



April 16, 2019

The Honorable Miguel Santiago
Chair, Assembly Communications and Conveyance Committee
State Capitol, Room 6027
Sacramento, CA 95814

RE: OPPOSE unless amended - AB 523 (Irwin) Geo-location

Dear Chairman Santiago:

CTIA, the trade association for the wireless communications industry, respectfully opposes AB 523 relating to geo-location. To the extent the proposed legislation is driven by a concern that geo-location information is especially sensitive and requires additional protections, then all businesses collecting that data should be subject to those enhanced restrictions, and not be limited to telecommunications providers. The protection of location data should be treated the same regardless of which entity collects or possesses the data.

AB 523 is unnecessary because the California Consumer Privacy Act (CCPA) already provides rights and obligations related to consumers' geo-location data.

- The CCPA provides consumers with strong privacy rights over their personal information, including geo-location data. For example, the CCPA provides access and deletion rights and the right to opt-out of the sale of personal information. Companies are required to provide consumers with clear and conspicuous notice of these opt-out rights.

AB 523 will cause consumer confusion.

- The CCPA applies equally to all businesses that meet its thresholds. Imposing different obligations that depend on the type of business holding the data would cause consumer confusion, distort competition, and create difficult implementation challenges. For example, consider a consumer who opts in to sharing geo-location information under AB 523, but had opted out of sale of their personal information under the CCPA (Cal. Civ. Code § 1798.120). It would be difficult, if not impossible, for a business to ascertain consumers' intentions.
- AB 523 proposes to include CPNI in the categories of information that require affirmative opt-in consent to share. However, the categories of information that currently require consent to share under CA PUC 2891 overlap significantly with the information that is considered CPNI under section 222(h)(1) of the Communications Act.

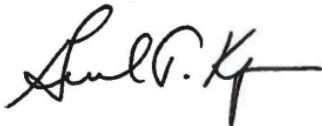
- In addition, including CPNI as proposed in AB 523 would create inconsistencies with federal law. For example, under section 222 of the Communications Act and federal rules, there are exceptions to customer approval for sharing CPNI that are not replicated in AB 523. For example, section 222(c)(3) of the Communications Act allows use and sharing of aggregate CPNI, but such uses are not addressed in AB 523. Additionally, AB 523 requires written consent, whereas federal rules (47 CFR 64.2007) permit carriers to obtain approval through written, oral or electronic methods.

AB 523 should limit the affirmative opt-in requirements to precise geolocation data

- AB 523's definition of "geo-location" is very broad and will sweep in the types of information that raise little or no privacy concerns. Information about a user's city, state, or region is potentially subject to AB 523's opt-in requirement. Such information cannot be used, as a practical matter, to physically locate an individual, yet it could be covered if it is "related to the physical or geographical location" of the subscriber. Opt in should apply only to precise geolocation data in concert with FTC policy deeming such data sensitive.¹

For these reasons, CTIA respectfully opposes AB 523 unless it is amended.

Sincerely,



Gerard Keegan
Vice President, State Legislative Affairs
CTIA

CC: Members, Assembly Communications and Conveyance Committee
The Honorable Jacqui Irwin
Edmond Cheung, Consultant
Daniel Ballon, Assembly Republican Caucus

¹ FTC, Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Business and Policymakers (2012) at 58-60 (recommending companies obtain affirmative express consent from consumers before collecting sensitive data, which includes precise geo-location data).