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July 8, 2005

POLICY STATEMENT CONCERNING UTAH CODE ANN. § 13-39-202(1).

This policy statement sets forth the position of the Utah Division of Consumer Protection concerning the Division's interpretation of UTAH CODE ANN. § 13-39-202(1). This policy statement is not legal advice or a legal opinion.

The Child Protection Registry, Utah Code Title 13, Chapter 39, went into effect on July 1, 2005. The law prohibits sending certain communications to a "contact point" contained in the Child Protection Registry. UTAH CODE ANN. § 13-39-202(1)(a) prohibits a communication that "advertises a product or service that a minor is prohibited by law from purchasing."

It is the policy of the Division that the provision prohibits an advertisement of the following products and services:

1. an alcoholic beverage or product;
2. any form of tobacco;
3. pornographic materials; and
4. any product or service that is illegal in Utah (whether purchased by a minor or an adult), such as illegal drugs, prostitution, and gambling.

It is the policy of the Division that the provision does not prohibit an advertisement of a product or service a minor may purchase only under some circumstances. For example, a minor may purchase a prescription drug if the drug is sold pursuant to a valid prescription. A minor may purchase body piercing services if the minor has obtained the parental consent required by Utah law. The Division believes a product or service that can be purchased only if certain conditions are met is not a product or service that a minor is prohibited by law from purchasing.

Additionally, it is the policy of the Division that the provision does not preclude an advertisement for a contract that might be voidable because a party is a minor, or an advertisement of a product or service that might facilitate or enable illegal activity by a minor. For example, a hotel or a credit card provider may have a policy of not doing business with a minor because a contract entered into with a minor might be voidable. An automobile rental company may have a policy of not renting an automobile to a minor because the minor may be prohibited by law from operating the automobile. These examples are not products or services that a minor is prohibited by law from purchasing.

UTAH CODE ANN. §13-39-202(1) also refers to a communication that contains or advertises certain materials. It is the policy of the Division that a communication contains or advertises material if the primary purpose of the communication, directly or indirectly, is to advertise or otherwise link to the material.

Sincerely,



FRANCINE A. GIANI, DIRECTOR
UTAH DIVISION OF CONSUMER PROTECTION