

Nancy Cleary

I am concerned about the proposed Business Opportunity Rule R511993. In its presented form, it will prevent me from continuing my very successful small business. I have been a sole proprietor independent distributor / associate with several good public and private companies that use Network Marketing (word of mouth marketing) for more than twelve years.

I started my Network Marketing business with XanGo™, because I loved the product and business opportunity that were offered, wanted to earn some additional money, work from home, without expensive start- up costs, and build a full time income. This is my only income now, and at my age (60) I could not find a job that could equal my income. Please don't destroy my small business, I need it! There is no other business model that offers me these opportunities.

Some of the sections in the proposed rule would make it hard or almost impossible for me to continue with my XanGo™ business.

1. Seven day waiting period.

As a Distributor of XanGo™, it was \$35.00 for my start up kit for my business. People buy TVs, cars, and other items that cost much more than that and they don't have to wait seven-days. This waiting period will certainly inconvenience and "chill" enthusiastic individuals anxious to participate in my business opportunity. It will also create an air of suspicion among prospective purchasers when told that the FTC requires such a waiting period and give the public the idea that there's something wrong with me or our plan and also reflects badly on me.. This waiting period will also create tremendous inconvenience for me because I recruit on the road. It will require gathering contact information and following up seven days later, assuming that all the disclosures were given at the time of the meeting. This waiting period suggests a level of risk that simply doesn't exist for any of the direct selling companies I have been involved with. I also think this seven-day waiting period is unnecessary, because XanGo™ already has a 90% buyback policy for all products including sales kits purchased by a salesperson therefore, it presents little or no risk to a prospective purchaser.

2. List of nearest references. I will have to contact XanGo™, which will have to maintain a special database, to access the information required by this disclosure. This requirement is overly burdensome and evokes confidentiality and privacy concerns for all involved. Logistically speaking, because you don't know where a prospective purchaser lives before meeting him, it will be difficult to have this information available to disclose until a later time. This will further prolong the seven day waiting period. From a privacy perspective, all distributors will have to agree to have their names, addresses and telephone numbers disclosed to prospective purchasers for possible contacting. The disclosure of this information will not be limited to bona fide purchasers, but will have to

be given to anyone who might be interested, including competitors. The reference information could then be used for any purpose. The required disclosure of this information will certainly discourage participation in the direct selling industry and will not be a significant deterrent to fraud businesses. It would be very easy for a fraudulent company to provide a list of “references” that are involved in the fraudulent business, but very burdensome on legitimate direct selling businesses. I am glad to provide references, but in this day of identity theft, I am very uncomfortable giving out the personal information of individuals (without their approval) to strangers. Women in my organization may be subject to sexual or racial harassment so this part can’t go in at all, unless the FTC passes an addition to this rule prohibiting sexual or racial attacks related to this disclosure. In the end the rule must bind the FTC to take direct enforcement action on sexual and racial attacks with a special unit assigned to monitor actions related to the disclosure forms.

If this had been in effect when I started my XanGo™ business, (I was the first distributor in my state) how would my friend ever been able to provide this information to me?

3. Earnings claim statement.. While XanGo™ strongly supports the proposition that earnings claims made by business opportunity sellers should be substantiated, this requirement will not deter fraud. A fraudulent company will not provide accurate data, while legitimate business opportunity sellers will have difficulty in meeting the proposed requirements.

4. Legal actions. Not only would this rule require disclosure of litigation potentially unrelated to the business opportunity transaction, but it doesn’t provide for disclosure of the outcome of the litigation. Thus, litigation that was favorably resolved for the distributor, or is otherwise irrelevant to the recipient of the disclosures, would still need to be provided. At the very least this requirement should be modified to take into account these problematic elements.

5. Cancellations and refunds. While XanGo™ would have to maintain and update this database for its distributors, its disclosure can be misleading due to the fact that distributors often join to achieve specific, short term objectives, leading to a high cancellation ratio that is not representative of the satisfaction of the average new purchaser.

I have seen many scams on the Internet and been approached by many crooks because of my success. This rule will do nothing to stop them. They hurt my business! This rule will not stop Crooks – they violate the current rule all the time. But I am a good American citizen and it will hurt me. Thank you and please help me.

Sincerely,
Nancy Cleary