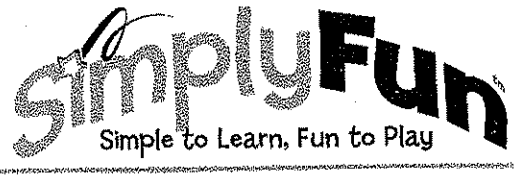

June 15, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)
RE: Business Opportunity Rule, R511993
600 Pennsylvania Avenue, NW
Washington, DC 20580

https://secure.commentworks.com/ftc-bizopNPR/

Dear Sir or Madam:

I am writing this letter today to express my concern regarding the proposed New Business Opportunity Rule R511993. This rule in its present form would severely impact our growing business here at SimplyFun. One of the many responsibilities of FTC's is to protect the public from "unfair and deceptive acts or practices," however sections of this proposed rule could unfairly damage a new company such as SimplyFun who is legitimately trying to grow its business.

SimplyFun, LLC is a party plan company that was founded in 2004 with a mission dedicated to bringing families together through play. SimplyFun markets a variety of board games, puzzles and other entertaining products that families can experience for face to face. We promote both wholesome learning and fun. The company currently has more than 700 independent consultants across the United States and will gross more than $1 million in sales in 2006.

As CEO of SimplyFun, I have a number of concerns regarding this rule:

1. Seven Day Waiting Period – The requirement to wait seven days before enrolling a new consultant is harmful to our business. New consultants join our organization with a sense of enthusiasm for our mission, and are supported to hold their first party within the first week of joining. Our SimplyFun Starter Kit only costs $149 (with a retail value of over $300), which is far less than what an average consumer spends on items such as home electronics, cars and house wares. In those cases the consumer does not need to wait seven days before receiving the item or benefiting from the purchase. Instead they rely on the retailer's return policy, something that is mandatory for every DSA member company. We at SimplyFun allow for buyback of a Starter kit and other product purchases for up to a FULL YEAR beyond the acquisition date at 90% of the retail value. This policy is far more generous than most consumers would find at their local store or internet retailer. The waiting period proposed under this rule seems unnecessary and may actually create a negative perception of a legitimate company with the prospective Consultant. Administering the waiting period is also problematic in that very detailed records will need to be kept by both the

consultant and SimplyFun to document the various stages of contact. And, there will be additional costs incurred to retain and manage the data for the requisite three year period.

2. Earning Claims – The gathering of data from independent consultants regarding their earnings is ineffective in addressing the FTC concerns. This requirement places SimplyFun in the position of relying on information from the consultant regarding earnings that may or may not be accurate, then passing that information on to a prospective party. Though we would attempt to comply with the requirement, we may unknowingly pass along fraudulent information which puts the company at risk. As a consultant is their own independent business owner, it seem to be a better approach to allow the consultant to develop their own forecast for earnings based on the program guidelines provided by SimplyFun.

3. Disclosure of References - The requirement to give 10 references of existing consultants nearest to the prospective new consultant seems at odds with today's concerns over privacy and security. SimplyFun would be very uncomfortable providing information on our existing consultants to individuals who are not yet part of the SimplyFun family. We have no control over how the information might be used by the prospective consultant and are very uncomfortable about the liability it may present from existing consultants who prefer not to have their personal contact information publicized. In addition, the technical requirements and administrative time involved with being able to provide this information, particularly for a small company are also overwhelming. Implementing the requirement will draw staff resources away from growing our business to statutory work that does not build income for our consultant base, and cast the company in a negative light.

4. Statutory Reporting – Though our consultant base is growing, SimplyFun should still be considered a small business, with only 13 full time staff. The elimination of our exemption under the $500 franchise rule threshold for reporting would now require at least one of our staff to be devoted fulltime to dealing with the statutory requirements. This comes at a critical time in our business when we need the full attention of our staff focused on working with our existing and new consultants to help build their businesses.

5. Litigation Information – Though SimplyFun has never received a complaint or faced civil or criminal legal action, we know that in today's litigious environment we will likely face some type of cause no matter how careful we are in the administration of our business. It seems unfair to require us as a direct seller to share this information, when other store front or internet businesses are not required to do the same. Many cases in the courts today are frivolous and are not an indicator that a company is operating unethically. Exposing potential new consultant to this information without providing appropriate contextual references would be misleading and harmful to the continued growth of our business.

We at SimplyFun understand the mission of the FTC is to protect consumers, however we believe this proposed new rule has many unintended consequences which will severely harm our new business as well as prevent other new businesses and entrepreneurs to successful build a business. We believe that there are other constructive, and less administrative alternatives available in achieving the consumer protection goals stated in the proposed rule.

Thank you for your time in considering our comments.

Sincerely,

Gail DeGiulio

CEO
SimplyFun, LLC