet to advertise their businesses and products. Many companies also pass along to their representatives occasional referrals of potential customers who happen to have contacted the company directly.)

"otherwise assisting the prospective purchaser in obtaining his or her own locations, outlets, accounts, or customers." (Legitimate direct selling companies and their representatives often provide assistance, including in the form of group and one-on-one training, to their representatives in obtaining customers.)

With regard to the phrase "otherwise assisting," on page 104 of the RNPR, at item 2, the FTC poses the following questions: "*The definition of 'providing locations, outlets, accounts, or customers' includes 'otherwise assisting the prospective purchaser in obtaining his or her own locations, outlets, accounts, or customers.' . . . Will the inclusion of 'otherwise assisting' in the definition . . . result in the inclusion of multi-level marketing relationships that would otherwise not be covered? Why or why not? How could the language be refined to achieve the proper scope?"*

We believe the inclusion of the phrase "otherwise assisting" has the strong potential of sweeping nearly all legitimate direct selling companies under the requirements of the RPBOR. However, we realize that this and the other clauses in Section 437.1(l) also describe activities commonly undertaken by business opportunity sellers that the FTC desires to regulate by the RPBOR. Therefore, in order to avoid the inclusion of legitimate direct selling companies in the definition of "business opportunity," while still providing the FTC with the tools it desires to enforce the RPBOR against business opportunity sellers, we recommend that the language of Sections 437.1(c)(3) and 437.1(l) be modified as follows:

437.1(c) *Business opportunity* means . . . (3) The seller, expressly or by implication, orally or in writing, as a material inducement to the prospective purchaser, represents that the seller or one or more designated persons will . . . Provide outlets, accounts, or customers, for the purchaser's goods or services...

Deleted: including but not limited to Internet outlets, accounts or customer,

437.1(l) *Providing locations, outlets, accounts, or customers* means furnishing the prospective purchaser with existing or potential locations, outlets, accounts, or customers; requiring that the prospective purchaser use one or more locators or lead generating companies recommended by the seller; collecting a fee on behalf of one or more of such locators or lead generating companies; offering to furnish a list of locations; or otherwise assisting the prospective purchaser in obtaining his or her own locations.

Deleted: , recommending, or suggesting

Deleted: , outlets, accounts, or customers.

2. Use of the Term "Buy Back"

The term "buy back" is used in Section 437.1(c)(3)(iii) of the RPBOR. This term also describes a well established consumer protection device used by many direct selling companies in the context of buying back inventory purchased by their representatives. In order to avoid inadvertently including under the RPBOR direct selling companies that offer inventory "buy backs," we recommend that the term "buy back" used in Section 437.1(c)(3)(iii) be changed to "purchase" or "repurchase."

Thank you for providing us the opportunity to comment on the RPBOR.

Tyrië Barrott
Senior Counsel