

Martina Marian, RN
Independent XanGo Representative

RE: Business Opportunity Rule, R511993

Dear Sir:

As a Registered Nurse in who is also an Independent Representative associated with XanGo, LLC, I am writing in response to the proposed New Business Opportunity Rule R511993. Sadly, not all network marketing distributors are personally ethical and there are also a few unethical companies. I fully understand and applaud the FTC's concern for consumers who can fall prey to such individuals and/or companies. Such unethical practices harm not only customers but all who are involved in network marketing. To me, **the crucial issue seems to be one of affording protection to consumers without trampling upon network marketers and free trade.** Regrettably, this rule, if passed in its present form and without modification, would place an undue hardship on me and others who labor honestly in the field of network marketing and are associated with stellar companies such as XanGo, LLC who are known and applauded for their high standards and adherence to ethical practices.

I genuinely hope that the unethical actions of the minority not be permitted to generate precipitous actions that are punitive to the vast majority of honest network marketers. I feel strongly that some of the proposed changes go too far and would place an unnecessary and unfair burden on honest network marketers and the ethical companies they represent. **At the present time in our nation's economy I feel that every effort must be made to carefully balance the protection of both consumers AND agents of free trade such as network marketers..** This balance seems especially important given the number of viable small businesses the Network Marketing Industry generates. Today there are approximately 13 million network marketers in business for themselves in all 50 states in the US. In 2003 network marketing generated \$29.6 billion in sales. In 2004 there was \$3.8 Billion in sales in the health supplement sector of network marketing—the sector in which XanGo, LLC's representatives by themselves have generated over well over \$500,000.00 in sales since opening in early November 2002. XanGo, LLC and its independent representatives have indeed made a significant contribution to the GNP of our nation..

Do I believe in this product? Absolutely! Normally quite skeptical, I had been willing to try XanGo™ only after reading many of the more than 800 articles available at Pubmed.com that detailed the effectiveness of the xanthones *in garcinia mangostana*. I was impressed by what I read and by presentations I heard from a well-known physician in my area. And by a woman who described her migraine history and experience. Mangosteen's xanthones had been able to do what none of her pharmacist husband's medications had ever achieved—an absence of migraines. She has now been without migraines for almost four years.

XanGo is my very first experience in network marketing. I am looking for additional income in order to obtain the time freedom that I need in my personal life. Network marketing appears to offer such a possibility. However, the industry is far different today than in the past. That is why I researched XanGo-- both the product and the company-- so thoroughly before paying only \$35.00 to become a distributor. What did the \$35 buy me? The integrity, vision and expertise of the founders who are exceptionally dedicated and committed to XanGo's success via its distributor network and the chance to develop and thriving international business of my own that will provide residual income for me and my heirs.

Sharing news about a product such as XanGo is a far different experience from selling jewelry or "me too" vitamins. **Today I feel a moral obligation to share with others the news about mangosteen and its xanthones in the whole-fruit puree form that is unique to our patented product.** With XanGo, I have earned enough starting in the 3rd month to pay for my own product as well as have a nice amount left over each month—enough to provide a more comfortable semi-retirement. Best of all, I am rewarded financially for helping others to improve their health and wealth.

Here are my recommendations regarding R511993:

7 Day Waiting Period: The **proposed** rule requires what is a de facto seven day waiting period for enrolling new distributors. In essence I and other distributors would have to make the same sale to any given individual on two

separate occasions. While I do favor some of the modifications in this rule, I strongly oppose this particular modification. The burden it places on both the individual distributor and the company to document and follow up on the process is excessive and would impede the development of new business and would thus slow the movement of goods within the marketplace. The effect on the nation's economy would be quite negative. Because XanGo, LLC is a company with an international presence, the slowing of goods within the marketplace would extend well past the borders of the United States.

Earnings Disclosure: The proposed rule calls for provision of a "Earnings Claims Statement Required By Law" whenever any distributor or company makes a statement to a prospect whether in written or oral form, general or specific. Additionally, the distributor, if requested, would be required to provide written documentation that substantiates any earnings claims. **I support the disclosure of average earnings claims.** That is a sound business practice followed by my company and is part of our procedures. It makes sense to give prospects a realistic basis on which to establish their expectations. **However, I do oppose being compelled to provide written substantiation. Doing so seems to place an excessive burden on me and my fellow distributors when the amount involved to become an independent XanGo representative is a mere \$35.00.**

Previous Litigation: The proposed rule calls for **disclosure** of any information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices, *even when the company or individual have been found innocent* (emphasis is mine.) Most of us decry our litigious society in which so many groundless lawsuits are filed by those who treat the courts as some sort of lottery. **I propose the disclosure of only those lawsuits charging misrepresentation or unfair or deceptive practices only when the company and/or individual have been found guilty in a court of law.** Defendants found not guilty should not be forced to disclose they had been wrongly accused. Even when parties agree to settle without an admission of guilt there should be no requirement to disclose that such a suit was filed. In this situation there usually are public documents available, especially if a governmental agency was involved. This fact obviates the necessity of any further disclosure that is proposed.

Business References: I oppose the disclosure of the 10 business references nearest me. This requirement violates privacy and can serve to jeopardize business relationships. A request for disclosure of business references should be requested by the buyer. **I support the availability of business references and believe this availability should, however, be noted on distributor enrollment forms or disclosure materials. Nor should the references be limited to those in nearest geographic proximity. In an era of the Internet, ones closest associates may not be nearest geographically.**

Disclosure of Cancellation or Refund Policy: I totally support this policy which my company follows as do I.

Statistics on Refund and Cancellation Payments: I wholeheartedly support the disclosure of Refund and Cancellation when averaged out over a year. Such an average would provide the clearest and most fair indication of satisfaction among customers and independent representatives..

I therefore urge the FTC and the Congress to be judicious with respect to R511993. In its present form R511993 goes much too far and fails to provide the delicate balance required for protecting both the consumer and the 13 million or more network marketers in the United States who are contributing so much to the US economy during the present period of transition from an Industrial to an Entrepreneurial Age. Fair trade treats both consumer and distributor equitably, not one at the expense of the other. I am confident the modifications I have recommended to R511993 will assist the FTC and Congress to be fair to all concerned.

Sincerely,
Martina L. Marian RN 5K Xango distributor