

Supplemental Supporting Statement
Final Amendments to the Trade Regulation Rule on Business Opportunities
16 C.F.R. Part 437
(OMB Control No. 3084-0142)

*Key to Terms and Abbreviations Used Throughout This Document*¹

1. Necessity for Collecting the Information

This document supplements and updates the Supporting Statement that Federal Trade Commission (“FTC” or “Commission”) submitted to OMB for the RNPR on March 26, 2008 under ICR Ref. 200801-3084-002. Following that submission, OMB filed comment on June 10, 2008, under temporarily assigned Control No. 3084-0148. The control number shown above reflects the permanently assigned number for the Trade Regulation Rule on Business Opportunities (“final Rule”) to which the Commission seeks to have these final amendments and associated Paperwork Reduction Act (“PRA”) estimates incorporated.

The history of this rulemaking, including its roots originating with the Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (“original Franchise Rule”), 16 C.F.R. Part 436 (OMB Control No. 3084-0107), is set out in greater length in the preceding Supporting Statement of March 26, 2008. The amended Franchise Rule covers the sale of business format franchises. The Interim Business Opportunity Rule, 16 C.F.R. Part 437, covers the sale of non-franchise business opportunities. The disclosure requirements in Part 437 are essentially identical to those in the original Franchise Rule.

The disclosure and recordkeeping requirements of these rules were created to combat widespread deceptive and unfair practices in the sale of franchises and business opportunities.

The IPBOR would have expanded the coverage of business opportunity promoters then subject to the original Franchise Rule, such as vending machines and rack display opportunities, to include work-at-home and multilevel marketing (“MLM”) programs.

Voluminous comments on the IPBOR led the Commission to issue the RNPR. After careful consideration of the record, the Commission decided to narrow the scope of the RPBOR to avoid broadly sweeping in all sellers of MLMs. Instead, the Commission proposed expanding coverage only to work-at-home business opportunity promoters. The expanded coverage of the

¹ As used in this document: “**ANPR**” refers to the Advance Notice of Proposed Rulemaking, 62 Fed. Reg. 9115 (Feb. 28, 1997); “**INPR**” refers to the Initial Notice of Proposed Rulemaking for the Business Opportunity Rule, 71 Fed. Reg. 19,054 (Apr. 12, 2006); “**Interim Business Opportunity Rule**” refers to the Business Opportunity Rule, codified at 16 CFR 437, that is currently in effect and is the subject of these amendment proceedings; “**IPBOR**” refers to Initial Proposed Business Opportunity Rule, which was proposed in the INPR in 2006; “**original Franchise Rule**” refers to the Franchise Rule published at 43 Fed. Reg. 59,614 (Dec. 21, 1978); “**RNPR**” refers to the Revised Notice of Proposed Rulemaking for the Business Opportunity Rule, 73 Fed. Reg. 16,110 (Mar. 26, 2008); “**RPBOR**” refers to the Revised Proposed Business Opportunity Rule, which was proposed in the RNPR in 2008.

final Rule, however, is offset by more limited disclosure requirements, which reduce compliance costs. The reduction of required disclosures is discussed further in response to item #12 of this document.

Like the RPBOR, the final Rule requires business opportunity sellers to disclose information to prospective buyers and to maintain certain records. It requires business opportunity sellers to give prospective buyers five material disclosures in a basic disclosure document, in the language that the seller uses to market the opportunity.² Each required disclosure is intended to help prospective buyers make informed investment decisions.

First, sellers must provide certain identifying information. Second, sellers must disclose whether or not they make earnings claims. If so, sellers must include the claim in a separate earnings claims statement attached to the basic disclosure document.³ Third, sellers must disclose prior civil or criminal litigation involving misrepresentation, fraud, securities law violations, or unfair or deceptive business practices. Fourth, sellers must disclose whether or not they have a cancellation or refund policy. If so, sellers must state all materials terms and conditions of the refund or cancellation policy in an attachment to the disclosure document. Fifth, sellers must provide contact information for all purchasers of the opportunity within the past three years. The final Rule also requires sellers to prepare, retain, and make available for inspection by the Commission various documents for a period of three years.

