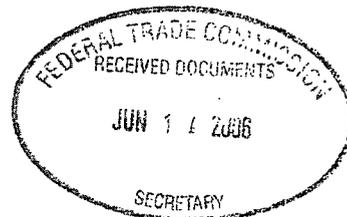


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522418-70508



June 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 because I am concerned about proposed Business Opportunity Rule R511993. I believe that, in its present form, the proposed Rule would prevent me from continuing as a Distributor in Nexagen USA, and as an Associate with Mannatech, Inc. I realize that part of the FTC's responsibility is protection of the public from "unfair and deceptive acts or practices," but some of the sections in the proposed Rule will make it very difficult, if not impossible, for many of us to sell the products that are serving people so well.

One of the most confusing and burdensome sections of the proposed Rule is the seven-day waiting period to enroll new distributors. Is the purpose of this to diminish the excitement a prospective entrepreneur has to start his or her business? Our product packs are a minimum cost of \$523.95 or \$293.95 at Nexagen and as low as \$99 to only \$1,099 at Mannatech, which includes products and training materials. People buy TVs, cars, and other items that cost considerably more than that without having to wait seven days. This waiting period may create the impression that there may be something wrong with the offer. I also think this seven-day waiting period is unnecessary because the companies offer a buyback policy for all products. Under this waiting period requirement, I would need to keep very detailed records when I initially speak to someone about my company and would have to generate many reports to headquarters. Talk about wasted time and natural resources (paper)!

The proposed Rule also calls for the release of any information regarding lawsuits involving misrepresentation, or unfair or deceptive practices. I know of no rule that requires any other type of business to disclose similar information. Manufacturers are not required to disclose product liability suits before selling products; service providers are not required to disclose negligence or malpractice claims; securities firms are not required to disclose all arbitrations and lawsuits claiming misconduct.

Additionally, the proposed Rule requires disclosure regardless of the outcome of the litigation...even if the company was found innocent of wrongdoing. Today, anyone or any company can be sued for almost anything. Moreover, many cases are settled because the cost of litigating them is likely to exceed the cost of proving innocence. In a court of law, the arrest record of a criminal defendant is not admissible evidence because it is considered irrelevant (and a man should not be tainted unjustly with the inference that arrest means conviction). The proposed Rule operates on the presumption that an accusation is as good as a conviction and therefore accords legitimate businesses that have been operating for years with fewer rights than those accorded a common criminal defendant.

Even if the Rule required disclosure of only those lawsuits in which the company was found guilty, the Rule would still be flawed. For example, a judgment might be rendered against a company based on the acts of a single individual not following company policy who is then fired for his or her wrongdoing, or for a representation that has long since been corrected by the company.

Myriad situations that do not implicate the legitimacy of the business may nonetheless give rise to liability. And again, the proposed Rule seeks to impose an egregious burden on those of us working in this industry

Who do **you** know who ...would like a second income—from home? ...wants *less* fat and *more* health?  
...seeks optimal health? ...desires to help others and potentially make a lot of money doing so?

that is not imposed on others. For example, lawnmower dealers (to choose a similarly-priced product) are not required to disclose lawsuits in which the lawnmower manufacturer was found liable for negligence, much less ALL lawsuits involving the manufacturer, and these cases involve potential physical injury, not just money! The Rule would put my companies and others of a similar nature at an unfair advantage, even though the companies and I have done nothing wrong.

Further, the proposed Rule requires the disclosure of a minimum of 10 prior purchasers nearest to the prospective purchaser. 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. Also, giving away this information could damage the business relationship of the references, who may be involved in other companies or businesses, including those of competitors. To get the list of the 10 prior purchasers, I would need to send the address of the prospective purchaser to my company headquarters and then wait for the list. I also think 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 will be reluctant to share their personal information with individuals they may have never met. How many people would buy that lawnmower if a similar disclosure were required of the dealer?!

More fundamentally, the proposed Rule imposes a burden on me that is not imposed on others, without rational basis. For example, service providers (take any kind: dog sitters, insurance agents, auto repair shops, etc.) are not required to disclose their last 10 customers, although the logic of the Rule, that such information would be helpful in evaluating a purchase, is the same.

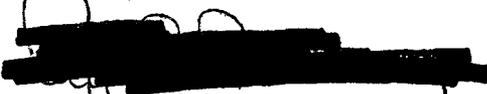
Let me point out something else: the fact that direct sales may involve offering a business opportunity is not a legitimate basis of differentiation. For example, people changing jobs are often making a much more irrevocable and potentially costly decision about their futures, yet no rule requires the prospective employer to disclose information about the last 10 employees or lawsuits against the company, or even judgments for employment-related actions.

I have been in the direct selling industry more than 9 years. Initially, I joined Mannatech as an associate because that position offered the best product prices, regardless of any intention of building a business. My family uses the products I sell because they work to provide the nutrients no longer available in our modern diet. Eventually, I began to share the information about the products because we are all healthier now than before we used them. The direct selling industry has allowed me to make extra income to supplement the income for our family, and the best part is that it allowed me to attend my son's special events and to home school him to meet his specific education needs. I am only one of many who started using our products for health benefits, then, later, decided to share the products with others. Millions are employed in these legitimate businesses.

I appreciate FTC efforts to protect consumers, but I believe this proposed Rule has many unintended consequences and that less burdensome alternatives, with less paperwork, are available to achieve its goals. For example, requiring me to suggest to people that they ask for references or seek certain information about the company might be acceptable to me and be every bit as effective. Ultimately, in its present form, I sincerely believe it will do more harm to those it is intended to protect than offer the desired protection.

Thank you for your time in reading and considering my concerns.

Sincerely,

  
Peggy S. Rosenberg

PSR/hs  
(ftc)