

CASE STUDY

Unanimous Congressional Vote Saves Trees, Energy and Significant Costs for Blackhawk Network



Client:	Blackhawk Network
Matter:	Securing an extension to new rules under the CARD Act
Areas of Law:	Public policy, consumer/retail gift card regulation
Result:	Pillsbury advocated for legislation extending the compliance deadline to 2011, which Congress passed unanimously and was signed into law by the President

In these fractious political times, it is rare for both the House and Senate to pass bipartisan legislation that receives unanimous support. But Pillsbury's Public Policy team drafted legislation that did just that—on behalf of several clients, including Blackhawk Network—successfully persuading Congress to extend the compliance date for disclosure requirements under the newly enacted Credit Card Accountability, Responsibility and Disclosure (CARD) Act by six months. In so doing, Pillsbury helped save Blackhawk significant production, advertising and printing costs by enabling them to use their current inventory of gift cards.

Unintended Consequences of CARD Act Deadline

Pillsbury's Consumer & Retail practice attorneys have been advising numerous clients on compliance issues related to the federal CARD Act, which went into effect on August 22, 2010.

The CARD Act, which covers all prepaid gift, loyalty, award and promotional cards offered by retailers, credit cards or financial services companies, restricts inactivity, dormancy, and service fees, prohibits the expiration of such cards in less than five years and requires strict disclosure requirements that educate consumers as to the terms, conditions and use of such cards.

Blackhawk Network, the leading provider of prepaid and financial payments products for consumers and businesses, asked Pillsbury to assist with a possible public policy effort, as it would cost Blackhawk a significant amount to comply with the August 22 deadline. The current gift and promotional card stock it had on hand—as well as related advertising and promotion materials—would have to be pulled from the marketplace, replaced, and discarded as waste.



Pillsbury's Multidisciplinary Response

Pillsbury's Consumer & Retail practice attorneys turned to the firm's Public Policy group for help. The firm had already represented Blackhawk and several other prepaid card clients during a congressional debate over the CARD Act itself and also had been lobbying for Blackhawk on issues raised by comprehensive financial regulatory reform legislation.

In concert with the Consumer & Retail practice, the Public Policy team connected with other Pillsbury clients also subject to the new rules, to form a coalition advocating before Congress to give companies impacted by the CARD Act more time to comply with the disclosure aspects of the law.

Our attorneys were able to successfully demonstrate to members of both the House and Senate that asking companies to comply with disclosure requirements so quickly not only would cost retailers a huge amount of money during an economic downturn and period of high unemployment, but also was extremely harmful to the environment. Research showed that a road could be paved from New York to San Francisco with the number of unused plastic cards on hand that would have to be destroyed if the August 22 deadline remained in effect. That would have been a huge waste of energy, water consumption and harvested trees.

Achieving an Extended Deadline

Congress agreed, and several members introduced legislation drafted by Pillsbury that enabled companies to use up their current card stock and promotional materials by extending the compliance deadline for the disclosure requirements to January 2011.

To win over members of Congress on both the right and the left, as well as moderates, requires a deep knowledge of each member's key priorities and an understanding of which arguments will resonate best. The coalition, which consisted of large multinationals, smaller companies and retailers facing real challenges in the recession, contributed to the legislative success because it demonstrated to Congress the vast number and diverse types of businesses impacted by the new disclosure requirements.

The other regulations implementing the CARD Act's provisions went into effect on August 22, 2010. The Pillsbury-drafted legislation, amending the effective date of the Act's gift card provisions, passed 357-0 in the House and unanimously in the Senate as well. President Obama signed the amendments into law on July 27, 2010.

By drawing on Pillsbury's multidisciplinary approach and capabilities, and our Public Policy group's experience in Washington on this matter, we were able to secure a positive, strategic outcome for Blackhawk and other affected interests. To be able to go beyond serving as compliance counsel and actually help shape public policy delivers a crucial value-add to our clients.