



Take Shape for Life

July 14, 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

RE: Business Opportunity Rule, R511993

Good Morning,

We have written this letter because our company is concerned about the proposed New Business Opportunity Rule R511993. We are apprehensive that in its present form, it could be severely harmful to Take Shape for Life and our sales force of independent direct sellers, many of whom make their living solely from their independent Take Shape for Life businesses. We understand that one of the FTC's primary responsibilities is to protect the public from "unfair and deceptive acts or practices." However, some of the sections in the proposed rule will make it very difficult for Take Shape for Life to continue as a business entity, and for our sales representatives to continue with their independent businesses.

Take Shape for Life is a health and wellness company that focuses on helping people take control of their health through nutritional intervention, weight loss and weight management programs. We offer individuals a way to achieve optimal health through our products and programs and also provide a business opportunity to those interested in helping others regain or maintain their health. Take Shape for Life has been in business since 2002. We have approximately 3000 independent direct sellers in our organization.

Take Shape for Life supports the FTC's efforts to protect consumers from spurious business practices, and we understand the necessity for providing adequate information to help individuals make good decisions about joining a direct selling opportunity. However, we want to be sure that we are also balancing consumer needs with the needs of our valued field members, as they work their independent businesses. We share our concerns with you (outlined below) so that we can ultimately arrive at a rule that is fair and balanced for all.

Litigation Information

The proposed rule calls for the release of **any** information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices. The proposal does not take into account whether the company was found innocent. Today, anyone or any company can be sued for almost any reason. We see little value in disclosing these lawsuits unless Take Shape for Life (or any company) is found guilty. In addition, it seems that claims for misrepresentation are haphazardly thrown into every complaint these days. It would be appropriate to include only litigation that is related to the earning opportunity offered to the prospective distributor.

It is important to note here that to date, Take Shape for Life has not been named or involved in any litigation regarding misrepresentation of earnings claims or unfair or deceptive practices. As members of the Direct Selling Association (DSA), we hold ourselves and our sales field to our stringent code of ethics.

### Earnings Claims

The proposed rule requires direct sellers to gather information such as time periods, distributor demographic/geographic data and earnings claims. We are concerned that this approach will be ineffective in preventing the targeted business opportunity fraud, since those perpetuating fraudulent business opportunities will not provide accurate data. However, direct sellers such as Take Shape for Life, which will try to faithfully comply, will have the time-consuming and valueless challenge of interpreting and meeting some of the proposed requirements.

### References

Finally, the proposed rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. Take Shape for Life is glad to provide references, but in these days of identity theft, we are very uncomfortable giving out the personal information of individuals (without their approval). Ironically, the requirement to provide references may result in privacy lawsuits, which under the proposed rule, we would have to report.

Also, disseminating this information without any controls on how it could be used may have the unintended consequence of unfairly benefiting our competitors. Additionally, in order to generate the list of the 10 prior purchasers, we will need to obtain the address of the prospective purchaser, search our database for the geographically nearest existing distributor, use a software program or online service such as Mapquest to confirm these are the correct purchasers, and then send these results to the distributor.

The following sentence required by the proposed rule will dramatically discourage or prevent many people from signing up as a salesperson: "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 their privacy and identity theft. So are we from a privacy litigation standpoint. Individuals will be reluctant to share their personal information with individuals they have never met.

Take Shape for Life appreciates the work of the FTC to protect consumers, but we believe this proposed new rule has many unintended consequences which could negatively impact or destroy the businesses of our independent business owners. We urge you to explore less burdensome and more business friendly alternatives that will achieve the same consumer protection goals stated in the proposed rule.

Thank you for your time in considering our comments.

Sincerely,

Allison Nipper  
Vice President, Field Operations  
Take Shape for Life, Inc.