Response to Business Opportunity Rule R511993, pp. 19054-96

I am a Quixtar/Amway Independent Business Owner (IBO) and have been for ten years. I have only been approached about this business once. I checked the business out by going to an informational briefing and listening to tapes. I had a positive image of the Corporation already. The low investment required and associated risks were very appealing to me. Making money on the wholesale to retail spread is how general business makes its money but I didn't have to invest in all of the inventory and other operating costs that a typical retail store does. My brother and sister have both had traditional retail businesses. Also, no money is made by the line of sponsorship for registering IBO's. Money only flows if there is product flow, again similar to traditional business.

What impressed me was the caliber of the people involved, not as much their occupations, which varied widely, but their character and their heart for helping others. My sponsor held a couple of meetings for me and from that I got some customers and sponsored one IBO. Over the years, I have sponsored others and gained clients and I did realize the profitable potential that this business had to offer. However, I have not put in the consistent work it takes to build a large business, nor did those I sponsored. I know that the times I have worked it harder, more like a business, it does work. Most of those who registered as IBO's have only bought a few products and some never bought any so they really did not understand or gain a business mentality. I am sorry that I was not able to convey that to them adequately. Confidence in approaching people and finding people who will actually work this like a business takes effort, more than I have devoted up until now. My current career is demanding and reasonably well-paying and I have used my busy schedule and personality as excuses not to progress. This is my decision.

The value of my association with Quixtar goes far beyond business as usual. The relationships and integrity of the firm and my line of sponsorship are seldom found elsewhere. Part of this is how the compensation plan is structured so it is unwise to give false advice, but also because of the caliber of the people involved. I cannot imagine not being associated with this business at some level for the rest of my life. In my opinion as a business professor, it is the best possible business model for busy professionals. It offers flexibility in that it's up to me as to how much time and effort I put into my business and the income derived from it. There are no minimum buys per period and I receive free or nominal-cost support and advice from my sponsor and the group of IBO's to which I belong, respectively. When I signed up ten years ago, I received income disclosures of the average gross income of active Quixtar independent business owners in order to help make a sound decision and I was given the time I needed to decide. I do the same for others to whom I show the Quixtar business opportunity. Some sign up quickly, some take longer. I have not noticed any difference in performance across the two choices.

I will address applicable questions posed at the end of the rule explanation as well as indicate some concerns with specific proposals. Thank you for taking steps to make sure that our industry is a level and ethical playing field.

Questions posed:

a. How prevalent is the practice the provision seeks to address? I do not know beyond what is stated in the proposal and anecdotal information. To my knowledge, the documents that I use and that Quixtar requires me to use provide adequate disclosures so that prospects can make an informed decision.

b. What is the impact (including any benefits and costs), if any, on:

1. Prospective business opportunity purchasers

Having good information is important to making an informed decision. A question is how much is enough and how much is information overload. I applaud the guidelines on not being able to hide key information in very tiny print or poor grammar.

2. Existing business opportunity purchasers – combined with next category
3. Business opportunity sellers (including small business opportunity sellers and start-up sellers)?

Earnings Disclosures:
There appears to be extra **paperwork/disclosures** beyond what Quixtar already provides, some of which seems unnecessary for how I have been conducting business under the Quixtar guidelines. For example, I only use Quixtar's Sales and Marketing Plan earnings disclosure document when explaining **earnings** potential, which Quixtar requires every prospect to receive when considering the Quixtar opportunity. The math examples are very clear and can be calculated in one's head or with a simple calculator. The FTC could list guidelines on how the material is presented and then it would be easier for the FTC to review and compare across applications.

Seven Day Waiting Period:
The **seven-day waiting period** seems excessive for the registration sign up fee which is around $50 and I recommend against it. I believe that there currently is a 48-hour buyers' remorse option which seems sufficient for people to change their minds, such as for life insurance policies of much higher value, but this period could be extended. Further, Quixtar has a 180-day money-back guarantee on their products and the nominal sign-up cost is prorated over the year if someone wants to quit. The Quixtar product return rate is very low. I have helped clients and IBO's return some products. Most IBO's in my business who did not renew did not ask for a refund. They just did not renew the next year If they did say they were quitting, I referred them to Quixtar Customer Service for handling the refund unless they used my credit card to sign up, in which case, I called Quixtar Customer Service for the refund and passed it on to them. I have always found Quixtar Customer Service to be very helpful on any issue about which I call. While the document I read indicates that the FTC views this kind of business model as different from regular retail, it would seem that if there is a waiting period for such small investments as for Quixtar, there should also be a waiting period on big-screen

TV's, cars, and other consumer expenses that far exceed the Quixtar sign-up fee and initial investment in business materials. [Proposed Section 437.1d says that offering assistance separates this from normal sale of goods and services. It would be surprising for retail sales people not to be knowledgeable and offer assistance on big-ticket items on at least how to use them.] It would seem better to require all who fit under the proposed ruling to have a cancellation/re/fund policy and buy-back structure. This is currently not part of the proposal. If a waiting period is included, I suggest that it be limited to amounts where someone would have to take out a loan to get started, as is often the case for franchising. The Commission speaks of balance. What is more destructive: violence on big-screen TV or trying to better oneself? Apply any waiting time rule to any product over the specified amount and see what happens to the economy. If any version of the waiting rule is kept, the total expected investment should be used as a cutoff, including business materials and inventory.