The final Rule also requires sellers to: (1) furnish disclosures at least seven days before any sale; and, (2) use the proper disclosure document that complies with the form and content set forth in the final Rule. The final Rule does not regulate the substantive terms of the buyer/seller relationship. Nor does it require the registration or filing of disclosure documents with the Commission in connection with the sale of business opportunities. The final Rule does, however, require sellers to keep for a period of three years copies of: (1) each materially different version of documents required by the final Rule; (2) each purchaser's disclosure receipt and contract; and (3) substantiation for any earnings claims.

The final Rule imposes one additional requirement not present in either the Interim Business Opportunity Rule or the RPBOR, but was introduced in the Staff Report. For business opportunities marketed in Spanish, Section 437.5 of the final Rule requires that sellers provide potential purchasers with the Spanish version of the disclosure document (Appendix B to the Rule) and provide all other required disclosures in Spanish. For sales conducted in a language other than English or Spanish, the final Rule requires that sellers make the required disclosures

² See Appendix A and Appendix B to the final Rule.

³ Because future earnings are at the heart of any business opportunity purchase, the final Rule requires sellers to provide further information about any earnings claims. This information is to enable the buyer to assess the accuracy or reliability of such claims. For example, a seller might represent that the buyer could expect annual sales of \$50,000. Without some context, such a claim may mislead the prospective buyer. In addition to the earnings claim statement, sellers must provide prospective purchasers and the FTC written substantiation for their claims, upon request.

in the same language as the sale, using the form and an accurate translation of the language set forth in Appendix A, as well as any additional required disclosures through attachments to the disclosure document. As discussed in the Statement of Basis and Purpose, this translation requirement is supported by long-standing Commission policy, the Commission's law enforcement experience, the rulemaking record, and the rationale supporting staff's recommendation.

2. Use of the Information

Prospective business opportunity buyers use the required disclosures both to become better informed about the prospective investment and to verify the seller's representations.

3. Consideration of Using Improved Information Technology to Reduce Burden

Consistent with the aims of the Government Paperwork Elimination Act, 44 U.S.C. § 3504 note, the final Rule permits business opportunity sellers great latitude in using new technologies, in particular the Internet, to reduce compliance costs. Business opportunity sellers are able to reduce significantly printing and distribution costs through the expanded use of email and the Internet to furnish disclosure documents. The final Rule also permits the use of electronic signatures and electronic recordkeeping.

4. Efforts to Identify Duplication/Availability of Similar Information

Approximately twenty six states have some kind of business opportunity sales regulations. These state regulations, however, are not uniform, varying widely both in their coverage and in the disclosure requirements. Accordingly, coordination with states to reduce duplication efforts would be difficult. The Commission intends to keep the disclosure obligations arising from the final Rule to a minimum. In most instances, business opportunity sellers complying with the final Rule will be able to furnish a single-page disclosure document, with appropriate attachments.

Similarly, the final Rule reduces duplication by enabling business opportunity sellers to comply with the Rule by using existing materials. For example, rather than repeating its cancellation or refund policy in the disclosure document, a seller can simply check the box indicating that it offers a cancellation or refund policy and then attach to the disclosure document a brochure or other document that already sets forth the required information.

5. Efforts to Minimize Burden on Small Businesses

Unlike business opportunity regulations in many states, the final Rule does not require a seller to register or file disclosure documents with the government as a prerequisite to a sale. Thus, compliance with the final Rule does not invoke the fees usually associated with registering or filing disclosure documents, a consideration that might be especially important to small businesses. The final Rule, moreover, keeps required disclosures to a minimum, permitting sellers to reference existing materials, and permitting electronic disclosure. The required

disclosures are detailed further in the discussion of hours burden under #12 of this document.

