

[BILLING CODE 6750-01S]

FEDERAL TRADE COMMISSION

16 CFR Part 437

Disclosure Requirements and Prohibitions Concerning Business Opportunities

AGENCY: Federal Trade Commission.

ACTION: Notice announcing publication of Staff Report on the Business Opportunity Rule.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) announces the publication of the Staff Report on the Business Opportunity Rule. The Staff Report sets forth the staff’s recommendations to the Commission on the various proposed amendments to the Business Opportunity Rule.

DATES: Comments on the Staff Report must be submitted on or before January 18, 2011.

ADDRESSES: Interested persons are invited to submit written comments electronically or in paper form by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Comments filed in electronic form should be submitted at:

<https://ftcpublic.commentworks.com/ftc/busopprulestaffreport> (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 113-H, Annex S, 600 Pennsylvania Ave, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Kathleen Benway (202) 326-2024, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room H-286, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Business Opportunity Rule, 16 CFR Part 437, requires the pre-sale disclosure of information to prospective purchasers about the business opportunity and the seller.¹ The Business Opportunity Rule, modeled on the original Franchise Rule, mandates that business opportunity sellers make 22 separate categories of disclosures to potential buyers. The Commission has concluded that these extensive disclosure requirements impose unnecessary compliance costs on both business opportunity sellers and buyers.

The Commission's experience in conducting numerous law enforcement sweeps of the business opportunity industry, however, demonstrates that fraud in the sale of business opportunities is not only prevalent but persistent. Accordingly, the Commission has engaged in an ongoing effort to amend the Business Opportunity Rule to adequately protect consumers from potentially fraudulent business opportunity sellers, while at the same time minimizing compliance costs. The Commission began by publishing an initial Notice of Proposed Rulemaking in 2006.² It published a revised Notice of Proposed Rulemaking in 2008 ("RNPR"),³ and held a public workshop on June 1, 2009 to discuss proposed amended disclosure requirements.⁴

Pursuant to the Commission's Rules of Practice, and the rulemaking procedures specified earlier in the RNPR, the Commission now announces the availability of the Staff Report on the Business Opportunity Rule. The Staff Report summarizes the rulemaking record to date, analyzes the various alternatives suggested, and sets forth the staff's recommendation to the

¹ 16 CFR 437 *et seq.*

² 71 FR 19,056 (Apr. 12, 2006).

³ 73 FR 16,110 (Mar. 28, 2008).

⁴ 74 FR 18,712 (Apr. 24, 2009).

Commission on the proposed revised Rule. The Staff Report has not been endorsed or adopted by the Commission.

The Staff Report is available at the FTC's website at www.ftc.gov. It is also available from the Commission's Public Reference Room, Room H-130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The Commission invites interested parties to submit written data, views, and arguments on the recommendations announced by the Staff Report by following the instructions in the **ADDRESSES** section of this notice. Comments, however, are to be limited to those matters not already part of the rulemaking record. Further, comments previously submitted in the ongoing rulemaking procedures are already part of the rulemaking record and need not be repeated. Written communications and summaries or transcripts of any oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will also be placed on the public record. *See* 16 CFR 1.26(b)(5).

Please note that comments will be placed on the public record – including on the publicly accessible FTC website, at <http://www.ftc.gov/os/publiccomments.shtm> – and therefore should not include any sensitive or confidential information. In particular, comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16

CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper (rather than electronic) form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).⁵

The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area, and at the Commission, is subject to delay due to heightened security precautions.

Because U.S. postal mail is subject to delay due to heightened security measures, please consider submitting your comments in electronic form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink <https://ftcpublic.commentworks.com/ftc/busoprulestaffreport>. If this Notice appears at <http://www.regulations.gov/search/index.isp>, you also may file an electronic comment through that website. The Commission will consider all comments that *regulations.gov* forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in electronic or paper form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses

⁵ FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

permitted by the Privacy Act, may be found at the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Upon completion of the comment period, the staff will make final recommendations to the Commission about the Rule. Assuming the Commission adopts the proposed revised Rule as recommended by the staff, or after the conclusion of the comment period determines to make changes to the proposed revised Rule, it will publish in a future Federal Register notice the final text of the Rule, a statement of Basis and Purpose on the Rule, and an announcement of when the revised Rule will become effective.

By direction of the Commission.

Donald S. Clark
Secretary.