



May 5, 2017

The Honorable Dan Innis
Chair, Senate Commerce Committee
New Hampshire Senate
State House
Room 115
107 North Main Street
Concord, NH 03301

RE: Opposition to Proposed ISP Privacy Amendment to House Bill 305

Dear Chair Innis:

On behalf of CTIA®, the trade association for the wireless communications industry, I write in opposition to an amendment to New Hampshire House Bill 305, which would restrict how internet service providers (ISPs) operate in New Hampshire.

Any suggestions that ISPs, including CTIA members, have unique access to consumer data online are unfounded. A comprehensive study by veteran Clinton and Obama Administration privacy expert Peter Swire showed that ISPs actually have limited insight into the online activity of consumers.¹ The amendment to HB 305 unnecessarily targets one set of providers - ISPs - and treats them differently than others operating in the internet ecosystem.

The wireless industry takes a proactive approach to protect consumer privacy. Our members provide consumers with detailed privacy policies, which clearly describe how providers protect consumer data. Current federal and state statutes also provide additional layers of protection for sensitive consumer information. In addition, ISPs, including CTIA members, have recently recommitted to principles that maintain privacy protections consistent with the Federal Trade Commission's effective privacy framework, covering transparency, consumer choice, security, and data breach notifications.²

CTIA member companies have long recognized the importance of protecting consumer data and respecting consumer privacy. In 2003, CTIA and the wireless carriers that are signatories to the "Consumer Code for Wireless Service," including AT&T, Sprint,

¹ "Online Privacy and ISPs: ISP Access to Consumer Data is Limited and Often Less than Access by Others," http://www.iisp.gatech.edu/sites/default/files/images/online_privacy_and_isps.pdf, Swire, Peter, last accessed 5/5/2017: "ISP access to user data is not comprehensive – technological developments place substantial limits on ISPs' visibility. [And] ISP access to user data is not unique – other companies often have access to more information and a wider range of user information than ISPs."

² "Protecting Consumer Privacy Online," <http://www.ctia.org/docs/default-source/default-document-library/final---protecting-consumer-privacy-online.pdf>, last accessed 5/5/2017.



T-Mobile, and Verizon Wireless, made a commitment to help consumers make informed choices.³ The tenth point of the Code provides that signatory carriers agree to abide by policies for the protection of customer privacy. As part of that commitment, carriers follow policies regarding the privacy of customer information in accordance with applicable federal and state laws and make available privacy policies concerning information collected online. The wireless industry recognizes the importance of customer privacy and takes strong measures to protect customer data.

It is important to note that recent Congressional action did not change privacy protections for wireless consumers. The Federal Communications Commission (FCC) rules had not taken effect, so nothing changed from the regulatory framework that has existed for the past two years. Moreover, the framework advocated for by ISPs aligns with that of the Obama Administration, which noted that, “uniform consumer data privacy rules are necessary to create certainty for companies and consistent protections for consumers.”⁴ The current FCC Chairman has also clearly stated that, “[i]nternet service providers have been – and will continue to be – obligated to comply with Section 222 of the Communications Act and other applicable federal and state privacy, data security, and breach notification laws.”⁵

The amendment to HB 305 imposes unjustified restrictions on ISPs and deviates from the privacy framework and standards that have been in place for decades. The amendment would make it very difficult – if not impossible - for ISPs to operate in New Hampshire and would create inconsistent privacy standards for different parts of the internet ecosystem, which will ultimately confuse consumers and have a host of unintended consequences.

The amendment to HB 305 would also create two sets of rules that are different for various entities within the internet ecosystem - harming competition and creating consumer uncertainty about which rules apply to their data. Survey results submitted to the FCC last year showed that 94 percent of internet users believe all companies touching their online data should follow the same privacy rules.⁶ These findings indicate that the amendment to HB 305, which targets only ISPs, would not effectively protect consumer privacy because many other companies would continue to collect and use consumer data without being subject to the requirements in the amendment.

³ CTIA Consumer Code for Wireless Service, <http://www.ctia.org/initiatives/voluntary-guidelines/consumer-code-for-wireless-service>, last accessed 5/5/2017.

⁴ “Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy,” <http://repository.cmu.edu/cgi/viewcontent.cgi?article=1096&context=jpc>, last accessed 5/5/2017.

⁵ Letter from FCC Chairman Ajit Pai to Sens. Markey, Blumenthal, Warren, Franken at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0317/DOC-343949A1.pdf, last accessed 5/5/2017.

⁶ The Progressive Policy Institute, “Consumers Want One Set of Rules Protecting Their Information,” <http://www.progressivepolicy.org/press/press-releases/press-release-consumers-want-one-set-rules-protecting-information/>, last accessed 5/5/2017.



CTIA members are absolutely committed to protecting consumer information as they value consumer trust. Existing federal and state laws and protections remain intact today rendering the amendment unnecessary. Moreover, CTIA members have committed to a framework to protect consumer information and privacy. For these reasons, we respectfully ask that you not move the amendment to HB 305 dealing with ISPs.

Sincerely,

Gerard Keegan
Assistant Vice President
State Legislative Affairs

cc: Members, New Hampshire Senate Commerce Committee