



November 14, 2019

The Honorable Paul Moriarty
New Jersey Assembly
Chair, Assembly Consumer Affairs Committee
125 West State Street
Trenton, NJ 08625-1101

Re: Opposition to New Jersey Assembly Bill 5259 (Assembly Consumer Affairs Committee Hearing, 11/14/19)

Dear Chair Moriarty:

On behalf of CTIA, the trade association for the wireless communications industry, I write in opposition to Assembly Bill 5259, which prohibits commercial mobile service providers from disclosing customers' global positioning system (GPS) data to third parties. A5259 is unnecessary, would add to the further fragmentation of consumer privacy laws, and raises particular concerns because it is technology- and sector-specific.

CTIA and its member companies strongly believe that consumer information should be protected and that consumers should be given choices with respect to when and how their information is used. Mobile providers currently obtain the affirmative opt-in consent of their wireless consumers before using or sharing subscribers' precise location information - with limited exceptions for emergency situations and appropriate legal process. This is consistent with the Federal Trade Commission's (FTC) Privacy Framework and with other federal laws and regulations, which generally require telecommunications carriers to obtain opt-in consent prior to sharing mobile call location information. The FTC regularly brings enforcement actions against companies that have misrepresented consumer control regarding collection and use of geolocation data, which its framework classifies as sensitive personal data.¹

Consumer privacy protections should apply consistently across all industry sectors, and protections should be consistent for any given type of information. A5259 applies to a specific type of information – GPS data – that is collected on a mobile device that is serviced by a commercial mobile service provider. Because the requirements in A5259 only apply to mobile providers, the legislation favors certain business models and particular competitors over others. For instance, many app developers have access to GPS location data on consumer handsets and use that data

¹ See, e.g., *In the Matter of InMobi Pte Ltd., a private limited company*. F.T.C. June 22, 2016. 3:16-cv-03474; *In the Matter of Nomi Technologies, Inc., a corporation*. F.T.C. September 3, 2015. 132-3251; *In the Matter of Goldenshores Technologies, LLC, a limited liability company, and Erik M. Geidl, individually and as the managing member of the limited liability company*. F.T.C. March 31, 2014. 132-3087.



for a variety of purposes. And operating system platforms can collect large amounts of location data from WiFi access points and sell ads based on this data without consumers' knowledge or consent. WiFi networks provide greater location accuracy and various third parties have mapped these networks. Nevertheless, the proposed law would not apply to either of these situations in which precise location data is collected, used, and shared. A5259 is unfairly limited to the collection of one type of location data by one type of entity in the online ecosystem – something that consumers are unlikely to understand or expect.

Privacy issues are best addressed with a holistic approach that does not favor one business model over another, in order to lessen any unintended consequences and provide consistent consumer protections. For these reasons, CTIA respectfully requests that you not move this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard Keegan".

Gerard Keegan
Vice President
State Legislative Affairs

cc: Members, Assembly Consumer Affairs Committee