



CLIENT ALERT

September 9, 2009

On September 9, 2009, the US District Court for the District of Maine ordered the dismissal of a lawsuit between a coalition of Internet companies and trade associations and the Maine Attorney General whereby the Court found that the plaintiffs were likely to succeed on the merits that Maine Law (LD 1183), An Act to Prevent Predatory Marketing Practices Against Minors, was unconstitutional.

LD 1183 prohibits the collection of personally identifiable information from anyone under the age of 18 without verifiable parental consent. Companies otherwise compliant with the Children's Online Privacy Protection Act ("COPPA"), which prohibits the collection of personally identifiable information from children under the age of 13 without verifiable parental consent, would still potentially violate LD 1183. In effect, LD 1183 would require Internet companies to revise their account creation and registration processes to confirm whether a registering user is a Maine resident and if so, to obtain the consent of that user's parents to registration if such user is under the age of 18, regardless of the fact that such companies are already complying with COPPA's standards.

In yesterday's preliminary injunction hearing, the Attorney General confirmed that she was concerned over the constitutionality of LD 1183 and committed not to enforce it. Additionally, the Attorney General stated that the Maine legislature would be reconsidering LD 1183 when it reconvenes. Given the Attorney General's position, and the Court's ruling that both private causes of action as well as those of the Attorney General would most likely be denied on constitutional grounds, the parties agreed to dismiss the suit.

Recommended Procedure

Due to the Court's and the Maine Attorney General's positions with regards to the constitutionality of LD 1183 in yesterday's hearing, we are not recommending that any of our clients change their current online information and privacy practices.

For more information regarding LD 1183, or any other matters pertaining to Internet and website privacy practices and regulations, electronic commerce, online marketing or other Internet transactions or regulations, please contact:

Scott Alderton	salderton@biztechlaw.com	(818) 444-4501
Kevin DeBré	kdebre@biztechlaw.com	(818) 444-4521
Greg Akselrud	gakselrud@biztechlaw.com	(818) 444-4503
Steve Goldstein	sgoldstein@biztechlaw.com	(818) 444-4510

This Client Alert is intended only as general information about the matters discussed, and should not be construed as legal advice. If you intend to change your contact information, desire to receive a previous Client Alert, or no longer desire to receive Client Alerts, please e-mail sraitt@biztechlaw.com, or call 818-444-4515.