6. Consequences of Conducting Collection Less Frequently

The purpose of the final Rule is to ensure that all prospective business opportunity purchasers receive valuable pre-sale information about proposed investments. To reduce the required disclosures, which have already been streamlined, would likely diminish the Rule's effectiveness. Moreover, the Commission finds that the approach of Section 437.3(b) of the final Rule strikes the right balance between accurate disclosure to prevent deception and the compliance costs that would result from a more frequent than quarterly updating requirement of the disclosure document.

7. Circumstances Requiring Collections Inconsistent with Guidelines

The collection of information in the final Rule is consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

8. Consultation with Outside Sources

The Commission has had a long history of seeking outside input regarding the Franchise Rule and the Business Opportunity Rule. This is discussed at length in the March 26, 2008 Supporting Statement as well as the final Rule Statement of Basis and Purpose. The discussion here thus starts from where the preceding Supporting Statement concluded.

In the RNPR, the Commission announced that it had retained an expert to assess the initial proposed disclosure document, with the objective of achieving the proper format and content for communicating material information to consumers. Following publication of the RNPR, the FTC engaged an expert, Macro International, Inc., which conducted extensive consumer testing of the document. That resulted in substantial improvement both to its layout and wording.

The Commission made public the expert's resulting report and the revised proposed disclosure document in a Federal Register Notice ("Workshop Notice") that also announced a one-day public workshop in Washington, D.C.⁴ The Commission sought comment at the workshop on the disclosure document's effectiveness toward conveying material information to prospective purchasers of business opportunities. The Commission also sought to develop further the public record regarding issues raised by the comments received on the RNPR. The Workshop Notice invited requests to participate as panelists at the workshop, and sought written comment about the topics to be discussed there. The workshop featured five panelists who represented a range of interests in the RPBOR, including a federal law enforcer, a state law enforcer, a self-identified consumer advocate, the general counsel of a national MLM company,

⁴ See 74 Fed. Reg. 18712 (Apr. 24, 2009). The disclosure document is alternately referred to in the rulemaking record, including the Workshop Notice, as the "Disclosure Form."

and a former director of the FTC's Bureau of Consumer Protection.⁵ Following discussion of the revised proposed disclosure document, workshop panelists and audience members were invited to express their views about other issues related to the RPBOR.⁶ After robust discussion on various topics, the Commission received written comment from six individuals and entities.⁷

Finally, pursuant to the Rule amendment process announced in the INPR, the Commission's Bureau of Consumer Protection issued a Staff Report on the Business Opportunity Rule in November 2010.⁸ Twenty-seven comments were submitted in response to the Staff Report,⁹ including eleven comments submitted by consumer group Consumer Awareness Institute. The Commission also received comments from the Department of Justice ("DOJ"), the Direct Selling Association, MLM companies,¹⁰ one franchise lead generator, consumer group Pyramid Scheme Alert, and ten individuals. In crafting the final Rule, the Commission has carefully considered the comments received throughout the Rule amendment proceeding and in response to the Staff Report.

9. Payment or Gift to Respondents

Not applicable.

10. Assurances of Confidentiality

No assurance of confidentiality is necessary, because the final Rule does not require business opportunity sellers to register or file any documents with the Commission. To the extent that information covered by a recordkeeping requirement is collected by the Commission for law enforcement purposes, the confidentiality provisions of Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f), 57b-2, will apply.

⁵ Commission staff selected individuals as panelists based upon their comments, backgrounds, and interest in the subject matter.

⁶ A copy of the transcript of the June 1, 2009 workshop is available at <http://www.ftc.gov/bcp/workshops/bizopps/index.shtml>.

⁷ Comments received in response to the Workshop Notice are available at <http://www.ftc.gov/os/comments/bizoprulerevwrkshp/index.shtm>.

⁸ See Bureau of Consumer Protection, Staff Report to the Federal Trade Commission and Proposed Revised Trade Regulation Rule (16 C.F.R. Part 437) (Nov. 2010) ("Staff Report"). The Staff Report is available at: <http://www.ftc.gov/os/fedreg/2010/october/101028businessopportunitiesstaffreport.pdf>. In November, the Commission published a notice in the Federal Register announcing the availability of, and seeking comment on, the Staff Report. See 75 Fed. Reg. 68559 (Nov. 8, 2010).

