



June 30, 2006

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

RE: Business Opportunity Rule, R511993

Dear Sir or Madam:

On behalf of USANA Health Sciences, Inc. ("USANA"), our employees and our more than one hundred thousand independent distributors, I am writing this letter to express our concerns about the proposed New Business Opportunity Rule (R511993). We believe the Rule as presently drafted could hinder or even ruin USANA's business, which could, in turn, drastically affect the small businesses of our independent distributors. This represents a potentially significant and adverse economic impact to our employees and their families, as well as our thousands of independent USANA distributors, who work very hard to build successful home-based businesses that contribute to their financial well-being and the economic growth of their communities. We understand and appreciate the FTC's responsibility to protect the public from "unfair and deceptive acts or practices," but we believe the Rule goes too far in trying to protect the public by proposing certain unnecessary and burdensome requirements that will make it very difficult, if not impossible, for USANA and our independent distributors to continue growing our respective businesses.

USANA is a Utah corporation, founded in 1992 by Myron W. Wentz, Ph.D., that develops and manufactures high-quality, science-based nutritional and personal care products, with a commitment to continuous product innovation and sound scientific research. We distribute and sell our products in the United States, Canada, Australia, New Zealand, Hong Kong, Japan, Taiwan, South Korea, Singapore, Mexico and the United Kingdom through a network marketing system, using independent distributors that we refer to as "Associates." We also sell our products directly to "Preferred Customers," who purchase our products for personal use and are not permitted to resell or distribute the products. As of December 31, 2005, we had approximately 133,000 active Associates and 70,000 active Preferred Customers worldwide. The company's sales for 2005 were \$327,000.00. USANA is proud of its success in creating a rewarding financial opportunity for its Associates, shareholders and employees.

We believe one of the most confusing and burdensome sections of the proposed Rule is the seven day waiting period to enroll new independent USANA Associates. USANA's sales kit only costs \$49.95 (or \$19.95 for the electronic version). People buy TVs, cars, firearms, and other items that cost much more than the cost of a USANA sales kit and present a far greater risk of financial loss, yet consumers purchasing these items do not

have to wait seven days to conclude their purchases. This waiting period gives the impression that there might be something suspicious or deceptive about USANA's business plan or that there is some significant financial risk, which simply does not exist. I also think this seven-day waiting period is unnecessary, because USANA already has a 100% buyback policy for all products including sales kits purchased by a salesperson within the initial 30 days and a 90% buyback for products purchased within the last twelve months. Under this waiting-period requirement, USANA will need to rely on our Associates to keep very detailed records of when they first speak to someone about USANA to make sure we do not accept new applications from prospective Associates before the 7-day period runs. This unnecessary requirement creates a burdensome bureaucracy for Associates and their prospects, and it presents an administrative nightmare for USANA.

USANA is also opposed to elimination of the dollar threshold under the existing Franchise Rule, because it brings USANA's network marketing plan under FTC regulatory authority as a business opportunity, which will require the company to produce numerous documented disclosures in order to comply with the proposed Rule. USANA's network marketing plan simply does not present the financial risk inherent in most business opportunities. Requiring USANA to make these onerous disclosures under the guise of protecting an unsuspecting public from a non-existent financial risk provides little benefit to the public while forcing the company to carry yet another administrative burden.

The proposed Rule also calls for the release of **any** information regarding lawsuits involving misrepresentation, or unfair or deceptive practices. It does not matter if the lawsuit was resolved in favor of the company. Today, anyone or any company can be sued for almost any reason. It does not make sense to me that USANA would have to disclose these lawsuits, unless USANA is found guilty of wrong-doing. Otherwise, USANA and the thousands of small businesses of our independent USANA Associates are put at an unfair advantage because potential independent USANA Associates are misled to believe that USANA is guilty of wrong-doing even though USANA may have done **nothing** wrong.

The proposed Rule requires direct sellers that make earnings claims to compile extensive sales and earnings information, demographic/geographic data, and other achievement-related information about their independent sales people in order to create complex statistical earnings claims matrices to substantiate these earnings claims. While USANA strongly supports the ethical proposition that any earnings claim should be substantiated, we do not believe this requirement will do much to deter fraud. Fraudulent companies simply will not provide accurate data, and legitimate direct selling companies, which will dutifully try to comply with the requirement, will be faced with a difficult if not impossible challenge of meeting some of the proposed requirements.

Finally, the proposed Rule requires USANA to disclose to each prospective independent USANA Associate the names and contact information of a minimum of 10 previously enrolled independent USANA Associates who live nearest to the prospective Associate. While USANA is happy to provide references, we are very uncomfortable giving out the personal information of individuals (without their approval) to strangers where identity theft is so prevalent and the risk of class action lawsuits for misuse of personal information is a very real possibility. Also, we believe sharing this type of information with business prospects who may be involved in other network marketing businesses

creates an opportunity for those prospects to recruit enrolled USANA Associates away from the USANA opportunity. USANA considers the names of its independent Associates to be confidential and trade secret information, and a requirement to disclose this information for this purpose makes it very difficult for USANA to protect its trade secret information and this could damage the company's business. Moreover, in order for our Associates to get the list of the 10 previously enrolled independent Associates, they will need to send the address of the prospective Associate to USANA headquarters and then wait for the company to generate the list and send it to them. This will make recruiting prospects for the USANA opportunity a very slow and tedious process for our Associates, making it significantly more difficult for them to effectively build a strong independent USANA business. We also think the following sentence required by the proposed Rule will prevent many people from wanting to sign up as an independent USANA Associate, "If you buy a business opportunity from the seller, your contact information can be disclosed in the future to other buyers." People are very concerned about the privacy of their personal information and the potential for identity theft. They will be reluctant to share their personal information with individuals they may have never met.

USANA appreciates the work and efforts of the FTC to protect consumers, but we believe this proposed new Rule has many unintended consequences and there are less burdensome alternatives available to the FTC in pursuing its goals. Therefore, USANA respectfully requests a workshop and a hearing regarding this matter to give us an opportunity to better evaluate and understand the FTC's rationale for the Rule and an opportunity to more fully explain and defend our position.

Thank you for your time in considering USANA's comments.

Sincerely,

David A. Wentz
President

