

Earlier today, Joe Mariano, Adolfo Franco and Brian Bennett met with FTC Commissioner Christine Wilson and her attorney advisors Nina Frant and Robin Spector. The meeting was initiated by DSA as part of our ongoing dialogue with the FTC to educate and engage with the Commission about direct selling and important policies to our companies.

The conversation was cordial, but the comments of the Commission officials were predominately very high level. Commissioner Wilson said she views the direct selling as any other industry, in that it has law abiding companies that operate to meet consumer demand, but also has bad actors that can give industries a bad name. Philosophically, she believes businesses need transparency and predictability from the Federal Trade Commission as they make investments in the economy.

Views on FTC Enforcement Actions

Commissioner Wilson believes the withdrawal of previous policies from competition to consumer protection with no new policies to take their place were ill advised. She said that companies should know what the rules of the road are because most want to follow the law, but they need to know what the law is.

Penalty Offense Authority Letters

Commissioner Wilson deferred to Ms. Spector to speak about the Penalty Offense Authority letters that were sent yesterday. She said direct sellers could take some comfort in knowing the letter was sent to over 1000 companies. Some direct sellers and some not. Ms. Spector said this was an effort to provide business guidance to companies and the FTC would still have to show that a company violated the law with a full investigation before proceeding to monetary penalties. The letters were part of the Commission actively seeking ways to enforce laws appropriately within its range of statutory authority.

Business Opportunity and Rulemaking Process

Commission officials would not opine specifically on the Business Opportunity Rule contents or timeline. Ms. Frant said despite changes adopted by the Commission over the summer (that Commissioner Wilson voted against) there are still a series of steps and opportunities for public input including the Advanced Notice of Proposed Rulemaking, Notice of Proposed Rulemaking and potential workshops and other hearings prior to a final rule being issued. Noting that it takes “years and years” of process before a rule can be finalized by the FTC.

DSA also took the opportunity to further educate Commissioner Wilson and her advisors on the benefits and accomplishments of the Direct Selling Self-Regulatory Council. All officials expressed a desire to learn more about the DSSRC’s work and we will be sending follow up materials detailing the program as well as resources on the Direct Selling Education Foundation to help inform Commissioner Wilson’s work.

We will continue to work constructively with members and the FTC to agree on clear and common practices in the industry as well as report on any information that will be helpful in our engagement. Please let me know if you have any questions.