⁹ Comments received in response to the Staff Report are available at <http://www.ftc.gov/os/comments/bizoppstaffreport/index.shtm>.

¹⁰ Comments on behalf of the MLM industry were submitted by Tupperware and Primerica.

11. Sensitive or Private Information

Under the provisions in the final Rule, a business opportunity seller is required to disclose certain purchasers' names, states, and telephone numbers. This information lets prospective purchasers conduct their own due diligence investigation of the business opportunity seller's claims; in particular, earnings claims. No other information about individual purchasers must be disclosed. For example, sellers who choose to make an earnings claim based upon the earnings history of current purchasers need not identify in the disclosure document the individual purchasers whose information formed the basis of the earnings claim, or the earnings of any individual purchaser.

Further, to ensure that purchasers understand that their contact information may be disclosed, a privacy statement is included in the disclosure document attached to the final Rule: "If you buy a business opportunity from [Name of Seller], your contact information can be disclosed in the future to other potential buyers." Provided this information, a purchaser concerned about the release of his/her contact information may elect not to make the purchase.

12. Estimated Annual Hours Burden and Labor Cost

The currently approved estimate for the disclosure and recordkeeping burden under the Interim Business Opportunity Rule is 16,750 hours for business opportunity sellers. That estimate was based on an estimated 2,500 business opportunity sellers. As discussed below, the final Rule reduces the existing burden on business opportunity sellers by streamlining disclosure requirements to minimize compliance costs.

In the RNPR, Commission staff estimated there were approximately 3,050 business opportunity sellers covered by the RPBOR. This figure consisted of an estimated 2,500 vending machine, rack display, and other opportunity sellers currently covered by the Interim Business Opportunity Rule, and an estimated 550 work-at-home opportunity sellers, which would be newly covered entities under the final Rule. Because the final Rule is no different than the RPBOR regarding the types of entities to which it applies, and the Commission received no information suggesting the need to update these prior estimates, the Commission retains them for the final Rule. Additionally, Commission staff estimates that approximately 174 of those sellers market business opportunities in Spanish and that approximately 79 of the 3,050 business opportunity sellers market in languages other than English or Spanish.¹¹

¹¹ To estimate how many of the 3,050 sellers market business opportunities in languages other than English, FTC staff relied upon United States Census Bureau ("Census") data. Calculations based upon a recent Census survey reveal that approximately 5.7% of the United States population speaks Spanish or Spanish Creole at home and speaks English less than "very well." Calculations based upon that same survey reveal that approximately 2.6% of the United States population speaks a language other than Spanish, Spanish Creole, or English at home and speak English less than "very well." Staff therefore projected that 5.7% of all entities selling business opportunities market in Spanish or Spanish Creole and 2.6% of all entities selling business opportunities market in languages other than English, Spanish and Spanish Creole.
http://factfinder.census.gov/servlet/STTable?_lang=en&_ss=1&_ds=1&_tid=1000US&_cid=1000US&_all_geo_types=N

A. Disclosure Requirements

As discussed below, the final Rule is designed to substantially reduce the quantity of information business opportunity sellers are required to disclose under the Interim Business Opportunity Rule. The final Rule impacts sellers differently, depending upon whether they are currently covered by the Interim Business Opportunity Rule and what language they use to market business opportunities.

1. Mandatory Disclosures

For the 2,500 vending machine, rack display, and other business opportunity sellers currently covered by the Interim Business Opportunity Rule, the final Rule, consistent with the RPBOR, substantially reduces the disclosures from over 20 categories of information to five material categories: sellers identifying information, earnings claims, lawsuits, refund policy, and references. This streamlining will minimize compliance costs for the 550 business opportunity sellers that will be newly subject to the Rule.

