

July 15, 2005

RE: Business Opportunity Rule R511993

**REVIEW BY MONDAY JULY 17, 2006 – CRITICAL!!**

Dear Federal Trade Commission,

As an independent [FreeLife International](#) Marketing Executive/Distributor who is developing his business as a result of its incredible business opportunity & marketing plan all driven by “life-changing/improving” products that are available to me and anyone interested, I am strongly opposed to the new business opportunity rule being promoted by the FTC and others at 16 CFR § 437. The proposed rule seems to be an example of government interfering with private enterprise and restricting the freedom for average people to legally & legitimately pursue the “American Dream”.

While the intention of this bill may be to inhibit fraud & scam businesses, history shows the devious will always find ways around these restrictions. Far more importantly, legitimate businesses in the Direct Selling industry like [FreeLife](#) will be SO NEGATIVELY AFFECTED BY INCREASED COSTS, DELAYS, RECORDKEEPING, DISCLOSURES OF CONFIDENTIAL INFORMATION and other burdens that this bill will materially damage or destroy the livelihoods of millions of independent businesses like me (according to the Direct Selling Association, worldwide there are over 41,000,000 marketing executives/distributors moving over \$83,000,000,000, yes, billions in products & services every year) who are American taxpayers and find this business form the most conducive to supplementing their primary job income because they can do it part-time in their off hours.

More specifically by key point / restriction:

1. Mandatory Seven-Day Waiting Period:
  - a. Why is the Direct Sales industry alone burdened with this requirement? No other aspect or type of business, from purchasing a stand-alone single proprietorship or

franchise, investing or buying into a partnership or corporation, etc. has such a restrictive requirement! It has always been the buyer's/investor's responsibility to do their due diligence/homework before entering into any business arrangement, as it should be. When purchasing or leasing a vehicle which can obligate the purchaser for years & tens of thousands of dollars, there is a 48 hour contract rescission period.....yet for the super-inexpensive (see b.) Direct Selling business, a seven day period is proposed?

- b. And when considering the minimal amount of money to invest in getting started in what is most people's first entrepreneur experience, this seven day period is an unnecessary impediment – in my company [FreeLife International](#) for \$35, one becomes a distributor/ marketing executive with a business kit and their personal identity on a multimillion dollar company web site (to market the products & the business). Further, if one has buyer's remorse or just a change in their personal situation, there are liberal refund policies. This means absolutely ZERO financial risk!!
- c. When through my many efforts and mediums (internet, CD's, tapes, brochures, magazines, presentations, etc.), relationships develop (virtually no one jumps in overnight) and someone sees the vision of having their own business (the vast majority of all adults are employees) and it is something they can build part-time in their non-regular job hours, in no way jeopardizing their principal source of income, the very WORST activity or action is INACTION!!
- d. IF YOU WANT TO PROTECT THE PUBLIC, why not outlaw "front loading" of all kinds, i.e. one cannot buy positions or titles without earning them through building an organization of customers & marketing executives (and training them) and through product sales volume levels.

2. Disclosure of the name, city, state and telephone number for at least 10 prior purchasers nearest the prospective purchaser's

location or a nationwide list of prior purchasers within the last three years:

- a. Both parts of this requirement will create an extraordinary burden for the Direct Sales industry!! Presumably they're to primarily provide the new prospect local contacts they can further research the business opportunity. In reality, the vast majority of prospects talk to a number of current marketing executives/distributors, corporate personnel, etc. when doing their due diligence but it is done informally & is always available. These requirements will necessitate adding a bureaucratic, non-income generating layer to every Direct Selling company as well as adding a non-income related activity to the marketing executive's/distributor's workload. And the 3 year requirement creates an even more difficult hurdle. Ultimately here's the question: Will all this prior purchaser information have any material impact/effect on the prospective purchaser (prospect) when compared to today's process? Answer, absolutely none with regards to the prospect but they will significantly shackle every Direct Selling company & marketing executive/distributor with two totally unnecessary requirements. Finally, WHAT OTHER BUSINESS ENTERPRISE MUST LIKEWISE COMPLY?
- b. Reality Check: In the Direct Sales industry, much like all aspects of life, what someone else does or accomplishes has absolutely ZERO BEARING on what a new prospect may or may not accomplish. It's the same in all endeavors in life – of those that enter college, some don't graduate, many do and few excel at the top of their discipline. Same applies to careers – of those beginning their specialty, ten years later how many have barely moved, how many have made moderate advancement and how few have reached the top? Ditto for athletics, the arts, etc.
- b. Conclusion & Impact: Since I would never have any idea which 10 prior purchasers were nearest my

prospect, much less have access to the 3 year requirement, my company and all Direct Selling companies would have to provide their marketing executive/distributor base this information which will severely disrupt and cripple most if not all companies because no company in any industry could and flat out it accurately and timely fulfill these requirements carry on the primary focus of its business – it's impossible!!

