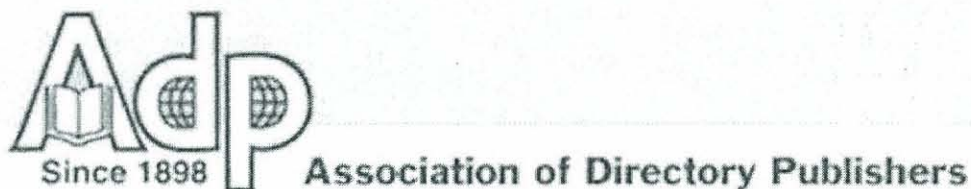


LATE

gabbard1 - Carlton

From: Sen. Mike Gabbard
Sent: Thursday, February 03, 2011 12:22 PM
To: gabbard1 - Carlton
Subject: FW: Testimony in Opposition to SB 201

From: ADP Headquarters [mailto:hq@adp.org]
Sent: Thursday, February 03, 2011 10:54 AM
To: Sen. Mike Gabbard; Sen. J. Kalani English; Sen. Josh Green; Sen. Les Ihara, Jr.; Sen. Sam Slom; Sen. Roz Baker; Sen. Brian Taniguchi; Sen. Brickwood Galuteria; Sen. Clarence Nishihara; Sen. Malama Solomon
Subject: Testimony in Opposition to SB 201



R. Lawrence Angove
President & CEO

February 3, 2011

COMMITTEE ON ENERGY AND ENVIRONMENT

Hon. Mike Gabbard, Chair
Hon. J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hon. Rosalyn H. Baker, Chair
Hon. Brain T. Taniguchi, Vice Chair

Dear Senators and Committee Members:

The Association of Directory Publishers (ADP), founded in 1898, is the oldest trade association in North America representing the interests of print and electronic directory publishers and those companies that supply products and services to the industry.

On behalf of the Association's 187 member companies, their thousands of employees, and tens of thousands of small- and medium-sized business advertisers, I am writing in opposition to SB 201.

I am certain that other publishers and trade associations that have provided, or will soon provide, you with factual testimony on SB 201, have informed the Committees of the industry's commitment to environmental responsibility contained in its Joint Environmental Guidelines, of its 30% reduction in paper use since 2006, of its miniscule

contribution (0.4%, EPA, 2009) to the solid waste stream, of its environmentally-intentioned movement to soy-based inks and water-soluble adhesives over the same period, and of the 12 billion consumer references to the print Yellow Pages still made annually. I will not burden you here with a detailed restatement of those facts.

There is unanimous consensus within the Yellow Pages industry, and especially among its publisher members, that it makes neither economic or public policy sense to deliver directories to people who do not wish to receive them.

ADP's opposition to SB 201 is not based on its intent – there is wide agreement that there must be a mechanism for those not wishing to receive all or some of the directories available to them – but rather on the fact that it is duplicative and therefore unnecessary and complicating.

Committees on Energy and Environment
and Commerce and Consumer Protection

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Two years ago, the industry launched its www.yellowpagesoptout.com Web site to allow consumers to express their choices regarding directory delivery. Two days ago, the industry relaunched a significantly enhanced and upgraded version of the site. I invite you to visit the site to confirm its efficacy as a national solution.

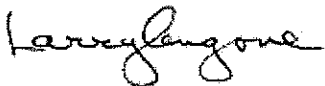
The essence of what has been proposed in SB 201 is already in place and functioning. The issue it is intended to address cannot possibly be achieved most effectively and universally if our industry is required to comply with a myriad of state statutes, each with its own variation on the common objective.

In addition to being unnecessary, SB 201 raises serious concerns about its constitutionality if enacted. It is very similar to the City of Seattle's recently passed delivery-restrictive and fee-creating phone book ordinance.

Please be advised that the Seattle ordinance has been challenged in the U.S. District Court for the Western District of Washington on grounds that it violates the First Amendment guarantee of free speech, the Commerce Clause, and targets the Yellow Pages in a discriminatory manner.

I ask that the members of your Committees take an enlightened approach and agree with this twist on a familiar phrase: If it's been fixed, don't break it.

Respectfully,



R. Lawrence Angove
President and Chief Executive Officer

Revised

**SB 201
RELATING TO SOLID WASTE MANAGEMENT
KEN HIRAKI
VICE PRESIDENT - GOVERNMENT AND COMMUNITY AFFAIRS
HAWAIIAN TELCOM
FEBRUARY 3, 2011**

Chairs Baker and Gabbard and Members of the Committees on Energy and Environment and Commerce and Consumer Protection:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on SB 201, "A Bill Relating to Solid Waste Management." SB 201 would: require telephone utilities and companies that publish or distribute telephone directories to register with the Department of Health; creates an opt-out registry for residents and businesses to elect to not receive delivery of yellow pages phone books; require that all yellow pages phone books be recyclable; and create penalties for non-compliance. For the reasons described below, Hawaiian Telcom opposes this measure.

Hawaiian Telcom agrees with the concerns raised by Local Insight Media Holdings, Inc. and its subsidiary The Berry Company LLC in opposition of SB 201. In particular, Hawaiian Telcom believes that the Hawaiian Telcom Yellow Pages print directories remain a vital advertising medium to small and medium sized business in Hawaii and provide relevant information to consumers throughout the state (especially those in areas without broadband internet access). We believe that adoption of the proposed bill, by restricting consumer access to an important advertising medium, would run a high risk of harming small and medium sized business throughout Hawaii during a period of exceptional economic difficulties. In addition, Hawaiian Telcom is aware and approves of the initiatives undertaken by Berry to enable consumers to opt out of receiving telephone directories and to minimize waste headed to landfills in Hawaii. We believe that those efforts are likely to achieve the same objectives as those behind SB 201, but with much lower risk to the state's fragile economy. As such, we believe that SB 201 is unnecessarily duplicative of the opt out and environmental efforts already implemented by Berry. Finally, we note that each of Hawaiian Telcom and Berry are significant employers in Hawaii and that each is an active participant in community activities throughout the state.

In addition to the concerns mentioned above, Hawaiian Telcom wishes to stress that directories have a long history of serving the public interest in Hawaii. They contain highly sought and critical information, including emergency services' contacts, emergency preparation guides, methods for contacting elected officials and other government agencies, and other important community information. Directories are also a valuable resource for finding information related to an individual's phone service, including how to avoid the disconnection of telephone service, telephone repair, and the telephone service for the disadvantaged. Since the Hawaiian Telcom Yellow Pages bear the Hawaiian Telcom brand, we believe these attributes of print directories redound to the benefit of Hawaiian Telcom and its telecommunications customers, thereby helping to sustain the long-standing and positive partnership between Hawaiian Telcom and local business, as well as that between Hawaiian Telcom and the state of Hawaii.

Finally, SB 201 would restrict commercial speech to an extent that may very well run afoul of the First Amendment of the Constitution.

Based on the foregoing, we respectfully request that SB 201 be held in your committee.

Thank you for the opportunity to testify on this measure.