Netting a Winner

Before you chase down that business opportunity, make sure it's the right one for you. These tips will get you started.

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Business opportunity. The very name of the investment concept captures the hope on which it is built. Excitement leaps off advertisements that do their best to convince would-be entrepreneurs they can make money, possibly a lot of money, with the product line or dispenser system or device they offer. Images of sudden wealth tantalize the imagination. Advertising text tells Horatio Alger-type stories of the rise from personal poverty to quick riches upon the discovery of that simple "secret"--and it can be yours!

The world of the American business opportunity sizzles with hope and possibility. The variety of business packages is staggering, and the promise of outrageous financial success is almost tangible. The challenge, of course, is to identify the real opportunities--the ones that will work for you--and to avoid weak or exaggerated (or worse) offerings.

The First Steps

The first task of any business--opportunity investor is to identify what you want out of the investment and what talents you bring to the business. For instance, if your priority is to be able to work at home, that limits the types of business packages that will fit your needs. Do you want to work part time only, or would you prefer to do seasonal work at a particular time of the year? Jot down your thoughts and plans; it will help you considerably when you plunge into the business-opportunity marketplace.

You should also give some thought to the type of work you want to do. If you want to get out and deal with people face to face, make a note of it. If you're seeking an ambitious sales program with an attractive line of products, this will send you in yet another direction.

Finally, figure out how much money you want to make. Be conservative in your estimates of what you can generate with the business opportunity, and by all means, pay no attention to any exaggerated revenue-potential claims your sales representative makes. Plan on a slow start as you learn the business, and a steady growth rate based on the time and energy you plan to commit to the effort.

Assess the Risks

How much money can you afford to put at risk? You'll find business-opportunity package prices that range from less than $100 to more than $10,000. Listen up: All business-opportunity packages are, without exception, high-risk investments. You have to be ready to lose your entire investment. Can you afford to lose $2,500--or whatever amount the package costs? Don't kid yourself that this can't happen to you. As easy and profitable as the program seems during the sales presentation, you may find it's not that easy to make money, for whatever reason. So go in with your eyes wide open, and, whatever you do, don't bet the rent money.

Law and Order

Twenty-six states and the FTC regulate the offer and sale of business opportunities. That regulation varies widely among these authorities--as does the definition of what constitutes a regulated business opportunity. In its 1979 Franchise Rule, the FTC adopted a narrow definition that actually excludes many business-opportunity ventures from coverage. The FTC staff is now in the process of rewriting the definition from the ground up. Variations among the state laws make it difficult to predict what will be required of any particular company in a given state. It's even difficult to generalize about the scope of business-opportunity regulation.

But we'll generalize anyway. When you boil down the laws, a business opportunity is generally defined as any set of goods or services offered by a seller (for more than $500 or as little as $100, depending on the state) that enables the purchaser to begin or maintain a business, in which the seller makes one of several specified representations about the package investment. Obviously, it's an extremely broad definition.

What does this usually mean in terms of legal compliance? Under the FTC

Franchise Rule, the business-opportunity seller must deliver a full-disclosure document at least 10 business days before the purchase. Under most of the state business-opportunity laws, a regulated seller must register its offering with the appropriate agency. The seller must also provide each prospective buyer with a copy of the registered disclosure document a specified number of days prior to the buyer paying money or signing a binding contract.

Does this mean you'll receive one of these disclosure documents before you purchase a business-opportunity package? In some instances, you certainly will; in many others, you'll receive nothing in the way of disclosure. Some companies legitimately feel they are not required to provide disclosure; for instance, if their packages sell for $400 in a state that sets the definition at a $500 minimum investment. Others simply ignore the registration and disclosure requirements, banking on lax enforcement by state and federal agencies.

Protect Yourself

With this spotty patchwork of business-opportunity regulation, your best approach is to take measures to protect yourself. If you don't receive a disclosure document, you should gather the same core information that would have been delivered to you. Here is an outline of the information you should discuss with a representative of the company whose program interests you:

- The full name and principal business address of the seller, and the name of the president of the company. Ask for a copy of an annual report or another set of financial information that shows the seller's financial stability.
- Records showing whether the company or any of its executives have been named in any state enforcement actions for violation of franchise or securities law or other serious legal problems
- All fees you must pay to the seller or its affiliated companies
- Your total investment or the range of your total investment. If the program requires a computer or other equipment at your home office and the use of any particular software, find out in advance so you can fold in the expense.
- Any supply arrangements or restrictions that may apply. If the seller

offers an initial supply of product, find out exactly when that inventory will be scheduled for delivery.

