As the AAFD announced in our Spring issue of the Franchisee Voice, on January 23 of this year, the FTC released its long-anticipated new Disclosure Rules for Franchising. A number of changes in the amended Rule will affect the strategies and tactics franchisees use in the future, but no change should have a more immediate impact than the new rule requiring a franchisor to disclose contact information for franchisee associations in its franchise offering circular.

This information will give every prospective franchisee the opportunity to hear firsthand what the franchisee association thinks of the franchisor. According to Steve Toporoff, staff attorney and spokesperson for the FTC regarding the new Rule...
amendments, “The amended Rule includes a provision that enables independent franchise associations to ask for inclusion in the franchisor’s disclosure document. This is another source of information that prospective franchisees may wish to consider when investigating the franchise offering and assessing the state of the relationship between the franchisor and its franchisees.”

Several AAFD chapters and affiliated associations have sought counsel from the AAFD on what steps to take to request inclusion in their franchisor’s new franchise disclosure document.

The specific rule is found in Section 436.5(t)(8). It requires the franchisor to disclose contact information for any association of its franchisees, regardless of size, if the organization (i) has been created, sponsored or endorsed by the franchisor or (ii) is organized under state law and asks the franchisor to provide the information.

According to the official report explaining the new rules, AAFD chapters qualify under the rule.

There are some fine points here. First, the association needs to ask to be included in the franchisor's UFOC no later than 60 days after the end of the franchisor's fiscal year. Second, the rules are voluntary now, and they won’t become mandatory until July 1, 2008. Thus franchisors have discretion as to when to phase in the new format.

**ACTION ITEM:** The AAFD is counseling all independent franchise associations to immediately determine the date on which their franchisor’s current fiscal year ends. Within 60 days of that date, send your franchisor a letter by certified mail that states, “Pursuant to 16 CFR 436.5(t)(8), the [name of association] asks to be included in [franchisor’s name]’s disclosure document during [franchisor’s name]’s next fiscal year.” You must renew this request every year.

This is a welcome development. It gives franchisors another incentive to commit to total quality franchising and good relations with its independent franchise association. At the very least, it provides an opportunity for franchise associations to gain acknowledgement of their existence, an important first step to becoming a recognized participant in the ultimate success of your franchise system and brand. The AAFD and our Franchisee LegaLine affiliate attorneys will continue to monitor this valuable new tool, and provide updated reports as the new Rule becomes mandatory in July, 2008.

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**Taking TQF to the Next Level!**

**LEGALINES: Franchising’s Enlightened Compromise...**

Mostly, our success depends upon support from our constituent associations. We are beginning to see the benefits of joining in common cause. The investment we make together today, will pay huge dividends as the AAFD’s influence continues to grow and demand Total Quality Franchising from the franchise community and marketplace.

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