

**STATEMENT OF POLICY REGARDING
FRANCHISE ADVERTISING ON THE INTERNET**

Adopted September 9, 2001

I. TEXT OF PROPOSED INTERPRETIVE ORDER REGARDING EXEMPTION FROM FILING REQUIREMENTS OF FRANCHISE ADVERTISING ON THE INTERNET.

WHEREAS, the [Administrator] (the ~~A~~Administrator[®]) is charged with the administration of the [Jurisdiction] Franchise Registration and Disclosure Law] (the ~~A~~[Jurisdiction] Franchise Law[®]); and

WHEREAS, Section [12] of the [Jurisdiction] Franchise Law provides that no person may publish in this state any advertisement offering to sell a franchise required to be registered under this Act unless the advertisement [and required filing fee] [have/has] been filed with the administrator at least five business days prior to its first publication; and

WHEREAS, Section [3] of the [Jurisdiction] Franchise Law defines ~~A~~advertisement[®] to mean a communication published in connection with an offer or sale of a franchise; and

WHEREAS, Section [27] of the [Jurisdiction] Franchise Law allows the [Administrator] to promulgate rules, forms, and orders necessary or appropriate to administer this Act and may define terms, whether or not used in this Act. The [Administrator] may classify franchises, persons, and matters within the Administrator's jurisdiction and prescribe different rules for different classes; and

WHEREAS, the [Administrator] recognizes that the Internet, the World Wide Web, or similar proprietary or common carrier electronic system (collectively the ~~A~~Internet[®]) has facilitated greatly the ability to communicate, and that a communication made on the Internet may be directed to both specific recipients and also to anyone with access to the Internet; and

WHEREAS, the [Administrator] recognizes that communication on the Internet about a franchise offering may be construed as ~~A~~advertising[®] requiring the person making that communication to file that communication with the [Administrator] [and pay a fee]; and

WHEREAS, the [Administrator] finds that it is not necessary or appropriate in the public interest or for the protection of [Jurisdiction] franchisees to require that Internet advertising be filed with the [Administrator] under certain conditions;

NOW THEREFORE, [THE ADMINISTRATOR] ORDERS THAT:

- (1) Pursuant to Section [27] of the [Jurisdiction] Franchise Law, any communication about a franchise offering posted on a website on the Internet is exempted from the requirements for filing advertising with the [Administrator] [and paying a fee] if the following conditions

are observed:

- A. The franchisor discloses to the [Administrator] the Uniform Resource Locator (URL) address or similar address or device identifying the location of the Internet Advertising: (1) on the cover page of a franchise offering circular included with an application for registration that is effective in [Jurisdiction]; (2) on the cover page of a franchise offering circular included with an application for exemption from registration that is on file with the [Administrator]; or (3) on a notice filed with the [Administrator]; and
 - B. The Internet Advertising is not directed to any person in the [Jurisdiction] by or on behalf of the franchisor or anyone acting with the franchisor's knowledge.
- (2) Nothing in this Order shall be construed to affect the [Jurisdiction's] ability to bring an action against any person for violating any antifraud provision of the [Jurisdiction] Franchise Law.
2. This Order shall remain in effect until modified or rescinded by the [Administrator].

SO ORDERED at [City, State], this ___ day of _____, 20__

[Name of Administrator]

[Title of Administrator]

II. TEXT OF PROPOSED REGULATION REGARDING EXEMPTION FROM FILING REQUIREMENTS OF FRANCHISE ADVERTISING ON THE INTERNET.

- (A) Any communication about a franchise offering posted on a website on the Internet is exempt from the requirements for filing advertising with the [Administrator] [and paying a fee] if:
1. The franchisor discloses to the [Administrator] the Uniform Resource Locator (URL) address or similar address or device identifying the location of the Internet Advertising: (1) on the cover page of a franchise offering circular included with an application for registration that is effective in [Jurisdiction]; (2) on the cover page of a franchise offering circular included with an application for exemption from registration that is on file with the [Administrator]; or (3) on a notice filed with the [Administrator]; and
 2. The Internet Advertising is not directed to any person in the [Jurisdiction] by or on behalf of the franchisor or anyone acting with the franchisor's knowledge.
- (B) Nothing in this regulation shall be construed to affect the [Jurisdiction's] ability to bring an action against any person for violating any antifraud provision of the [Jurisdiction] Franchise Law.