



NEWAYS INTERNATIONAL

June 2, 2006



Christopher S. Crump
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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

Dear Sir or Madam:

My name is Christopher S. Crump and I am General Counsel for Neways International ("Neways"). I am writing this letter due to Neways' concerns regarding the proposed New Business Opportunity Rule R511993. As it is currently written, Neways is concerned that the Rule would severely hurt and damage Neways. Since its inception in 1992, Neways has agreed with the FTC's mission of protecting the public as well as Neways' customers from "unfair and deceptive acts or practices", and we have always been, to my knowledge, in good standing with the FTC. However, sections of the proposed rule will make it difficult, if not impossible, for legitimate companies such as Neways to continue to do business.

Neways is a thriving and growing business. As stated above, Neways was founded in 1992. We are a network marketing company that focuses on the manufacture and sale of personal care products as well as dietary supplements. We have more than 10,000 active distributors in the United States with another 500,000 worldwide. These distributors produce annual sales of more than three quarters of a billion dollars each year. Neways believes that some of the provisions of the proposed rule will detrimentally affect our business as well as other legitimate companies, to wit: the seven day waiting period, the elimination of the \$500 threshold, the disclosure of litigation, the disclosure of more detailed earnings claims, and the having to give references of our business to potential customers.

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First, Neways is opposed to the proposed seven day waiting period to enroll new independent distributors. This provision is confusing and burdensome. Neways' sales kit costs less than \$25.00. 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 Neways' marketing plan. This seven-day waiting period is unnecessary because Neways 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, Neways will need to keep very detailed records when one of its independent distributors first makes contact with a prospective purchaser and will then have to retain these documents for three years. The related administrative costs will be very expensive.

Second, under the proposed rule, Neways' plan would fall under FTC regulatory authority since the existing \$500 threshold under the existing franchise rule will be eliminated. This will force Neways to produce numerous pieces of documented materials in order to comply with the proposed rule.

Third, 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 or not liable and that the charging party had manufactured these allegations. Today, anyone or any company can be sued for almost anything. Baseless lawsuits may be filed by smaller companies against larger companies to try and even the playing field. On the other hand, larger companies may file against smaller companies to deter their growth. In short, the proposed rule will become a competitive tool by filing fraud allegations to the detriment of a competitive company. Neways sees little value in disclosing these lawsuits unless Neways is found guilty or liable. Further, only pertinent litigation concerning an earning opportunity should be disclosed. Neways would assume that litigation with a software provider or manufacture wherein misrepresentation allegations are filed should not be covered by any final rule.

Fourth, the proposed rule requires direct sellers to gather more detailed earnings information for time periods, demographic/geographic data and earnings claims. Neways is 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 Neways, 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. Neways 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 Neways independent distributor, use a software program or online service such as Mapquest to confirm these are the correct and closest distributors, and then send these results to the potential enrollee or the enrollee's sponsor. 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.

Neways appreciates the work of the FTC to protect consumers, but we believe this proposed new rule has many unintended consequences, which may destroy Neways and other legitimate businesses. 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,

Christopher S. Crump
Neways General Counsel