

Eric K. Graham
Independent Distributor
Nu Skin Enterprises

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Dear Sir or Madam:

I am writing this letter because I am concerned about the proposed Business Opportunity Rule R511993. I believe that in its present form, it could prevent me from continuing as a Nu Skin Distributor. I understand that part of the FTC's responsibilities is to protect the public from "unfair and deceptive acts or practices," yet some of the sections in the proposed rule will make it very difficult, if not impossible, for me to sell Nu Skin products.

I had 35 years experience in sales and marketing with LTV Steel when they filed Chapter 7 Bankruptcy. At age 55, I lost a significant portion of my pension as well as my medical benefits. At my age, I was unable to find employment in the steel industry at any income level as the industry was experiencing a significant downsizing. In addition, I am Type 2 Diabetic. Even though I am diet controlled, I am viewed as a medical liability by potential employers (whether they admit it or not). I chose network marketing as the best option to recover my losses and have been a Nu Skin Distributor for more than 3 years. The future of my family is dependent on the stability of the direct selling industry.

One of the most confusing and burdensome sections of the proposed rule is the seven-day waiting period to enroll new Distributors. Nu Skin's sales kits cost from \$363.00 to \$1500.00. People buy TVs, cars, and other items that cost much more and they do not have to wait seven days. This waiting period gives the impression that there might be something wrong with the company or the compensation plan. While I support some of the disclosures with modification, I am opposed to a seven-day waiting period because it is excessive burden to any company and distributor who would be required to document and follow-up on the process and an impediment to new business development. I also think this seven-day waiting period is unnecessary, because Nu Skin already has a buyback policy for all products including sales kits purchased by a salesperson, and their policy extends well beyond seven days.

The rule requires that any earnings claim statement made by the distributor or company to a prospect, whether written or oral, general or specific, be validated with a detailed "Earnings Claims Statement Required by Law." Additionally, upon request, the distributor would be required to provide a written substantiation of any earnings claim. I support the disclosure of an average earnings income statement because it is good business practices to establish realistic expectations. However, I oppose being forced to provide written substantiation because it is an excessive burden considering the investment of money to enter into the business is nominal. Our team has been trained specifically to NOT make any earnings claims as they can be considered enticement. Nu Skin publishes average incomes for various classes of distributors on their corporate website which is available to the general public as well as any prospective distributor. Anyone who completes due diligence has access to that information.

The proposed rule also calls for the release of **any** information regarding lawsuits involving misrepresentation, unfair or deceptive practices, **even if the company is found innocent**. Nu Skin is rated 5A1 by Dunn and Bradstreet and is the model for network marketing companies with Attorney Generals in nearly all of the States. Today, anyone or any company can be sued for almost anything. It does not make sense to me that I would have to disclose these lawsuits unless Nu Skin is found guilty. I would only support the disclosure of previous litigation of companies, executives, affiliated companies and the like involving fraud and misrepresentation **only if the party is found guilty**. If the defendant is found not guilty, the opposing parties agreed to settle without admission of guilt or the case is still pending, then it should not be necessary to disclose this information. If the parties agreed to settle without admission of guilt, there usually is some public document available, particularly if it involves a government agency and further disclosure would be unnecessary. If a case is pending, it should not be necessary to comment as innocence is presumed until proven guilty.

Finally, the proposed rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. In this day of identity theft, I am very uncomfortable giving out the personal information of individuals to strangers. Additionally, giving away this information could damage the business relationship of the references who may be involved in other companies or businesses including those of competitors. Since most direct marketers recruit nationally, to provide a list of the 10 prior purchasers nearest the prospective purchaser would require that the address of the prospective purchaser be sent to Nu Skin headquarters to obtain the list. I also think the following sentence required by the proposed rule will prevent many people from wanting to sign 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. They will be reluctant to share their personal information with individuals they may have never met.

The network marketing industry is one of the few remaining opportunities for people to leverage their time and limited resources to earn additional income or to create a new career, like me. Once scoffed at by investors, many network marketing companies are publicly traded on Wall Street, including Herbalife, Nu Skin, Pre-Paid Legal Services, USANA and others. Network marketing is being used by blue-chip corporations including Citigroup, MCI and IBM. Top business management leaders and *New York Times* best-selling authors Robert Kiyosaki, Paul Zane Pilzer, and Steve Covey have endorsed network marketing. Warren Buffet has purchased Pampered Chef, a direct marketing company.

The industry is also growing in popularity and contributes to the US economy. This growth should be encouraged. There are 13 million Americans involved in the network marketing industry today. Lastly, the network marketing industry contributes to our growing economy. Sales of products and services through network marketing are estimated at more than \$29 billion in 2003.

I understand and value the role of the FTC mission "to stand up for America's free market process and for its consumers, who benefit from competitive markets in which truthful

information flows.” However, I believe this proposed new rule exceeds what is necessary and needs significant modification. We live in a free market economy where people have the responsibility of making informed decisions based on best information. A better approach would be to provide consumers with objective criteria when analyzing a business opportunity and let an informed market proceed. A seven day waiting period is not necessary to accomplish this.

Thank you for your time in considering my comments.

Respectfully,

Eric K, Graham