3. Earnings claim disclosure – any direct or indirect claim about income, including disclosure of the name of the person making the claim, date of earnings, number and percentage of all purchasers during the time period that received the same earnings, etc.:
  - a. This is not only ambiguous but raises many fairness/equitable & constitutional issues. Re. direct claims, to be able to calculate the percentage of all purchasers earning the same, the company would have to divulge this very confidential information multiple times to the marketing executive/distributor base which would violate privacy laws not to mention add an enormous bureaucratic department in every Direct Selling company dedicated to provide/update such information.
  - b. Re. indirect claims, such as cars, homes, travel, financial independence (no more job), etc., ditto item a.
  - c. Finally as noted previously, why is the Direct Sales industry so burdened/singled out vs. all other business forms available to the American public?
  
4. Disclosure of "All Legal Actions", i.e. misrepresentation, fraud, securities violations, unfair business practices, etc. for the past 10 years, regardless of relevancy, outcome or merit:
  - a. Simple question: If the Bill Of Rights which states ONE IS INNOCENT UNTIL PROVEN GUILTY, why shouldn't this requirement only exist if a person is convicted.....  
...certainly not if legal action has been filed but not yet

adjudicated? To have to disclose civil court cases and arbitrations, all governmental actions including criminal matters and administrative law actions, including cease & desist orders or assurances of voluntary compliance is a violation of civil rights!! Further, it could mean any legal proceedings potentially unrelated to the business or any that were dropped or favorably resolved would have to be listed.

- b. As a simple business owner, I hope to never have any legal actions against me, but in this day and age where anyone can sue for anything, I can imagine it happening to an honest business person like myself.
- c. Finally, what other business form available for purchase has the same requirement?

5. Disclosure of cancellation or refund policy, the total number of oral or written cancellation or refund requests over the prior two years, regardless of whether or not the request was proper:

- a. Disclosure of the cancellation or refund policy up front is "Standard Operating Procedure" for any reputable Direct Selling business opportunity. The vast majority of marketing executives/distributors I know emphasize this to make the new prospect feel totally comfortable knowing they can "walk away", per a reasonable timeframe without any financial expense. FYI, in my company [FreeLife International](#), customers are not charged any fee to enroll and they can cancel-out any time. Both distributors/marketing executives and customers receive a 90-day money back guarantee on all product purchases = ZERO financial risk!!
- b. The second aspect of this requirement, the total number of oral or written cancellations or refund requests over the prior two years, is just plain ridiculous and impossible! Obviously distributors/ marketing executives would never have access to this information so this incredible bureaucratic burden would be placed on each Direct Selling company. As long as a fair & equitable

cancellation & refund policy exists, keeping statistics for two year periods makes no sense. How many consumers see a commercial on TV or in a magazine for a Fortune 500 product, believed the information but didn't get the advertised results? How many people enter the real estate business hoping to make "big bucks" but not having the marketing, personality skills, etc., drop out? Does Century 21, Coldwell Banker etc. have to provide this "fallout" information to prospective real estate salesmen/brokers?

As Robert Kiyosaki of "Rich Dad, Poor Dad" fame, Donald Trump, Dr. Charles King, Harvard Ph.D. in marketing and many other very prominent business people have stated, Direct Selling/Network Marketing provides the best opportunity for the average person given a minimal investment, to build their own business to whatever level they desire as long as they're willing to apply/invest "sweat equity". Given Direct Selling's/Network Marketing's results orientated structure, major manufactures such as Coca-Cola, Gillette, Firestone, Gerber, IBM, Toyota, GM, Sony, etc. give it rave reviews!! Don't strangle the golden goose with unnecessary regulation!!

First, by imposing these incredibly severe and discriminatory regulations/restrictions, the FTC will effectively destroy Direct Sales/Network Marketing and therefore the dreams of an increasing number of everyday, non-elite Americans – note that the vast majority of Americans use Direct Selling/Network Marketing to supplement their primary income and work it part-time in the off hours of their main job = add all these restrictions and in the limited time most have to work their businesses, it will no longer be worthwhile which means most will quit!! Secondly, it is a flat-out fact that the products and services provided by Direct Sales/Network Marketing are far superior to those from traditional corporations.....  
.....and the reason is simply that Direct Selling/Network Marketing doesn't have some of the significant overhead (advertising & sales/marketing staff) that traditional business have = more of a Direct Selling company's revenue goes into product development/product ingredients/services/etc. = superior products & services. And

with it's death, the FTC will also be effectively robbing the U.S. Treasury of the increasing tax revenue that are generated by this fastest growing segment of all home businesses!!

As a former financial executive for major corporations such as Union Oil, Carnation, Pepsi Cola & Arrowhead-Perrier who keeps abreast of economic trends that impact the middle & subsistence or poverty classes, especially the loss of America's manufacturing base, consolidation within industries, downsizing, the migration of jobs abroad, etc., **I IMPLORE THE FTC TO KEEP THE DREAM OF OWNING ONE'S OWN BUSINESS ALIVE BY NOT ENACTING THESE PROPOSED REGULATIONS FOR THE DIRECT SELLING/NETWORK MARKETING INDUSTRY!!**

Sincerely,

Edward L. Smith