



**National Black Chamber of Commerce**  
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May 27, 2008

VIA E-MAIL

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

Re: Business Opportunity Rule, R511993

Ladies and Gentlemen:

We appreciate the opportunity to submit comments on the Federal Trade Commission's (the "Commission's") proposed Business Opportunity Rule, 16 C.F.R. § 437 (the "Proposed Rule"). The National Black Chamber of Commerce ("NBCC") is dedicated to economically empowering and sustaining African American communities through entrepreneurship activity within the United States. The NBCC represents 100,000 Black owned businesses and advocates for all 1.3 million Black owned businesses in the United States (U.S. Census). Numerous owners of these businesses and/or their employees augment their incomes by working as sales associates with multi-level marketing companies. NBCC is committed to eliminating obstacles that may unduly impair its membership's ability to compete fairly and prosper in the marketplace.

We applaud the Commission for undertaking a review of the Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (the "Franchise Rule"), 16 C.F.R. § 436. We also applaud the Commission for carefully and responsibly considering the more than 17,000 comments submitted in response to the Notice of Proposed Rulemaking, dated April 12, 2006, in connection with the Proposed Rule. As a result of those comments, the Commission circulated a Revised Notice of Proposed Rulemaking ("RNPR") on March 26, 2008. In the RNPR, the Commission, among other things, clearly and unequivocally declared in its narrative that the Proposed Rule is inapplicable to multi-level marketing companies. See RNPR at 16. The Commission concluded that Section 5 of the Federal Trade Commission Act ("FTC

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Act”) is “a flexible and effective weapon, against MLMs that engage in unfair and deceptive practices.” RNPR at 16.

We completely concur with the Commission’s conclusion in connection with the inapplicability of the Proposed Rule to multi-level marketing companies. Rather than broadly sweeping all multi-level marketing companies and their independent sales associates into one category subject to the regulations of the Proposed Rule, a case by case approach, as now alluded to by the Commission, under Section 5 of the FTC Act, is the wise, more practical path. We believe the Commission recognizes that there are many responsible companies that have adopted the multi-level marketing methodology. In doing so, these same companies have implemented or are subject to rules and regulations that protect consumers from unfair and deceptive practices when followed.

As the Commission embarks upon promulgating a final rule relative to the RNPR, we would ask that the Commission explicitly define what a multi-level company is under proposed Section 437.1. By doing so, the Commission indicates which companies meet the criterion of a multi-level company, and, therefore, they and their independent sales associates are not subject to the final proposed rule relative to the RNPR.

Finally, we would ask that the Commission explicitly state, in proposed Section 437.7, that any company meeting the criterion of a multi-level company, as outlined in proposed Section 437.1, is exempt from complying with the final version of the Proposed Rule.

We believe that the foregoing recommendations, if adopted by the Commission, will close any gaps existing between the final version of the Business Opportunity Rule and Section 5 of FTC Act. We would gladly participate in any hearings or workshops arranged by the Commission. Please do not hesitate to contact me at (202) 466-6886 if you require additional information.

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President & CEO