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July 7, 2006

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Business Opportunity Rule, R511993

Dear Sir or Madam:

I am writing this letter because I am extremely concerned about the proposed Business Opportunity Rule R511993 in that its reach is entirely overbroad for the result that is intended. I believe that in its presented form, it could prevent me from continuing as a distributor with Xango and destroy my small business.

I am a licensed attorney in Texas and have been for almost 28 years. I regularly represent businesses and their owners. I have reviewed a number of franchise opportunities on behalf of prospective franchisees. I have obtained large judgments against franchisors for abusing the trust placed in them by the franchisees. I am also an independent businessperson who owns real estate ventures and a smoked meat business. In short, I am experienced in the areas of business opportunities.

I have also been an independent distributor for Xango for the last four months. I was looking for a natural remedy to ease my father's pain from spreading prostate cancer. I became acquainted with mangosteen juice that is marketed by Xango and loved the product. I then became a distributor to distribute the juice (much like my other company distributes smoked meat products) and to try to help people. I don't know whether the juice will help a particular person but the experiences related to me after drinking this natural juice food, indicate strongly that it can be beneficial.

The rule as proposed will stymie small business ventures. It is rare that one could get into business for less than \$100 with a full money back guarantee that is actually honored by a financially strong company and build a business by word of mouth. The distributors are compensated through sales of the products. They do not buy huge inventories to languish in their garages. This rule will stop individuals from being able to succeed. This rule is a prime example of the remedy killing the patient.

[REDACTED]

The rule is far too overreaching. A seven-day waiting period frankly is ridiculous. These ventures are normally not like an aluminum siding salesman in an elderly women's house (for which the waiting period is normally only 3 days. Not only would it be a nightmare to enforce but also it does not address the root problem. The need here is the means to give people their money back, not let them "think it over". The cost involved in becoming a wholesale customer (just like at Sam's Club) is \$35.00! A product purchase is rarely more than \$100. Will the rule also apply to Sam's Club memberships? A vendor pays to become a member so they can buy Hershey bars wholesale and then resell them at retail to the public. It is an analogous situation and would be a business opportunity.

Xango's sales kit only costs \$35.00. People buy TVs, cars, and other items that cost much more than that and they don't have to wait seven days. Under this waiting period requirement, I will need to keep very detailed records when I first speak to someone as a prospect and will then have to send in reports to my company. This paperwork requirement is, frankly, extremely burdensome for a small business owner and borders on being ludicrous.

Finally, the proposed rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. First, how does one determine who that would be? I am glad to provide references (we regularly provide testimonials), but please consider the consequences of that federally mandated requirement. No used car dealer has to provide the names and addresses of his last ten sales. **The proposed rule would require me to provide personal information about my customers to perfect strangers.** I would have to have the permission of anyone involved to provide his or her personal data to a perfect stranger. In this day of identity theft, I am very uncomfortable giving out the personal information of individuals (without their approval) to strangers. I cannot imagine the federal government requiring me to invade the privacy of individuals. That issue certainly raises constitutionality issues.

Women in my organization may be subject to sexual or racial harassment. Is the FTC prepared to enforce and protect the individuals involved from identity theft?

I have seen many scams on the Internet and been approached by many crooks because of my success. I get emails every day for investments and business opportunities that are obviously garbage. There has to be a point when the government says our citizens are intelligent people and can make a decision on their own.

The key to enforcement here is not regulating the front end of the transaction. The amounts involved in the initial sales do not warrant this intervention.

What the FTC can and should do is require the companies, like Xango, that choose to market through direct sales or network marketing, (and there are some major Fortune 500 companies that use this form of marketing due to its effectiveness) to provide the money back guarantee that solves the issue involved – an inappropriate or unduly burdensome sale – and to provide assurance of the financial capacity to make good on that guarantee.

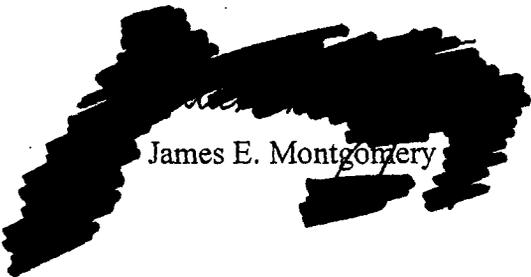
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This rule is overbroad and almost impossible to effectively enforce. Its focus does not provide the means to actually resolve the problem but rather seeks to prevent small business people from choosing a direct marketing business. The remedy should not be to shut down small business. The point is to give a remedy to make people whole if they are defrauded and lose money.

I sincerely hope that the FTC will consider all of the ramifications of this proposed rule and withdraw the rule from consideration. There are far less expensive and more effective regulations that could be adopted that will address the core problems. Doctors often address the symptoms of a disease rather than the root cause of the disease, and in doing so, kill the patient.

Please do not do that with this rule.

Sincerely,



James E. Montgomery