



Office of the Chair

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

**Statement of Chair Lina M. Khan
Regarding the Advance Notice of Proposed Rulemaking
on the Business Opportunity Rule
Commission File No. R511993**

November 17, 2022

The Business Opportunity Rule protects Americans from false promises of easy riches. A business opportunity may be pitched as a way for a buyer to immediately get a business up and running. The point of the rule is to make sure people know what they're getting into, with a realistic sense of how much they're likely to earn. It requires sellers to honestly disclose key information up front.

The rule has served the public well over the years.¹ But it's written in a way that doesn't necessarily capture some business models and practices that have become more widespread in the decade since it was last amended.

That's why I'm glad to see that the Commission is seeking public comment on whether to modify the Business Opportunity Rule. This is the first review since the Commission approved amendments to the rule in December 2011. A lot has changed since then.

The ANPR notes several varieties of scams that may fall outside the scope of the existing rule. These include certain kinds of business coaching and work-from-home programs, investment programs, and e-commerce opportunities. A classic example is someone selling an online course that purports to teach you how to make big profits trading stocks or cryptocurrency in your home—risk-free. These scams may not meet the precise definition of a business opportunity under the letter of the rule. But they can violate its spirit by luring consumers with false promises of easy money.

Sometimes, the Commission can use other authorities to crack down on these types of scams. But case-by-case enforcement has key limitations—especially after the Supreme Court's *AMG* decision, which took off the table one of the Commission's most effective ways of getting money back to consumers harmed by businesses that cheat or deceive them.² Now, it's difficult for the FTC to seek refunds for defrauded consumers unless the deception violates an existing rule. That's one additional reason why it may be especially necessary to update the Business

¹ See, e.g. Press Release, Fed. Trade Comm'n, Operators of Business Opportunity Scheme That Falsely Promised Big Earnings Will be Banned From Offering Any Business or Investment Services, Under FTC Settlement (July 2, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/07/operators-business-opportunity-scheme-falsely-promised-big-earnings-will-be-banned-offering-any>.

² *AMG Capital Mgmt., LLC. v. FTC*, 141 S. Ct. 1341 (2021).

Opportunity Rule. Keeping rules up-to-date and relevant is a crucial tool in our effort to protect consumers and honest businesses alike.

I am grateful to the FTC staff for their hard work on this matter and will look forward to reviewing public comments as we determine next steps.
