

May 1, 2024

Hon. Michael Marcotte, Chair  
Hon. Stephanie Jerome, Vice Chair  
House Committee on Commerce and Economic Development  
State of Vermont, House of Representatives  
115 State Street  
Montpelier, VT 05633-5301

**Re: Committee Testimony**

Dear Rep. Marcotte, Rep. Jerome, and members of the Committee,

Thank you for your interest in passing a comprehensive consumer privacy law in Vermont. As you may know, L.L.Bean has a retail store in Williston and counts Vermont residents among our best customers who love getting outside.

The purpose of this letter is to respond to very troubling remarks about L.L.Bean made by Maine Rep. Margaret O'Neil before your Committee on April 26, 2024. Rep. O'Neil's comments were just recently brought to our attention. After reviewing them, I felt compelled to correct the record for the Committee.

As an initial matter, I want to emphasize that L.L.Bean supports enhanced data privacy protections for Mainers and for all of our customers. In fact, when the country's first data privacy legislation in California became effective in 2020, L.L.Bean made the decision to voluntarily extend that law's protections to ALL of our customers, regardless of their home state. Since then, we have worked hard to comply with 15 other state privacy laws, many of which resemble each other and thus provide both L.L.Bean and our customers with a consistent privacy experience. We have assembled a cross-functional team from our Information Services, Legal, and Marketing departments who have become subject matter experts on data privacy and who devote a significant portion of their time to work on these issues.

We were therefore disappointed to hear Representative O'Neil's repeated mischaracterization of L.L.Bean's involvement in the Maine legislative process. Among other things, Rep. O'Neil erroneously stated that the tech industry "organized" L.L.Bean to oppose her bill, that Bean served as their "spokesperson," that Bean was lobbying "on behalf of industry interests" and that there was some kind of "partnership" between Bean and the tech industry.

To be absolutely clear, L.L.Bean never purported to speak for other businesses while at the Legislature and quite intentionally did not coordinate with out-of-state interests in any way. Rather, we shared our own experiences in having complied with privacy laws in both the European Union and other U.S. states for the last five years. Our insights were proactively sought by Committee members from both parties and we engaged in an open, collaborative process which produced a draft Committee amendment of Rep. O'Neil's bill, L.D. 1977, that we felt we could support. Unfortunately, as a result of changes to the bill in the days following the final public work session, L.L.Bean was left with no choice but to oppose the

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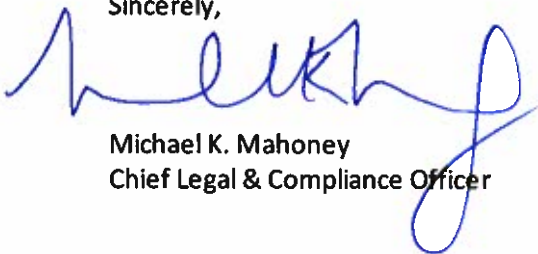
bill on the floor. Notably, the Company did support a competing data privacy bill, L.D. 1973, which more closely mirrored standards from other states' laws.

I would urge you not to assume that just because a local business engages with the Legislature on data privacy, it must be a "spokesperson" for out of state interests. Indeed, it is ironic that Rep. O'Neil would accuse L.L.Bean of being beholden to such interests. On at least one occasion, in response to questioning from Committee members about particular aspects of her bill, Rep. O'Neil publicly stated that she would need to defer the question to the representative of Washington D.C.-based interest group, EPIC, since it was EPIC that had crafted that language in her bill. For example, on January 9, 2024, Representative O'Neil responded to the Committee, "I don't know. I would want to know why it had been written that way... Caitriona [Fitzgerald, EPIC representative] do you have any comment about how it was written? Was it the language that Congress used?"

Rep. O'Neil's further mischaracterization to your Committee that L.L.Bean's substantive concerns with her bill were "addressed" is equally troubling. Our concerns were numerous, but the most glaring issue is how it would have treated so-called "targeted advertising." **All** other states with new data privacy laws (including California) allow targeted advertising, so long as: (1) the business discloses the practice to customers in its written privacy policy, and (2) the consumers are given an opportunity to opt-out of receiving the targeted ads. With L.D. 1977, Maine would have ignored this commonly-accepted approach, and instead, banned targeted advertising to Maine consumers. The result is that businesses would have been hamstrung in their ability to reach Maine customers and those customers would have had *limited choice, leading to more spam*.

Thank you for the opportunity to address the misstatements about our company to the Committee, and best of luck in your efforts to craft sound data privacy legislation.

Sincerely,



Michael K. Mahoney  
Chief Legal & Compliance Officer

cc: Rep. Margaret O'Neil

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