Business opportunity sellers must disclose whether or not they make earnings claims. The decision to make an earnings claim, however, is optional. While the disclosures of references and earnings claims retain, for the most part, the Interim Business Opportunity Rule requirements, the required disclosure of lawsuits is reduced from the Interim Business Opportunity Rule.¹²

As noted above in greater detail, the final Rule adds a foreign language translation requirement: when marketing business opportunities in a language other than English, sellers must make the required disclosures in the same language.

2. Incorporation of Existing Materials

The final Rule reduces collection and dissemination costs from those imposed by the Interim Business Opportunity Rule, by permitting sellers to reference in their disclosure documents materials already in their possession. For example, a seller need not repeat its refund policy in the text of the disclosure document, but may incorporate its contract or brochures, or other materials that already provide the necessary details.

3. Use of Electronic Dissemination of Information

The final Rule defines the term “written” to include electronic media. Accordingly, all business opportunities covered by the final Rule are permitted to use the Internet and other

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¹² Section III.C.2 of the Statement of Basis and Purpose addresses the disclosures required under the final Rule.

electronic media to furnish disclosure documents. Allowing this distribution method should greatly reduce sellers' compliance costs over the long run, especially costs associated with printing and distributing disclosure documents. As a result of this proposal, the Commission expects sellers' compliance costs will decrease substantially over time.

4. Use of Computerized Data Collection Technology

Finally, because of advances in computerized data collection technology, the Commission anticipates that the costs of collecting information and the recordkeeping requirements imposed by the final Rule will be minimal. For example, a seller can easily maintain a spreadsheet of its purchasers, which can be sorted by location. This would enable a seller to comply easily with the reference disclosure requirement (at least 10 prior purchasers in the last three years who are located nearest to the prospective purchaser, or, if there are not 10 prior purchasers, then all prior purchasers). In the alternative, the final Rule permits a seller to maintain a national list of purchasers.

B. Recordkeeping Requirements

Section 437.7 of the final Rule prescribes recordkeeping requirements necessary for effective enforcement of the Rule. Specifically, sellers of a covered business opportunity, and their principals, must retain for at least three years the following types of documents: (1) each materially different version of all documents required by the Rule; (2) each purchaser's disclosure receipt; (3) each executed written contract with a purchaser; and (4) all substantiation upon which the seller relies for each earnings claim made. The final Rule requires that these records be made available for the Commission's inspection, but does not otherwise require their production. As noted above, because of advances in computerized data collection technology, the Commission anticipates that the costs of collecting information and recordkeeping requirements imposed by the final Rule will be minimal.

C. Estimated Hours Burden and Labor Cost

For the RNPR, the Commission submitted the RPBOR and associated documentation under the PRA for OMB review. The Commission did not receive any public comments regarding staff's PRA burden estimates. The instant burden estimates differ from those previously submitted in the RNPR in two respects: (1) they account for the final Rule's requirement that sellers must provide the disclosure document and other required disclosures to potential purchasers in the same language the seller uses to market the business opportunity; and (2) they incorporate the one hour recordkeeping burden estimate included in the currently approved Interim Business Opportunity Rule's burden estimates under the PRA.

Through the Staff Report, the Commission sought comment on the new foreign language disclosure requirement, including the usefulness and sufficiency of the added foreign language disclosure requirement. The Staff Report, however, did not address the associated PRA burden.

The Commission received just one comment on the new disclosure translation requirement.¹³

1. Estimated Hours Burden

The estimated 2,500 vending machine, rack display, and related opportunity sellers currently covered by the Interim Business Opportunity Rule (and, previously, the original Franchise Rule) will have a disclosure document that needs merely streamlining and updating to comply with the final Rule. Thus, FTC staff estimates that these businesses likely will require no more than three hours to complete that task. Conversely, staff estimates that for existing businesses that have not previously been covered by the Interim Business Opportunity Rule but will be subject to the final Rule, e.g., work-at-home business opportunities, approximately 5 hours will be required to prepare a new disclosure document. Staff further estimates that the total hours required in the first year to develop a disclosure document will be 10,250 [(2,500 entities x 3 hours per entity) + (550 entities x 5 hours per entity)]. In addition, all these businesses likely will require approximately one hour per year to file and store records, for a total of 3,050 hours [3,050 entities x 1 hour per entity]. Accordingly, the estimated total hours burden for the first year of implementation of these amendments would be 13,300 hours. Commission staff estimates that in later years, the 3,050 existing businesses will require no more than approximately two hours to update the disclosure document [6,100 total hours] and approximately one hour to file and store records [3,050 total hours], for a total of 9,150 hours [6,100 hours + 3,050 hours] per year to meet the final Rule requirements.

