

To: The Honorable Lawrence Bliss, Chair, Judiciary Committee

Fr: Alan D. Brewer, GGDirect

Re: Review of PL 2009, c.230 An Act to Prevent Predatory Marketing Practices Against Minors

October 8, 2009

I am writing to request review and amendment of LD-1183, a law passed by the Maine Legislature in 2008 and which extends the federally established Children's Online Privacy Act.

My name is Alan Brewer and I am a partner in GGDirect, a Portland, Maine-based direct marketing agency.

This law has had unintended consequences that curtail or even eliminate programs beneficial to children under age 18 in Maine.

For example, Oakhurst Dairy, one of our clients, has for decades mailed gift certificates to mothers and families of newborns. The certificates can be redeemed at specified Maine supermarkets and convenience stores for any product, not only Oakhurst products. However, LD-1183 makes it unlawful to collect the information that makes this program possible.

Over the years, Oakhurst Dairy has essentially given away tens of thousands of dollars to new Maine parents in celebration of a new baby. It is hard to imagine a more good-hearted action than this. But under the new Maine law (PL 2009, c 230) Oakhurst Dairy would be labeled a "predatory" marketer.

The law defines "personal information" in such a way that collecting and compiling home addresses "constitutes predatory marketing." Common sense allows anyone to name many other purely informational or beneficial efforts through the US mail that fall within this unreasonably broad net. The law's authors might greet each and every example by saying, "That's not what was intended." And that is, indeed, the problem.

The law was never intended to prohibit Oakhurst Dairy from mailing "New Baby" cards to parents with ten-dollar cash certificates enclosed. But the law does stop Oakhurst from doing just that and further it would label the Dairy as a predatory marketer.

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