



August 22, 2019

Hon. Yashira Lebrón Rodríguez
Comisión de Comisión de Asuntos del Consumidor, Banca y Seguros
Presidente
Cámara de Representantes
El Capitolio, Apartado 9022228,
San Juan, P. R. 00902-2228

Re: Opposition to P. de la C. 2122

Dear Representative Lebrón Rodríguez:

On behalf of CTIA, the trade association of the wireless communications industry, and its member companies, including AT&T, Sprint, and T-Mobile, I write in opposition to PC 2122, which seeks to create the "Law of Equalization of Cyber Pricing" in order to establish that retailers must match the advertised price on their websites and / or social networks at the price advertised in stores. This legislation would restrict how wireless carriers contract with consumers and would be harmful to businesses operating in Puerto Rico as well as consumers on the island.

As technology has evolved, consumers now have the choice to use the internet to purchase goods and services rather than in person at retail establishments. The option to purchase a good or service via the internet has benefits for both consumers and retailers, including wireless carriers. These benefits include the consumer convenience of not having to expend the time and energy of traveling to the store to make a purchase, as well as the time and cost savings to the wireless carrier from being able to ship directly to the consumer. Because it can be more cost effective for a retailer when consumers choose to make online purchases, it enables the retailer to offer special pricing to those consumers who chose that option. Passage of this bill would preclude consumers from realizing the benefits of making online purchases and would limit consumer choice. Offering sales via the internet or through a retail location are ways in which those who sell products and services compete in the marketplace. Having the government set prices for goods and services limits consumer choice and harms competition.

Additionally, passage of PC 2122 would violate 47 U.S.C. § 332(c), which provides that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service." The Bill clearly violates this provision. By seeking to regulate the wireless service's rates offered or promoted through the internet and/or at the point of sale (and all associated devices used to provide the service), the Bill intends to make such services "the



equivalent of a traditional regulated service” and subject to a range of traditional regulated obligations. However, this constitutes an express form of *rate regulation* of wireless service, which federal law expressly forbids. As one court observed, “[t]here can be no doubt that Congress intended complete preemption when it said ‘no State or local government shall have *any* authority to regulate the entry of or the rates charged by any commercial mobile service.’” *Bastien v. AT&T Wireless Servs., Inc.*, 205 F.3d 983, 986-87 (7th Cir. 2000); *Pinney v. Nokia, Inc.*, 402 F.3d 430, 457 (4th Cir. 2005) (quoting 47 U.S.C. § 332(c)(3)(A)). Application of this bill to telecommunication service providers would functionally permit Puerto Rico to regulate the rates charged by wireless carriers. These requirements would bring Puerto Rico into conflict with federal law.

Furthermore, this bill is in direct conflict with the public policy of the Government of Puerto Rico established in the "Organic Law of the Department of Consumer Affairs," as recently amended pursuant to Law No. 299-2018, which requires the establishment of a program aimed at defending the right of every local consumer to receive from domestic and multinational companies the same treatment as any other consumer in the other continental states in terms of commercial transactions. Should this legislation be enacted, consumers in Puerto Rico may not be able to avail themselves of purchase options available to consumers in the rest of the country, as this bill would impose different requirements on commercial establishments than those imposed in the rest of the Nation and would therefore make it impossible for commercial establishments to treat local consumers as they do stateside consumers.

CTIA and its members respectfully urge you not to pass this bill.

Sincerely,

Gerard Keegan
Vice President
State Legislative Affairs