Disclosing Legal Action:
I suggest a similar parity regarding a list of **legal actions**. This can be broad even as currently narrowed by the proposed rule. If those in the kinds of businesses regulated under the proposal are to list litigations, then why do not big-ticket consumer goods manufacturers and retailers have the same requirement? If one researches major corporations, I expect that there may be similar judgments – think car companies, for example. There has to be some responsibility on the buyer's part. I do agree with catching those who jump from business to business, profiting as one is shut down and bilking consumers out of much money as documented in the proposal. My concern is whether this will really work and how to protect already established legal businesses, such as Quixtar, from the stigma of those you seek to stop. In my opinion, the fly-by-night organization will find ways to not list things, and make previous offenders secretaries or low-level employees or advisors to skirt the issue. It would seem a more direct route to have applications in a central place, such as the FTC and shared with appropriate state officials, so that an immediate check can be made and the businesses stopped before they get started. Be careful what information you are trying to let the potential consumer know. There are plenty of nuisance suits. Some judgment and fairness is needed if this is kept. How is size of the firm included, which likely will have more litigation? How will this be policed for accuracy?

References:
The proposal already indicates an understanding of the possibility of shills for **references**. This would seem to be so fraught with chances for misuse that it should be omitted. The Quixtar site already has examples of successful IBO's that a prospect can check out. Prospective buyers can ask for references if they choose. Further, this is a compromise of the business line of sponsorship. Quixtar has just experienced raiding attempts from other businesses to acquire or break lines of sponsorship which are the basis for the remuneration system and represents theft of several people's collective efforts to build that organization. Requiring giving names may also be a deterrent to prospects to know

that their names may be given out, especially when they are just starting out and not actively engaged or willing to put forth the effort needed to make it work.

Drop-out Rate:
From my experience over the past ten years, the **drop-out rate** would not tell the real story. I have had several people sign up who said they wanted to make money but then did not do any or almost none of what it takes to build a business, which is hard work. They opted out/quit; they didn't drop out, as interpreted as I expect the Commission means. The "business owners" didn't accept my offers of help, at no charge, or study the business to know what it really takes to succeed, nor apply success principles that work in any business, like people skills and putting time into the business. In short, they, and I to a certain extent, had an employee mentality and did not treat it as a business. They look at modest investments by any other business standard and called them expenses. In conclusion, because of the ease of entry and exit and low investment, any percentage or dropout rate is misleading. Most of them never were "in business" in the first place. Section 437.4a4 about an earnings claim statement is a concern. The issue is that with low investment and no required effort, to include everyone is very misleading. If people think they can get into something and not invest their time and some money and actually purchase products and follow the proven advice, then it would <u>not</u> seem reasonable to consider them "in business" for the Commission's purposes.

c. What alternative proposals should the Commission consider? How would these proposed alternatives affect the costs and benefits of the proposed Rule?

Summary of recommendations:

1. Remove the seven-day waiting period. If anything, increase the buyers' remorse period. If some version is kept, then include all expected investment, including sign-up fee, business materials, training, and inventory and raise the cutoff.
2. Require all businesses to have a cancellation/refund and buy-back policy that is clearly stated in an easily accessible place, e.g., in a business compendium. Recommend requiring stated cancellation/refund/buy-back policies that include initial investment, training, materials, and product purchases. This could be a percentage and not a full refund but it should be substantial, e.g., at least half, if the company is really standing behind what it says.
3. Remove the section on all IBO's, or equivalent in other business models, from having to individually prove income potential. There are so many different Quixtar products to sell, each at a different cost, bonus, and profit potential that it would be next to impossible to document them all. I suggest having businesses disclose the average earnings as Quixtar already does.
4. Keep the responsibility of record maintenance to a minimum and centralized with the main company. At the time of sign-up, the IBO or equivalent will be identified as the sponsor or sales representative. It would seem the person would know who talked to them before sign-up. Again, is this done for insurance sales, for example?

5. Remove the requirement to provide a list of legal actions. Recommend that prospects search already available web sites or materials from reputable sources, such as the Better Business Bureau (BBB), for issues regarding legal actions. The internet is littered with negative web sites on any company I have checked. These are not reviewed and generally quite biased. Perhaps the FTC could maintain a list to insure consistency. However, if this provision is kept, it is inconsistent with the non-existence of current manufacturer and retailer requirements for much bigger investment levels. Also, it is too easily skirted for new firms.
6. Remove Proposed Section 437.1e regarding the drop-out rate or any other percentage/numbers requirement. There are too many alternative explanations for why one quits or does not continue. The main one in my experience is that they didn't do the work needed to build a viable business.
7. Remove the disclosure document. If kept, remove the yes/no questions regarding litigation. No large firm, of which I am aware, does not have such litigation and this gives unfair advantage to the fly-by-night, start-up firms who will change the deal and the name to avoid this. I don't think it does what the Commission is trying to accomplish. Of the earnings, legal actions, and cancellation or refund policy yes/no check boxes, only the earnings one should be kept. There should be a stated cancellation policy and an average earnings statement should be shared with the prospect. If the disclosure document is kept, it should only include that the prospect received average earnings documents and has received/available the cancellation policy.
8. Remove providing local names. This is an invasion of privacy and a compromise of a significant part of the value of our business model. Refer prospect to BBB or web site of main firm for examples.
9. Require only the company to maintain records of the finally-determined information for 3 years, rather than both the individual seller and company.

Further, there are some questions I have after reading a summary of the proposal. Specifically,

> Does "require" mean to expect to invest or is it part of the contract? What real business would not require at least $500 investment in the first 6 months, excluding inventory? There is need for protection from initial, high-inventory investments.
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> Why does it apply only to those businesses who sell to end users?
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> Will the illegal schemers present the needed information? Will consumers know that they are supposed to ask for it?

In summary, I am happy that all businesses will now have to follow the same compliance rules that Quixtar/Amway has for decades. However, there are a number of concerns with the current draft that would adversely affect my business and possibly others, such as providing a number of documents, some personal; legal actions, whether true or not; a waiting period; and added paperwork that may not get the results intended.

Thank you for listening,

Martha Cooper