

Dawn M. Drew

16 July 2006

Re: “Business Opportunity Rule, R511993”

Dear Sir or Madam:

I understand that part of the FTC’s responsibilities is to protect the public from “unfair and deceptive acts or practices” and I applaud the Commission’s effort to deal with the scourge that the types of businesses this rule is intended to address have become. They give the entire Direct Sales industry a bad name and do much damage to those trying to provide for their families’ basic needs or to improve their standard of living. I fear the net has been cast too broadly, however, and could have detrimental effects on the ability of reputable entrepreneurs to operate efficiently and maximize their earnings potential.

I have been a lia sophia advisor for just over a year and have never enjoyed a “job” more. I have been involved in other direct sales endeavors and none have given me the satisfaction and income that this opportunity has. It distresses me that this business opportunity even falls within the scope of the Rule’s definition. Many of the sections within the Rule have my full support and some cover practices that may actually enhance my efficiency at presenting the opportunity. There are sections that cause me great concern and it is these that this letter will address.

**Proposed Section 437.1(q): “Seller”**

Within most Direct Sales organizations, the business opportunity is made available from a base corporation (Amway, lia sophia, Pampered Chef, et al.) through existing distributors, advisors or what-have-you. The individual reaps some reward for recruitment but it is the corporation to whom purchase fees and inventory costs are paid. Does the definition of “Seller” encompass the corporation, the individual “recruiter” or both? The majority usage of the term in the remainder of the Rule implies “corporate” yet there are examples given that seem applicable at a “local” level (a list of references for instance).

The answer to this question goes to who bears the burden of the disclosures and information required by the rule and the scope of the information that is to be provided.

**Proposed Section 437.2: The Obligation To Furnish Written Documents**

**a. “Seven Calendar Days”**

I believe that a waiting period following the presentation of the business opportunity to a prospect can provide them time to study and research the business and gives me the chance to address their concerns and make a strong case for their involvement. So from my perspective, I have no problem with this proposal. A proposal of fewer days would be preferred (not more than 3). I disagree with this proposal entirely however as a matter of principle: it infringes on the rights and freedoms of the “purchaser” to engage in business and make decisions as and when they choose. Requiring full disclosure is one thing and is intended to help them make an informed decision, but there is nothing that can make them use this time to verify the information. They are already free to take as

much or as little time as they wish to conduct their inquiries. To mandate some arbitrary period of time for this does nothing to help them in their decision and actually limits their opportunity.

### **Proposed Section 437.3: The Basic Disclosure Document**

This document seems to differentiate between the Corporation and the individual distributor since there is room for entering “Seller” and “Salesperson.” This again goes to the responsibility of preparing the disclosures. Further confusion comes in the following paragraph from this section:

“The ultimate responsibility to ensure that disclosures are accurately prepared and disseminated would rest with the seller.”

Preparation of the disclosure documents must come from the home corporation and they would, of course, be responsible to disseminate these to their existing distributors. Yet the responsibility to provide this information to the “purchaser” rests with the distributor doing the recruiting.

### **Proposed Section 437.3(a)(3): Legal Actions**

The presence of this requirement without regard to the outcome of the listed actions is most distressing. In this litigious society suits of all sizes and types are commonplace. Disgruntled individuals or scam artists can fire away at businesses with impunity. This section has the potential to do more damage to reputable business opportunities than any other in this entire rule. To require seller to list these actions and then leave it to the purchaser to research the results is terribly prejudicial. To make matters worse is the following:

“Proposed section 437.5(c) would prohibit the inclusion of any additional information in a disclosure document that is not explicitly required or permitted by the Rule.”

This seems to deny seller the opportunity to provide the status of the actions listed, thus one cannot inform the purchaser of those actions pending or resolved in favor of seller. To require the disclosure of clearly prejudicial information without the ability to counter its effects is unconscionable.

### **Proposed Section 437.3(a)(5): Cancellation and Refund History**

Again, at what level is this information gathered and provided?

### **Proposed Section 437.3(a)(6): References**

First, the “national option:” to suggest that a list of potentially thousands of names be attached to the disclosure document as a viable alternative to listing 10 references seems illogical, cumbersome and more costly than necessary as well as being a potential prospect list for real scam artists. As regards the list of references in general, there seems to be insufficient weight given to the privacy concerns of prior purchasers. There could be any number of reasons a person would not want their name handed around to people they don’t know and this section denies them the ability to keep their business venture and the knowledge of it under their control. An opt-out option is certainly a consideration but the rule would need to allow for the possibility

that no references would be available. Perhaps a better solution would be to replace the actual list of references with the suggestion that the purchaser request references and the lack thereof could be a warning sign needing further investigation. This would protect the privacy of those desiring the protection and still give the purchaser information to help in their decision. It would negate the need to warn purchasers of the (almost guaranteed) dissemination of their personal information at times of which they are unaware to persons they don't know.

Thank you for the opportunity to provide comments regarding this rule. I believe that the concerns mentioned above can negatively impact my earnings potential by increasing the cost of doing business personally, at the corporate level thereby reducing my compensation and by scaring prospective purchasers away from a valid opportunity thus adversely affecting their earnings potential, too – the very people the rule is intended to help.

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DAWN M. DREW