

Too Good to be True? New FTC Rules May Help You Evaluate that Business Opportunity

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Challenging times have caused many of us to consider means of earning a living that we have not previously considered. Some of those avenues may be business opportunities, such as vending routes, stuffing envelopes and product assembly programs, promoted as being shortcuts to wealth and prosperity. However, business opportunities that sound too good to be true usually are.

Effective March 1, 2012, business opportunity sellers must give you a one-page document that includes the seller's name and contact information and contact information for people who have purchased the business opportunity during the last three years (or at least the ten purchasers who are located closest to you). The disclosure document must also state whether the seller:

- Makes an earnings claim (information that conveys a range or specific level of actual or potential sales, income or profits) – if so, the seller must give you the earnings claim and offer to make written substantiation available to you
- Has been involved in legal actions involving fraud, misrepresentation, securities laws violations or unfair or deceptive practices within the past 10 years – if so, the seller must list those actions
- Has a cancellation or refund policy – if so, the seller must disclose the material terms and conditions

The information provided to you may not contain any material misrepresentations or omissions, may not require you to waive any protections provided by the Business Opportunity Rule and must be in the language in which the sale is conducted. The information must be given to you at least seven days before you sign a contract or pay any money. The seller may not promote its opportunity as employment or a job. If any purchaser listed in the disclosure document has a personal or business relationship with the seller or has received money or anything else of value from the seller, it must disclose that to you.

You should review the information carefully and evaluate the information thoroughly. Ask to review written substantiation of the earnings claim. Is the earnings claim reasonable? Does it make sense? Run your own projections, with the assistance of a financial advisor, if necessary. Is the cancellation or refund policy reasonable? Is the expiration date too soon to be practical? Do you forfeit shipping fees or other amounts? Can you actually comply with it? Seriously consider whether you should purchase a business opportunity from a seller if it (or its affiliates, predecessors, directors, officers or sales managers) has been the subject of legal actions involving fraud, misrepresentation, securities laws violations or unfair or deceptive practices.

Contact the people who previously purchased the business opportunity (not only those that the seller encourages you to contact) and ask about their experience with the business opportunity and the seller. Did the seller deliver the promised goods and services? Were their experiences consistent

with the earnings claims? Is the business opportunity profitable? If they tried to cancel and obtain a refund, were they successful? Did the seller impose obstacles to obtaining a refund?

Check the seller out on-line. Google the business opportunity, the seller and its key personnel. Be wary of glowing testimonials – they may be phony. Also check the Federal Trade Commission’s website and the website of your local Better Business Bureau, Attorney General’s office and consumer protection agency.

A seller’s failure to comply with the Business Opportunity Rule by failing to provide all of the necessary information in the required manner is a red flag that the business opportunity is questionable – if the seller fails to comply with the law, it follows that the seller is not likely to honor its obligations to you and may defraud you.

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This article is not intended to provide legal advice. Always consult an attorney for legal advice for your particular situation.