Thus, the cumulative average annual burden for affected sellers, based on a prospective three-year OMB clearance is 10,533 hours [((13,300 hours) + 18,300 hours (2 years x 9,150 hours per year)) ÷ 3].

2. Estimated Labor Cost

Labor costs are determined by applying applicable wage rates to associated burden hours. Commission staff assumes that an attorney likely would prepare or update the disclosure document at an estimated hourly rate of \$250. As noted above, Commission staff estimates that 13,300 hours will be needed to prepare, file, and store the disclosure document and required records in the first year, for a total cost of \$3,325,000 [13,300 hours x \$250 per hour].

As also noted above, Commission staff expects that there will be a reduction in the annual hours burden after the first year to approximately 9,150 hours. Accordingly, staff estimates that the labor cost burden for subsequent years will be reduced to \$2,287,500 [9,150 hours x \$250 per hour]. Thus, the average annual cost is approximately \$2,633,333 [(((\$3,325,000) + (\$2,287,500 x 2)) ÷ 3], when averaged over a prospective three-year OMB

¹³ The comment, from the DOJ's Office of Consumer Litigation, and available at <http://www.ftc.gov/os/comments/bizoppstaffreport/index.shtml>, registered strong support for the requirement.

clearance. Should disclosure or recordkeeping obligations be performed by clerical staff, the total labor costs would be significantly less.

13. Estimated Capital and Other Non-Labor Costs

A. Printing and Mailing of the Disclosure Document

Business opportunity sellers must also incur costs to print and distribute the single-page disclosure document, plus any attachments. These costs vary based upon the length of the attachments and the number of copies produced to meet the expected demand. Commission staff estimates that 3,050 business opportunity sellers will print and mail approximately 1,000 disclosure documents per year¹⁴ at a cost of \$1.00 per document,¹⁵ for a total cost of \$3,050,000. The total cost may actually be much less in that Commission staff anticipates that many business opportunity sellers will elect to furnish disclosures electronically.

B. Drafting the Disclosure Document Other Than in English or Spanish

For sales conducted in a language other than English and Spanish, the final Rule requires that sellers use the form appearing in Appendix A and accurately translate it into the language used for sale. Thus, sellers marketing in languages other than English or Spanish will incur costs to translate the disclosure document, and these sellers may also need to translate the other required disclosures that may be attached to the disclosure document. Commission staff estimates that sellers marketing business opportunities in languages other than English and Spanish will incur a cost of approximately \$6,705 to translate the disclosure document in the first year. This figure is based upon Commission staff's estimate that it will cost approximately 17.5 cents to translate each word into the language the sellers use to market the opportunities. There are 485 words in Appendix A. Therefore, the total cost burden to translate the disclosure document is approximately \$6,705 [79 sellers x (17.5 cents per word x 485 words)]. In subsequent years, the existing business opportunities sellers will not incur additional costs to translate the Appendix A as it will already have been translated during the first year. The 174 sellers marketing business opportunities in Spanish will not incur any additional costs to

¹⁴ The Original Franchise Rule and the interim Business Opportunity Rule covered only business opportunity ventures costing \$500 or more. Ventures such as product assembly, medical billing, and envelope stuffing, however, often require payments of less than \$500 and thus were not covered by the interim Business Opportunity Rule. The Commission has concluded that the scope of the final Rule should be broad enough to reach business opportunities that the Commission's law enforcement history and consumer complaints show are a widespread and persistent problem, regardless of the price at which they are offered. Accordingly, the final Rule eliminates the monetary threshold. In response, FTC staff has increased by tenfold its estimate of the number of disclosure documents per year that business opportunity sellers will print and mail. The currently cleared estimate of 100 (under ICR Reference No: 200810-3084-002) pertains to the interim Rule preceding these final amendments.

