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Delivered Via E-mail

Hon. Lawrence Bliss, Senate Chair
Hon. Charles Priest, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Re: PL 2009, Chapter 230 (LD 1183) An Act to Prevent Predatory Marketing Practices Against Minors

Dear Senator Bliss and Representative Priest:

Wells Fargo & Company appreciates the opportunity to comment on the reassessment of Chapter 230 in light of the issues raised by the litigation filed by the Maine Independent College Association and others. Wells Fargo is one of the country's largest diversified financial institutions with operations in almost every state. Although we do not have bank branches in Maine, our consumer finance and mortgage businesses do operate in Maine, and many of our other products and services – including educational loans – are offered to customers in Maine.

As introduced, LD 1183 applied only to health-related information pertaining to minors obtained via the Internet or wireless communication channels. All of the testimony in support of the bill – and lack of opposition to it – was based on this premise. Had the scope of the bill as enacted been so limited, Wells Fargo probably would not have serious objections to the law.¹ However, somewhere in the legislative process the bill's scope mushroomed to include all personal information about minors however obtained, and to preclude any marketing to minors using such information, even with parental consent.

The constitutional infirmities of Chapter 230 cannot be cured by modest amendments or by exempting certain businesses from its scope. It should be repealed and the Legislature should refocus on the specific problems addressed by LD 1183 as originally introduced. We have no doubt that the State of Maine has the ability to regulate the use of medical information about minors to market potentially harmful products and services to them. However, there are many thousands of legitimate businesses offering products and services that are of great value to minors (and their parents). We urge the State to recognize the First Amendment right of these businesses to communicate with current and potential customers about such products and services, and the corresponding right of Maine's citizens of any age to learn about them.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter L. McCorkell".

¹ Even if the legislation had been so limited, some of the First Amendment, preemption and interstate commerce issues raised in the litigation might well still be present.