May 21, 2020

The Honorable Ben Hueso  
Chair, Senate Energy, Utilities and Communications Committee  
California State Senate  
State Capitol, Room 4035  
Sacramento, CA 95814

RE: OPPOSE – SB 1058 (Hueso) – Digital Divide Relief Plan

Dear Chairman Hueso:

On behalf of CTIA®, the trade association for the wireless communications industry, I write to respectfully oppose SB 1058. As you know, consumers are relying more on telecommunications services during this pandemic whether it is for distance learning, telework, or telemedicine. The wireless industry understands the importance of keeping consumers connected. Unfortunately, the recent amendments to SB 1058, as applied to wireless providers, are unnecessary and preempted by federal law.

SB 1058 overlooks the extraordinary partnerships and commitments made by the wireless industry to address the corona virus crisis. In coordination with the Federal Communications Commission (FCC), wireless operators, including AT&T, T-Mobile, U.S. Cellular, and Verizon, have already agreed to the “Keep Americans Connected Pledge” to assist customers during this time and have taken other steps to address consumer concerns. The operators committed through June 30 to: (1) not terminate service to any residential or small business customers because of their inability to pay their bills due to the disruptions caused by the coronavirus pandemic; (2) waive any late fees that any residential or small business customers incur because of their economic circumstances related to the coronavirus pandemic; and (3) open Wi-Fi hotspots to any consumer who needs them. In addition, each company has undertaken other efforts, including providing free data, expanding options, and increasing mobile data for low-income consumers, contributing to community efforts and organizations, and providing support to our educators. CTIA has compiled information on these important efforts at: https://www.ctia.org/homepage/covid-19.

The recent amendments to SB 1058 would create yet another unnecessary regulatory scheme that is preempted by federal law and counterproductive. As amended, SB 1058 charges the California Public Utilities Commission (CPUC) to direct every Internet Service Provider (ISP) to file an annual emergency operation plan and directs the CPUC to evaluate the adequacy of such plans. The requirement that every ISP provide service at a rate deemed affordable by the CPUC violates federal law and is explicitly illegal. Section 332(c) of the Communications Act provides that “no State or local government shall have the authority to regulate the entry of or rates charged by any commercial mobile service or any private mobile service.”

1 47 U.S.C. § 332(c)(3)(A)
Moreover, the mandate that ISPs identify capital expenditure plans for broadband expansion violates the FCC’s exclusive authority over wireless carriers’ network infrastructure. It would also require carriers to disclose proprietary and competitive information regarding future business operations. The release of that information—whether accidental or through a cybersecurity incident—would be competitively harmful. In fact, the FCC has sole authority over wireless carriers’ network infrastructure. In its exercise of this exclusive jurisdiction, the FCC has explicitly held “local jurisdictions do not have the authority to require that providers offer certain types or levels of service, or to dictate the design of a provider’s network.”

The wireless industry is committed to providing critical resources and relief to our customers and communities. We are proud of our members for their tireless efforts in these difficult times. Unfortunately, the provisions stated above are not subject to state jurisdiction and would only hinder current efforts. CTIA regrettably opposes SB 1058.

Sincerely,

Gerard Keegan
Vice President,
State Legislative Affairs

CC: Member of the Senate Energy, Utilities and Communications Committee
Sarah Smith, Committee Policy Consultant
Kerry Yoshida, Republican Policy Consultant

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2 Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment et al., Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088, 9104 n.84 (2018).