

Rowena S. Argall, MS, CHP, CEI
RETN for Wellness, “*Magnetics and More for Horses, Pets and People*”

June 29, 2006

Re: Business Opportunity Rule R511993

Dear Sir or Madam:

I am writing this letter because I am concerned about the proposed Business Opportunity Rule R511993. While I understand the responsibilities of the FTC to protect the public from “unfair and deceptive acts or practices,” I believe that this proposed rule could prevent me from continuing as a distributor for the network marketing companies with whom I am currently associated. There are specific sections in the proposed rule that will make it very difficult, if not impossible, for me to sell these products. Like myself, the vast majority of distributors primarily promote the purchase of product rather than any business opportunity.

I am currently a distributor with several companies including Young Living Essential Oils, Nikken, Dynamite Marketing, Lifewave, TNI, Inc and ForeverGreen and have been for years. My family and I have been associated with network marketing companies like Shaklee since the 1970's. I became involved with these companies because I felt the products were exceptional. Later on, I became further involved so that I could earn additional income. Through these companies, I have developed leadership skills and cultivated many meaningful relationships. My family and I enjoy the health benefits of using these products daily and are thrilled to be part of these companies. We have come to rely on the income from my direct selling business. The future of my family is dependent on the stability of the direct selling industry.

Seven-Day Waiting Period One of the most confusing sections of the proposed rule is the seven-day waiting period to enroll new distributors. The starter kits for all of these companies cost less than \$50.00. When a Starter Kit is purchased, the purchaser becomes a distributor and is granted special discounted pricing on all orders. (Just like joining Sam's Club or Costco.) No commissions or other compensation is paid on these kits, and the company just covers its production costs. Any commissions paid are paid on the products purchased, not on the registration. Having this waiting period gives the impression that there might be something wrong with the company or the compensation plan. I also think this seven-day waiting period is unnecessary because all of the companies fully refund this cost if the customer decides to send it back. How can a customer really decide if they want to be part of a company until they have experienced the products and the information directly? Requiring a seven-day waiting period before a distributor is allowed to even place an order would be destructive to the businesses of thousands of distributors who are building a business around these products. It would also be quite burdensome for me to keep such detailed records of when I spoke with every single person about the products, and it would create lots of unnecessary paperwork to have to send these reports to my company headquarters. In addition, many people join the companies as distributors (i.e., wholesale purchasers) because they have an immediate need for the product. Once a person experiences the results of a product they often want to have that product immediately or at least as soon as possible. Waiting seven days before they could purchase at the wholesale price would put an undue burden on the person joining the company.

Litigation Information The proposed rule also calls for the release of any information regarding lawsuits involving misrepresentation or unfair or deceptive practices, regardless of whether the company was found innocent or not. 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 the companies were found guilty. Otherwise, this company and I are put at an unfair disadvantage even though the company has done nothing wrong. To release this information would be misleading to prospective distributors. This requirement would be similar to being required to list any arrests on a job application even if the person was not found guilty of the crime. This would provide the perfect avenue for larger companies to attach their competition by filing frivolous litigation so that these things would have to be disclosed and negatively impact the company in the meantime.

References The proposed rule requires the disclosure of a minimum of ten prior purchasers nearest to the prospective purchaser. I am glad to provide references, but, in this day of identity theft, I am very uncomfortable giving out the personal information of individuals to strangers, particularly without their approval. Also, 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. In order to get the list of the ten prior purchasers, I would need to send the address of the prospective purchaser to company headquarters and then wait to receive the list. I also think the following sentence required by the proposed rule will prevent many people from wanting to sign up as a distributor: "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. Further, none of these companies simply sell "business opportunities" in this fashion.

One of the first things most customers ask is "What are you going to do with my address and phone number?" My response is, "Use it to ship the products (and/or your distributor kit) to you and maybe send you information on other products if you would like me to." If the response was, "This information will be accessible to just about anyone who expresses interest in these products anywhere in this area. And you might be contacted by them at any time day or night." The person would most likely refuse to buy anything no matter how much they wanted or needed it. I know I would.

I regularly get Privacy Policy statements from every company I do business with telling me how hard they are working to protect my privacy and complying with Privacy Act and just general good business practices, where you respect your relationship with the client. You are asking an entire industry to throw all of that away and make their customers open to everyone. Think about it!

Cancellation Some people decide to stop purchasing from a company, multi-level or retail, after a period of time or purchase very sporadically and lose their distributor status. As with any large business, this amounts to tens of thousands of individual customers who no longer order from them each year. Maintaining such lists and providing them to every potential distributor and wholesale customer would be an unrealistic burden.

Exemption For about 25 years the FTC's Franchise Rule included only those opportunities that required a buyer to make a payment of at least \$500 within the first six months of operation. Any buyer making payments of less than \$500 within the first six months was exempt from further requirements. The April 12, 2006, proposed rule completely eliminates this \$500 exemption! In 1979, to justify the reasonable \$500 exemption, the FTC wisely said: "When the required investment to purchase a business opportunity is comparatively small, prospective purchasers face a relatively small financial risk." This is still true today. This exemption is necessary because

without such an exemption, the proposed rule places an unreasonable burden on tens of thousands of distributors, like myself, and on millions of direct selling and network marketing distributors throughout the US. This would be devastating to the growth of my business and that of millions of Americans. I believe that the proposed application of this rule to my business constitutes an unjustified overreaching. Please reinstate at least a \$500 (signup fee only) exemption.

I appreciate the work that the FTC does to protect consumers, yet I believe this proposed new rule has many unintended consequences, and there are less burdensome alternatives available to achieving your goals. Strengthen the 'return of goods' policies to require full refunds on 'opened' items in 7-10 (even 30) days. Target the claims made on mass internet solicitations (I get dozens a day). These things would help you protect the consumer without destroying the legitimate industry. Don't do surgery with a chain saw.

I have never allowed myself to be 'hyped' by any company that I have encountered in my career. The companies mentioned above don't do business that way. A consumer has the right to ask for earnings statements, litigation information, references and other items if they desire to do so. Any reputable company will provide that information on request. If a person doesn't feel comfortable with the information they have the choice not to join or purchase products at the retail price. If they feel uncomfortable about what they have purchased they can always return it. Where is the problem you are trying to prevent? Or is your intention to shut down an industry that has done so much good for so many people?

Most people join a direct selling company to purchase the products at a reduced rate. Most are unsophisticated at business and do not want to be encumbered by the burden of unnecessary forms and requirements, they just want their product. Requiring the individual distributor keep records for 3-years would be a problem for people who can't find their last invoice. These rules are unrealistic for the vast majority of people joining the direct selling business. Policing the compliance with these rules for each company and distributor will be just as unrealistic. Anyone that I've met that has joined a company to intentionally develop a big business has done their due diligence before they take any steps. That is the way you do any business. Thank you for your time in considering my comments.

Respectfully,

A handwritten signature in blue ink, appearing to read "Kevin Stuyck".