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Federal Trade Commission

To Whom It May Concern:

Disclosing all law suits in the last ten years only hinders businesses that have been around for 10 years. This rule favors hit-and-run pyramids because the "founders" can hide their history and the new "partners" can say, in all innocence, that there are no lawsuits. In fact they can strategically strip participants from viable businesses by making the claim, "Look at them! You don't want to do business with them, they're risky! They have lawsuits, we don't have any!" There are already people doing this, this particular aspect of the proposed FTC rule gives their predatory strategy the ring of legal legitimacy by allowing them to say "Look, why would the FTC require them to disclose their dirty laundry? It's because they're guilty and you don't want to business with them! We've solved all 'those' problems and we're clean. Do business with us!"

The disclosure rule makes the public all the more suspicious of starting a business. In essence, this rule requires me to sign an affidavit declaring my innocence and present it, along with my financial records to my prospective customers and business colleagues. Further, as presented it could be interpreted to require an independent business owner to disclose all the financial and legal records of all several million "sister" companies contracting with the same parent company.

The rule as proposed is highly impractical. Independent business owners doing business with a common supplier of inventory and outsource services number from hundreds of thousands to millions of independent business owners in Quixtar alone. Some of the independent business owners are scrupulous some are not. Quixtar already has a self policing policy. It is in the financial interest of the independent business owners to blow the whistle on unscrupulous activities and we do. Neither the central supplier nor the sister independent business owners should be held responsible for the scruples of it's independent business owners, nor should a team building IBO be required, nor are they capable of presenting, the financial and legal records for over a million sister businesses.

As I pointed out earlier, this rule favors small businesses that have no history and can claim sainthood by virtue of their brief existences.

Since when does the law require voluntary up-front disclosure of an individual's personal and private records to another independent business startup? This discourages and hurts small business in at least three ways,

- (1) existing businesses do not want to disclose this personal information in an identity-theft world
- (2) individuals wanting to start a business have no interest in starting a business if they knew they would have to disclose their financial standing and personal background, and
- (3) would-be independent business owners would be put off and made intrinsically suspicious were offered such legal and financial disclosure up front.

God forbid should this rule actually be promulgated, it absolutely must be applied equally to all businesses such as Enron, GM, IBM and so forth, before a customer decides to make a purchase from that company!

The business owner building and mentoring a team of independent business builders already has a huge challenge in educating, leading and mentoring those other business owners. In order to implement this rule would require independent business owners to disclose the legal and financial details of a companies in which they have no ownership would be inappropriate and impossible.

It would be like a retailer being required to disclose to the retail customers all the legal suits and profitability of the manufacturer and wholesale suppliers, in fact this rule would be like me having to disclose the financial background of every service that I outsource, my CPA, my financial adviser, my tax adviser, my legal advisers, and so forth.

Imagine the outcry from retail stores if they were required to hold all payment for products and services for seven days, required to introduce each customer to 10 preexisting customers seven days before a customer could do business, in addition to disclosing the financial and legal records of the store owner, manager, and parent company.

Again, for this rule to be promulgated "fairly" in the market, it should also then include all web retailers who "partner" with merchants by allowing people to link to the supplier's site through the partner's site. Witness Amazon.com - I can have an agreement with Amazon that they kick a few bucks back to me if people link to their site by using my site as a portal. So if this rule is implemented I would insist, nay, demand, that all such web sites and their suppliers be subject to detailed scrutiny including lawsuits and financial records.

Introducing a prospect to ten other IBOs in the area is actually reasonable, and INA presently does this, but the time frame should be left to the prospect, not dictated by law. Perhaps this aspect could be best treated as an investigative

"yardstick" as a test to see if the new business is being open and forthright with its prospects.

It is unclear what specific goals the FTC is trying to address with the proposed rules. There are hundreds of new multilevel startups every year. Many of these startups prey on the financial desperation of their prospects with suggestions of get-rich-quick-with-no-effort schemes. One such recent startup Ethos FR has heavy front end loading and uses a "binary scheme with 2/3 balancing" They call it team building and they admitted to me that a previous similar scheme "ran out of gas" because a binary scheme, like a pyramid, requires continuous growth to support the cash flow of the "ground floor" entrants.

The FTC could require new multilevel businesses to submit a business plan and a business model that shows how the compensation plan actually works. Ponzi schemes should be prohibited but other models may be permitted provided the model is explained and they must be required to disclose when and at what level the compensation plan stops.

The FTC should be pro-active with new multi-level startups, not reactive only when there is a complaint.

MacDonald type franchises stop at one level of depth. The Quixtar model is bottomless and the compensation of the early adopters does not stop if the growth stops because it is based on diverting middleman and advertising dollars. Prepaid Legal is bottomless because a percentage of the "override bonus" is allocated a-priori and does not require continuous growth to support those business owners that are already in business with front line and down line teams.

In summary, the new rule would absolutely damage my business

- (1) by allowing other people to have access to legal and financial records;
- (2) by punishing existing large business structures like Quixtar and Prepaid Legal who are large targets and have a substantial number of frivolous law suits;
- (3) by allowing pyramid startups to claim "sainthood" by virtue of having no history;
- (4) by giving false legitimacy to new startups by putting private information into their hands and allowing them to cast aspersions against businesses with a longer history;
- (5) by placing documentation and disclosure requirements on small businesses that would not apply to large businesses.

The FTC also has charters to control identity theft. This proposal broadcasts and puts into the public domain information about millions of private and personal financial and legal information thereby placing those millions of business owners in identity-theft jeopardy.

I support proactive regulation of new multilevel startups. I support proactive examination by actuaries and forensic accountants of the business plans and compensation schemes of these companies. If the FTC started by examining the compensation plans and the history of business fraud by the founders many unscrupulous startup businesses could be thwarted at the outset.

Sincerely,  
Louis F. Bilancia, Professional Engineer,