



California Cable & Telecommunications Association



CALIFORNIA MANUFACTURERS & TECHNOLOGY ASSOCIATION



April 19, 2018

TO: The Honorable Hannah Beth Jackson
Chair, Senate Judiciary Committee

CC: Members of the Senate Judiciary Committee
Christian Kurpiewski, Consultant, Senate Judiciary Committee
Mike Petersen, Senate Republican Caucus

RE: SB 822 (Wiener) – OPPOSE as amended on April 17 – Senate EU&C Hearing

The undersigned support an open Internet where companies do not block, throttle, or otherwise interfere with customers' ability to go where they wish on the Internet. Unfortunately, even with the amendments adopted by the Senate Energy, Utilities and Communications Committee, SB 822 will still result in numerous unintended consequences and will establish requirements that go well beyond those net neutrality principles to create a set of regulations that will have negative impacts on both investment and consumers. Our reasons for opposition include:

- **SB 822 will not promote or protect an open Internet.**
 - Instead, it opens the door to a patchwork of unworkable state regulations that will stymie innovation and potentially undermine the backbone of California's Internet economy. Despite virtually no showing of harm or violations of any rules, and despite the strong federal and state regulatory and enforcement safeguards currently in place, SB 822 goes much farther than even the previous Net Neutrality Rules, which were a return to a 1934 framework designed to regulate the telephone monopoly.

- **SB 822 removes the regulatory model that has been the catalyst for expansive innovation in California’s Internet economy, and replaces it with heavy-handed mandates and an enforcement structure that could result in competing and complicated interpretations of the law by involving not only the Attorney General, but also local governments and private parties.**
 - In fact, SB 822 empowers multiple governmental entities to each fashion its own interpretations of the law to decide, at their sole discretion, whether an ISP has violated the law. The uncertainty this would create would stifle the efforts of ISPs to innovate and offer new and attractive services to California consumers.
- **SB 822 threatens services that are very popular among many consumers.**
 - For example, SB 822 would essentially ban free data programs (“zero rating”) that can be innovative, consumer-friendly options. As the Multicultural Media, Telecom, and Internet Council (MMTC), a civil rights group seeking to close the digital divide, found in its 2016 report on free wireless data, “the digital elite can afford to intellectualize the value of free data, but for communities of color it can mean an affordable digital connection to the future. This is even more true for small, multicultural businesses that rely on mobile connections to reach their audiences.” Consumers stand to lose free data programs if ISPs are prohibited from offering these innovative services that consumers demand. Low and moderate income consumers will especially lose out and face higher costs.
- **The state would be given the role to adjudicate matters with which it has no experience or knowledge.**
 - In this bill as amended, companies are only permitted to offer different “levels of quality of service” if they comply with a number of relatively complicated conditions that could then become the basis for an enforcement action stemming from a decision by a state entity that may not have sufficient knowledge to make an appropriate determination.
 - Further, virtually every contract between a public entity and an ISP would require the ISP to adhere to net neutrality requirements as defined by that individual public entity, likely without the necessary technological expertise, or an understanding of the impacts of their decisions.

Our commitment to preserve an open Internet has not changed. It is vital to the success of California’s economy, and to ensuring that consumers are able to access any legal content they want, on whatever device they choose. Instead, SB 822 threatens to undermine the many benefits an open Internet provides to California’s consumers and economy.