¹⁵ This is a marked reduction from the previously cleared estimate of \$15.55, which was attributable to then higher printing and mailing costs reflective of the original, broader disclosure document and the formerly required cover sheet (no longer required nor permitted by the final rule).

translate Appendix A, as a Spanish version of that document is provided for them, as Appendix B to the final Rule.

C. Translating the Required Disclosures Into a Language Other Than English

Commission staff estimates that in the first year, sellers marketing business opportunities in languages other than English will incur an estimated cost of \$27,672 [(79 sellers + 174 sellers) x (17.5 cents per word x 625 words)] to translate their responses to the five mandatory disclosures required in the disclosure document.

The above cost estimate is based upon assumptions that all sellers marketing business opportunities in languages other than English: (1) are marketing in both English and another language; (2) are not incorporating any existing materials into their disclosure document; (3) have been the subject of civil or criminal legal actions; (4) are making earnings claims; (5) have a refund or cancellation policy; and (6) because of all of the above assumptions, require approximately 625 words (approximately 2.5 standard, double-spaced pages) to provide the required information. Realistically, because it is unlikely that all such assumptions will apply to every seller marketing business opportunities in languages other than English, the cost burden will likely be much lower. In subsequent years, due to the final Rule's requirement that sellers must update their disclosures, Commission staff estimates that sellers may incur an additional cost burden of \$11,069 [253 sellers x (17.5 cents per word x 250 words -- approximately one standard, double-spaced page)] to translate the updates.

Therefore, cumulative average cost for affected sellers, based on a prospective three-year OMB clearance, to print and distribute the disclosure document and any attachments and to translate both the disclosure document and the additional required disclosures would be \$3,068,838 [(((\$3,050,000 x 3) + \$6,705 + \$27,672 + (\$11,069 x 2)) ÷ 3)].

14. Estimate of Cost to Federal Government

Staff estimates that the cumulative average cost to the Commission to administer and enforce the final Rule, based on a prospective three-year OMB clearance will be approximately \$309,000. This estimate includes attorney, clerical, and other support staff costs.

15. Changes in Burden

FTC staff estimates that the annual hours burden for the final Rule will be approximately 10,533 hours, a decline from its prior estimate of 16,750 hours for business opportunity ventures under the Interim Business Opportunity Rule (and the original Franchise Rule) and its prior estimate of 13,583 hours¹⁶ proposed for the RPBOR. The estimate under the Interim Business Opportunity Rule, though based on a lower population estimate of business opportunity sellers (2,500 versus the 3,050 now estimated), overstated hours because it did not reflect for

¹⁶ Rounded to 14,000 in the RNPR and Supporting Statement narratives, but actually totaling 13,583 through the automatic calculations in ROCIS.

established business opportunity sellers annualized hours projected over the three-year OMB clearance sought; rather, it strictly accounted for the relatively higher burden hours of the initial year of prospective clearance.

The instant hours burden estimate differs from that proposed for the RPBOR in that it incorporates the one hour recordkeeping burden estimate from the Interim Business Opportunity Rule, which staff believes is a better estimate. Additionally, the instant cost burden estimates differ from those proposed for the RPBOR in that they account for the costs associated with the foreign language disclosure requirement under the final Rule, while also incorporating the one hour recordkeeping burden estimate from the Interim Business Opportunity Rule. Conversely, the estimated costs to print and mail disclosure documents is reduced given the final rule's substantial streamlining of required disclosures.

16. Statistical Use of Information

There are no plans to publish any information for statistical use.

17. Failure to Display of the Expiration Date for OMB Approval

Not applicable.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

Not applicable.