

Janet Cutrona

**To: The Federal Trade Commission**

**Re: Business Opportunity Rule, Matter No. R511993**

As a long-time co-owner of an MLM business in the United States (Quixtar, formerly Amway prior to 1999), I applaud the FTC's desire to rid the business of the scams it is prone to, but object to some of the proposed provisions as being **both harmful to honest business people while being ineffective in shutting down the con games**. I list these provisions in the order in which I feel they are most objectionable on both these counts:

- 1) List all legal allegations –lawsuits, arbitrations and other legal claims—against the sponsoring company and all its affiliate marketers for the last 10 years. This rule is perfectly absurd because everyone knows that the hallmark of scams is that they are extremely ephemeral: they start up out of no where and they disappear just as quickly and abruptly. These are the people that tell you that you are getting involved in a “ground floor opportunity”, which translates into “not around long enough to get shut down as illegal or to be sued.” Common sense would tell anyone that the larger, more successful, and **oldest** MLM businesses would be the very businesses that had the most legal suits brought against them. I venture to say that Microsoft and Wal-Mart have a bigger laundry list of lawsuits against them than, say, Joe Maderazze Software or the local dollar store. People sue successful, big businesses, not the little guy where there's no money to be made in suing. I wouldn't object to this provision if we are allowed to point out that the number of claims, lawsuits and arbitrations is **PROOF** of the success and longevity of the business. Most Americans don't understand this relationship because common sense isn't common.
- 2) Require affiliate marketers to calculate and make different disclosures for every income claim. As far as my understanding goes, an annual Sarbanes-Oxley accounting by the sponsoring company to the government should be sufficient, as long as the sponsoring company can demonstrate that it expunges any affiliate marketer found to be making claims other than the ones the sponsoring company has filed with the government. I would support a government website where the income claims could be posted and have all affiliate marketers be obliged to give prospects a sheet that advises what the audited report to the government is and the FTC URL to verify it.

**HOWEVER**, rules like this presuppose that the MLM already exists to make an income claim. What scam artists typically do is claim that “you are getting in on the ground floor. We are just like \_\_\_\_\_, only better.” In a situation like that, they use the documentation of OTHER and legitimate sponsoring companies' income claims to lend themselves credibility, and usually they don't last long enough to be around to be shut down by the government or to be sued. Again, Bill Gates is one of the wealthiest men in the U.S. Citing his income as proof that going into the software business is “going to work” still is no guarantee that one will make what Bill Gates makes or that one won't lose one's shirt in the process. Most Americans don't understand this relationship because common sense isn't common.

- 3) The “list of 10 references in the area” provision is totally absurd. Let's say that you made a requirement like that for medical doctors. A new doctor tries to set up business in town. He promotes his new business to the local residents. They come into his office and he gives them a sheet listing all the other doctors in town as references and the patient has seven days to call those other doctors to check this new doctor out. Absurd, absurd, absurd. (Of course, the quack who is practicing without a license will make up a bogus list and give it to his prospects assuming that 99% won't check his references and the other 1% won't report him.) Con men observe how people really operate. Governments, unfortunately, only pay attention what people SAY about the way that they operate. People never admit to being stupid or lazy and I defy anyone to legislate against that truth.

- 3) Prohibit prospects from registering their new business until 7 days after they receive a disclosure document. Why prevent legitimate business people from doing business for 7 days, when instead you can require the sponsoring company to refund the franchise fee within 7 days of sign-up? The legitimate sponsoring companies will still be around to refund the fee and, hopefully, the scam artists will still be around after 7 days to refund the fee— or to be discovered by the government and shut down as scam artists.

It is always easy for people to object to possible solutions to problems, but a lot harder to come up with alternatives that might work. From my own observation over the 14 years I've pursued a legitimate career in MLM, here's what I believe would go some way towards weeding out the con artists without unfairly handicapping the legitimate business people:

- 1) Regulation of advertising: Advertisers can be prevented from accepting advertisements from MLM's masquerading as "jobs" or "work from home." I have frequently been scandalized by the number of MLM's that advertise on such web sites as Monster.com and CareerBuilders. I'm sure they are masquerading as employers on other job-related advertising venues. This is false advertising and should be stamped out completely.
- 2) Regulation needs to start with the sponsoring company, not the affiliate marketer, and simply because there's too many of the affiliate marketers to effectively regulate them. If you shut down the sponsoring company's ability to scam, you'll reduce the number of affiliate marketers who are implementing the scam. I frequently see TV advertisements for unnamed MLMs. Why, as advertisers, are they not obliged to identify themselves? Why is it that I know intuitively that they are not Quixtar, Amway, Avon, Mary Kay or any other reputable business? The hallmark of a reputable MLM is that it puts the money it saves in advertising into the pockets of its affiliate marketers. If the MLMs who advertise are legitimate, how can they afford to advertise and still pay bonuses to their affiliate marketers? This is what the FTC should be looking into.

I sincerely hope you find my input helpful because I do believe that my industry's reputation needs to be protected from the criminal and from the predatory. The current FTC proposals I mention here don't address the real problems, in my opinion, while they would seriously and unfairly handicap those like me who operate legitimate businesses.

Yours very sincerely,

Janet Cutrona  
Quixtar Independent Business Owner