



To: New York State Legislature  
From: Bethanne Cooley, CTIA  
Date: April 8, 2019  
RE: Opposition, A4066 (Fahy)/S3046 (Breslin)

On behalf of CTIA and its members, I am writing to express opposition to A4066/S3046, related to notice requirements for the siting of wireless infrastructure. As drafted, A4066/S3046 could run afoul of federal law, is counter to the policy direction of other states and could have the effect of slowing wireless deployment in New York State.

Demand for wireless broadband is growing exponentially as new applications, devices and technologies consume more bandwidth and attract more subscribers. This is demonstrated by the fact there are more wireless devices in New York than there are people.<sup>1</sup> Further, more than 1 in 3 New York households are wireless only.<sup>2</sup> These demands from the wireless industry's customers – your constituents – require that wireless networks be both updated to meet the existing demand and readied for the next generation of wireless networks.

Firstly, A4066/S3046 requires notification at least sixty days in advance of any installation of wireless infrastructure, antenna, macro tower and small wireless infrastructure alike to all property owners within 2500 feet of such installation. Such a requirement could run afoul of federal law. Requiring a wireless carrier to provide this notice, particularly for small wireless infrastructure, is unreasonably burdensome and would be very difficult to implement. Furthermore, such requirements could be so costly they may result in an effective prohibition of service and serve as a barrier to entry, both of which would conflict with federal law.<sup>3</sup>

In addition, A4066/S3046 seeks to treat all wireless infrastructure the same for siting purposes. In 2018, Federal Communications Commission's (FCC) took action in their State and Local Wireless Infrastructure Declaratory Ruling and Third Report and Order by recognizing that small wireless infrastructure should not be treated the same as larger macro towers by

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<sup>1</sup> FCC, Voice Telephone Services Report: Status as of June 30, 2017, at <https://www.fcc.gov/voice-telephone-services-report>, last accessed 2/7/2019.

<sup>2</sup> CDC, National Center for Health Statistics, [https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless\\_state\\_201712.pdf](https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201712.pdf), last accessed 2/7/2019.

<sup>3</sup> See 47 U.S. Code § 332(c)(7)(B)(i)(II) and 47 U.S.C. § 253(a)



imposing shorter timelines for processing applications and different fee structures.<sup>4</sup> In addition to a potential conflict with federal law, A4066/S3046 also runs counter to the policy direction of over 22 states who have recognized that small wireless infrastructure should not be treated the same as macro facilities for siting purposes.

In order for the wireless industry to provide the best service and meet the needs of its customers, the industry's investment must be met with forward-looking infrastructure regulations that promote rapid and efficient deployment. A4066/S3046 does not reflect such forward-looking regulation.

As such, we would respectfully ask for the rejection of A4066/S3046.

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<sup>4</sup> See <https://www.govinfo.gov/content/pkg/FR-2018-10-15/pdf/2018-22234.pdf>; last accessed 2/7/2019.