

JIM MATHESON  
2ND DISTRICT, UTAH

[www.house.gov/matheson](http://www.house.gov/matheson)

Congress of the United States  
House of Representatives  
Washington, DC 20515-4402

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SCIENCE AND TECHNOLOGY  
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October 23, 2007

Jeanne Bumpus  
Director, Office of Congressional Relations  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room 404  
Washington, DC 20580

Dear Ms. Bumpus,

Enclosed please find five letters on the Business Opportunity Rule (R511993). Could you please deliver one to Chairman Majoras and one to each of the four Commissioners? Thank you for your assistance.

Best Wishes,



JIM MATHESON  
Member of Congress

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CONG. CORRES. BRANCH

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COMMITTEE

October 23, 2007

The Honorable Deborah Platt Majoras  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Business Opportunity Rule (R511993)

Dear Chairman Majoras:

As a Member of Congress representing the Second District of Utah, I support the Federal Trade Commission's (FTC) important consumer protection role and share your commitment to protecting the public from unfair and deceptive business practices. My state of Utah has the largest number of multilevel marketing companies per capita.

As you know, the FTC issued a proposed rulemaking in April 2006 known as the Business Opportunity Rule, which sought to regulate multilevel marketing practices. It is my understanding that you have received comments from numerous businesses that rely upon direct selling and that these business have voiced concerns about the proposed rulemaking. Some of the concerns outlined by the industry include opposition to the seven day waiting period for enrollment of new associates, elimination of the dollar threshold under the existing franchise rule, disclosure of lawsuits and legal proceedings, and disclosure earnings claims and demographic/geographic data on sales associates.

I appreciate your full consideration of the concerns outlined by Utah companies. I would further request that you update my office regarding any developments pertaining to the proposed rulemaking. If you require additional information, please do not hesitate to contact Neeta Bidwai in my office at 202-225-3011.

Sincerely,

  
JIM MATHESON  
Member of Congress

Cc: Commissioner Pamela Jones Harbour  
Commissioner Jon Leibowitz  
Commissioner William E. Kovacic  
Commissioner J. Thomas Rosch

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FEDERAL TRADE COMMISSION  
CONG. CORRES. BRANCH



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 30, 2007

The Honorable Jim Matheson  
United States House of Representatives  
Washington, DC 20515-4402

Dear Representative Matheson:

Thank you for your letter to the Federal Trade Commission concerning the Commission's proposed Business Opportunity Rule. As you know, the rulemaking proceeding is ongoing, and members of the Commission staff are currently reviewing comments submitted in response to the Notice of Proposed Rulemaking. Your letter and this response will be made part of the public record of that rulemaking proceeding. Given the pending rulemaking, I cannot respond to your specific questions, but I am happy to provide you with an overview of the proposed rule, as well as an update on the status of the rulemaking proceeding.

The Commission issued a Notice of Proposed Rulemaking concerning the proposed Business Opportunity Rule on April 12, 2006.<sup>1</sup> The version of the rule that the Commission initially proposed was designed to prevent deception inflicted on prospective purchasers of a given business opportunity by ensuring that they receive a one-page disclosure document that provides essential material information concerning that business opportunity. The requirement to provide this disclosure document would cover all types of business opportunity sellers, including those employing the multi-level marketing – or “direct sales” – model. In the Commission's enforcement experience, fraudulent businesses have often passed themselves off as legitimate companies that use this business model. Specifically, many pyramid schemes have masqueraded as legitimate multi-level marketing companies.<sup>2</sup>

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<sup>1</sup> See 16 CFR Part 437: *Business Opportunity Rule: Federal Trade Commission: Notice of Proposed Rulemaking*, 71 Fed. Reg. 19054 (April 12, 2006).

<sup>2</sup> The Commission has a long history of law enforcement action against pyramid schemes. *FTC v. Sun Ray Trading, Inc.*, No. 05-20402-CIV-Seitz/Bandstra (S.D. Fla. 2005); *FTC v. NexGen3000.com*, No. CIV-03-120 TUC WDB (D. Ariz. 2003); *FTC v. ICR Servs.*, No. 03 C 5532 (N.D. Ill. 2003); *FTC v. Trek Alliance, Inc.*, No. 02-9270 SJL (AJWx) (C.D. Cal. 2002); *FTC v. Universal Direct*, No. C 3-02-145 (S.D. Ohio 2002); *FTC v. SkyBiz.com*, No. 01-CV-0396-EA (X) (N.D. Okla. 2001); *FTC v. Bigsmart.com*, No. CIV 01-0466 PHX ROS (D. Ariz. 2001); *FTC v. Streamline Int'l, Inc.*, No. 01-6885-CIV-Ferguson (S.D. Fla. 2001); *FTC v. Equinox, Int'l*, No. CV-S-99-0960-JBR-RLH (D. Nev. 1999); *FTC v. Five Star Auto Club, Inc.*, No. CIV-99-1693 McMahon (S.D.N.Y. 1999); *FTC v. 2Xtreme Performance Int'l, LLC*, No.

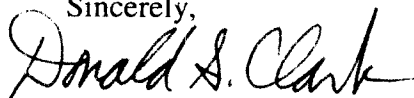
The Commission has received more than 17,000 comments in response to the Notice of Proposed Rulemaking. Many comments express support for the proposed rule and the need to weed out fraudulent actors from the marketplace, but many comments also posit that the proposal would impose unintended compliance burdens on legitimate multi-level marketing companies.

Members of the Commission staff are currently considering whether the proposed definition of business opportunity achieves the proper balance – in its attempt to curb abuses inflicted on the public by pyramid schemes that purport to be business opportunities – while at the same time avoiding any unnecessary compliance burdens on legitimate multi-level marketing companies. These concerns are articulated very clearly and in detail in many of the comments the Commission has received. The staff appreciates these concerns and will carefully consider them as it determines what steps to recommend that the Commission take next in the ongoing Business Opportunity rulemaking proceeding.

I should note that the portion of the Federal Trade Commission Act that governs Commission promulgation of trade regulation rules, 15 USC 57a *et seq.*, provides numerous opportunities for public comment and oral participation with respect to any rulemaking proposals. I should also note, without prejudging any aspect of this matter in any way, that the final rule adopted at the conclusion of a Commission rulemaking proceeding often differs in one or more respects from the initial version proposed at the beginning of the proceeding.

We appreciate receiving your comments on this important consumer protection issue. If you or your staff have additional questions or comments or wish to provide additional information, please feel free to contact me or Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2195. Thank you for your interest in the Commission.

Sincerely,



Donald S. Clark  
Secretary of the Commission

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JFM 99CV 3679 (D. Md. 1999); *FTC v. FutureNet, Inc.*, No. CV-98-1113 GHK (BQRx) (C.D. Cal. 1998); *FTC v. Nia Cano*, No. 97-7947-CAS (AJWx) (C.D. Cal. 1997); *FTC v. Jewelway, Int'l*, No. CV-97 TUC JMR (D. Ariz. 1997); *FTC v. World Class Network, Inc.*, No. SACV-97-162-AHS (EEx) (C.D. Cal. 1997); *FTC v. Global Assistance Network for Charities*, No. 96-2494 PHX RCB (D. Ariz. 1996). *FTC v. Fortuna Alliance, LLC*, No. C96-799M (W.D. Wash. 1996).