- A copy of any contract or agreement you must sign to acquire the program, so you can review it before you actually buy the package
- A detailed description, in writing, of any territory rights you expect to receive
- Any information the seller has detailing the sales experience of other owners. This is a sensitive question in the business-opportunity arena, and sellers will be cagey about answering it. Most business-opportunity laws prohibit a seller from delivering performance information to prospective buyers without providing it--carefully footnoted and explained--in the disclosure document.
- Information about existing owners. Seek statistics (how many owners there are in your state, region and town) as well as the names, addresses and telephone numbers of all owners in your state. Why? You want to talk to several of them about their experiences. Be cautious if the seller gives you only one name or a small, select list. The experience of those owners may not be representative, or they may be earning a commission by helping the seller make sales.

Details, Please

Evaluating the Opportunity

The biggest problem you'll encounter in evaluating a business-opportunity package is lack of information and unfamiliarity with the business context, and many sellers will do their best to exploit your disadvantage. For instance, imagine you're talking to a seller who, for $2,400, offers six tabletop "breathalyzer" machines that allow bar patrons to pay $2, blow into the machine, and learn their blood alcohol level based on an automatic breath analysis. The seller's rep makes it sound like a straightforward business: You place them in virtually any bar, and every week you collect money and replenish the blow straws. What could be easier?

What you don't know is how well the machines work, how often they break (and how you're going to fix them), and whether the technology is recognized by any police organizations. You also don't know anything about the business context: How are the machines really received by bar owners, will the bar owner want a portion of the machine's revenue, who must insure the machines, how many bar patrons will be interested in parting with $2 that they could apply to another beer, and how often are the machines destroyed by patrons dissatisfied with the readouts they receive?

While you're pondering whether "destruction by an enraged drunk" would be considered an act of God under your insurance policy, remind yourself to get in touch with people who have lived with these machines for a while.

If the business opportunity relies on a distinctive retail product line, like greeting cards or specialty snack foods presented in grocery stores on wire racks, you should evaluate the reliability of the product supply and whether the wholesale prices are comparable to those of competitive products in the market. Again, this is a challenge that comes with inexperience and being unfamiliar with the business context. If you had experience in the grocery store business, you would know what questions to ask and how to evaluate the wholesale prices.

Take your time in evaluating the offer. Despite what any sales representative tells you, there is no hurry. If the rep tells you he's only selling three packages in your town, the first two have been snapped up, and you had better make a decision quickly because he's leaving town at 5 p.m., you should give the rep a knowing smile and tell him you appreciate his closing technique. Don't allow yourself to be pressured, and don't put down substantial money on an impulse or after listening to an exciting presentation.

Take the idea to a couple of friends whose judgment you trust, and ask them what they think. Would they want to buy this product or service, and do they think it sounds like a good investment for you?

Protect Your Money

One reason business-opportunity investments are high risk is that you pay a substantial sum of money upfront for the seller's promises of future delivery of equipment or inventory. With your money in the seller's pocket, you may have no realistic recourse if the seller disappears on you, the shipment is delayed or lost, or the contents disappoint you for some reason. Consider negotiating a payment structure that protects your position.

Yes, just about every aspect of the transaction is negotiable. What if you offered to pay one-third upfront and the balance upon delivery? Try even paying nothing upfront. Treat the price quoted as the seller's opening offer, and counteroffer with a lower price bid. Not everyone is comfortable negotiating, but let this be your first introduction to real business dealings. What have you got to lose?

Check Out the Seller

You can certainly check with your state agencies to see if the seller is registered to offer business-opportunity packages in your state. The 26 states requiring registration or filing are Alabama, Alaska, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Nebraska, New Hampshire, North Carolina, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia and Washington. The state agencies will readily tell you if a particular company is registered in the state. They can also provide general information regarding business-opportunity investments.

You should also check in with the Better Business Bureau and inquire about any consumer complaints that might be on file for the company. Also, visit the company's headquarters. This is a perfect opportunity to get all your questions answered, to look the president in the eye and to size up the home office team. Don't be too swayed by swank appearances at the offices or the sincerity of the senior management. Almost everything at the office can be rented, and, as my favorite college professor taught me, sincerity is one of the more cosmetic virtues.

Don't be discouraged by the search for a solid business-opportunity investment. If you take your time, make thoughtful decisions, gather the right information and protect your money, you'll get past the sizzle and bring home the bacon.

If you're considering purchasing a package that is regulated as a franchise (the usual giveaway is the licensed use of the franchisor's trademark), you are most likely to receive a disclosure document known as the **Uniform Franchise Offering Circular (UFOC)** at least a few weeks prior to your purchase. That document will detail the basic investment information, but it isn't everything you need to know about the franchise.

As with business-opportunity packages, the key to franchise research is **visiting current owners and operators.** The UFOC will contain a list of current owners and their contact information. Visit them. Ask them questions: How competent is the franchisor? Was the training done well? Did the UFOC give them an accurate idea of the costs of setting up the business? How much money did their businesses gross last year? Knowing what they know now, would they buy the franchise again?

If you live in one of the 14 states that requires a franchisor to **register its offering** (California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin), you can **check with the state agency** handling that statute, usually the offices of the attorney general. They can tell you whether the franchisor is currently registered to offer and sell franchises in your state.

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