

National Companies, Inc.

July 11, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)
Re: Business Opportunity Rule, R511993
600 Pennsylvania Avenue, NW
Washington, DC 20580
RE: Business Opportunity Rule, R511993

<https://secure.commentworks.com/ftc-bizopNPR/1>

Dear Sir or Madam:

I am writing this letter because I am concerned about the proposed New Business Opportunity Rule R511993. In its present form, it could severely hurt National Companies. I understand that part of the FTC's responsibilities is to protect the public from "unfair and deceptive acts or practices," but some of the sections in the proposed rule will make it very difficult if not impossible for National Companies to continue in business.

National Companies is looking forward to celebrating our 10th year in business in 2007. We sell a benefits package that saves our customers on over 30 products and services in 12 major industries. We have over 75,000 Independent Marketing Directors and our sales volume for 2005 exceeded 30 million, and so far year to date for 2006 our sales volume is nearly 23 million.

One of the most confusing and burdensome sections of the proposed rule is the seven day waiting period to enroll new Independent Marketing Directors. National Companies does not charge anything for a person to become an IMD and the price of the optional sales kit is only \$24.95. Why on earth would this even be an issue for us when there is NO Charge? Consumers make many purchases such as TVs, cars, and other items that cost much more than that and they do not have to wait seven-days. This waiting period creates the impression that there might be something wrong with the plan. This seven-day waiting period is unnecessary, because National Companies already has a 90% buyback policy for all products including sales kits purchased by a salesperson within the last twelve months. Under this waiting period requirement, National Companies will need to keep very detailed records when a National Companies' IMD first makes contact with a prospective purchaser and will then have to retain these documents for three years. There is literally no way to police thousands of folks, and to know with any kind of accuracy when a prospect was first approached. The related administrative costs will be very expensive and literally impossible.

Under the proposed rule, National Companies plan would fall under FTC regulatory authority, since the existing \$500 threshold under existing franchise rule will be eliminated

and National Companies will now have to produce numerous pieces of documented materials in order to comply with the proposed rule.

The proposed rule also calls for the release of **any** information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices. It does not matter if the company was found innocent. Today, anyone or any company can be sued for almost anything. We at National Companies see little value in disclosing these lawsuits unless National Companies is found guilty. Otherwise, National Companies is put at an unfair advantage even though we have not done **nothing** wrong. In addition, it seems that everyone throws claims for misrepresentation into every complaint these days. Should prospective distributors be concerned, for example, about litigation between the company and a software provider if their contract dispute contains a claim for misrepresentation? It seems appropriate to include only litigation that is related to the earning opportunity offered to the prospective distributor.

The proposed rule requires direct sellers to gather information such as time periods, IMDs, demographic/geographic data and earnings claims. We are concerned that this approach will be ineffective in preventing the targeted business opportunity fraud, since those perpetuating fraudulent business opportunities will not provide accurate data. However, direct sellers such as National Companies, which will try to faithfully comply, will have the difficult if not impossible challenge of interpreting and meeting some of the proposed requirements.

Finally, the proposed rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. National Companies is glad to provide references, but in these days of identity theft, we are very uncomfortable giving out the personal information of individuals (without their approval) to strangers. Ironically, the requirement to provide references may result in privacy lawsuits, which under the proposed rule, we would have to report. Also, giving out this information without any controls on how it could be used will very likely and unfairly benefit our competitors. In order to generate the list of the 10 prior purchasers, we will need to obtain the address of the prospective purchaser, search our database for the geographically nearest existing IMDs, use a software program or online service such as Mapquest to confirm these are the correct IMDs, and then send these results to the prospective purchaser. 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 and so are we from a privacy litigation standpoint. Individuals will be reluctant to share their personal information with individuals they may have never met.

National Companies appreciates the work of the FTC to protect consumers, but we believe this proposed new rule has many unintended consequences, which may destroy our business. We also believe that there are less burdensome alternatives available in achieving the consumer protection goals stated in the proposed rule.

Thank you for your time in considering our comments.

Sincerely,

Lynda M. Davis

Lynda M. Davis
Vice President/COO
National Companies, Inc.