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PROTECTING AMERICA’S CONSUMERS

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For Release

FTC Proposes Rule Changes and New Rule to Deter Deceptive Earnings Claims by Multilevel Marketers and Money-Making Opportunity Sellers

Proposed changes to FTC's Business Opportunity Rule and proposed new Earnings Claim Rule would address false or misleading claims about expected earnings
January 13, 2025
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The Federal Trade Commission is seeking comment on proposed changes to the Business Opportunity Rule and a proposed new Earnings Claim Rule that, taken together, would strengthen the agency's tools to curb deceptive earnings claims in industries where they are pervasive: multi-level marketing (MLM) programs and money-making opportunities.

While deceptive earnings claims are already illegal, the proposed changes to the FTC's Business Opportunity Rule and the new Earnings Claim Rule would allow the FTC to seek strong relief – including money back for consumers and civil penalties – from covered companies making deceptive claims.

"Phony claims about likely earnings lure people looking for honest income into spending thousands, even tens of thousands, of dollars on multi-level marketing, business coaching and other schemes," said Sam Levine, Director of the Bureau of Consumer Protection. "The proposed rules would help the FTC deter illegal conduct with civil penalties and put money back in consumers' pockets. We look forward to getting public comment."

The FTC is seeking comment from the public on three proposals: two Notices of Proposed Rulemaking (NPRM) and one Advance Notice of Proposed Rulemaking (ANPRM).

NPRM on Business Opportunity Rule

This proposal would expand the Business Opportunity Rule to cover money-making opportunities, such as business coaching and investment opportunities, which claim to assist consumers in building a business or otherwise earning income. Such operations proliferate, using deceptive tactics—and in particular, deceptive earnings claims—to take consumers' money. They cause significant financial and other harm to consumers. Under the proposed amendments, sellers of these types of opportunities would be, among other things, prohibited from making material misrepresentations, including about earnings.

Sellers also would be required to have written substantiation to back up any earnings claims and make that substantiation available to consumers if they request it – in the language they used to make the earnings claim.

NPRM on Rule Covering Deceptive Earnings Claims in the MLM Industry

The proposal would create a new rule that would address false or misleading earnings claims in the MLM industry. Deceptive earnings claims are a widespread problem in this industry, and they have caused significant financial and other harm to consumers.

Like the Business Opportunity Rule, the new rule, if adopted, would prohibit MLM sellers from making deceptive earnings and related claims. Similarly, this proposal would require MLM sellers to have written substantiation to back up any earnings claims and make that substantiation available to consumers if they request it – in the language they used to make the earnings claim.

ANPRM on Additional Components of the Proposed Earnings Claim Rule

In addition to the NPRMs, the FTC is issuing an ANPRM in connection with the proposed Earnings Claim Rule, seeking comment from the public on the need for additional rule requirements addressing deceptive earnings claims and related conduct. These include:

- whether to require MLMs to provide earnings data to potential recruits and current MLM participants or to post such data on their websites;
- whether all MLM earnings claims should be accompanied by clear and conspicuous information about the earnings MLM participants can generally expect;
- whether there should be a waiting period before a recruit pays any money to the MLM or otherwise joins the MLM;
- whether to prohibit misrepresentations relating to expenses, benefits, or the compensation plan; and
- whether to prohibit MLMs from using non-disparagement or other "gag" clauses to prohibit participants from communicating truthful negative information to the Commission, potential recruits, or others.

The public comment period for all three proposals will last 60 days from when they are published in the Federal Register. Instructions on how to file comments can be found in the Federal Register notice and on the FTC's websites for the proposals. Once processed, the comments will be posted to Regulations.gov.

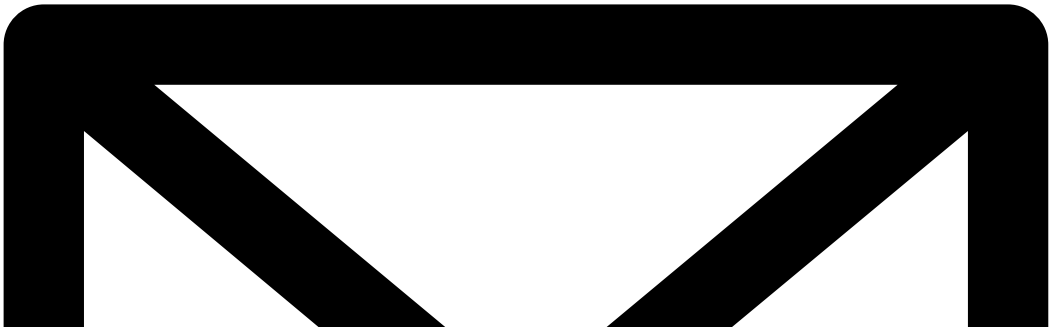
The Commission votes to approve the issuance of the proposals in the Federal Register were 3-2, with Commissioners Andrew Ferguson and Melissa Holyoak voting no. Commissioner Ferguson issued a dissenting statement joined by Commissioner Holyoak.

The Federal Trade Commission works to promote competition and protect and educate consumers. The FTC will never demand money, make threats, tell you to transfer money, or promise you a prize. Learn more about consumer topics at consumer.ftc.gov, or report fraud, scams, and bad business practices at ReportFraud.ftc.gov. Follow the FTC on social media, read consumer alerts and the business blog, and sign up to get the latest FTC news and alerts.

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Related actions

Earnings Claim Rule Regarding Multi-Level Marketing
16 CFR 437; Business Opportunity Rule; Notice of Proposed Rulemaking
Dissenting Statement of Commissioner Andrew N. Ferguson Joined by Commissioner Melissa Holyoak Regarding the Business Opportunity and Earnings Claim Rulemaking Notices

For Consumers

Blog: Ever joined a business opportunity to make big money? We want to hear from you

For Businesses

Blog: Concerned about deceptive earnings claims? So's the FTC, and we want your feedback

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