



**Testimony of
Mike Blank
CTIA**

**In Opposition to
SF 3537 – Deceptive Trade Practices**

**Before the
Minnesota Senate Commerce and Consumer Protection Committee**

March 13, 2024

On behalf of CTIA®, the trade association for the wireless communications industry, I write in opposition to the inclusion of the wireless industry in SF 3537, related to price transparency for consumer goods and services. We appreciate the goal of protecting consumers from practices that may undermine a consumer's ability to make informed commercial decisions, and our industry is committed to ensuring consumers have accurate and transparent information, however existing federal wireless service regulations already protect consumers.

Adequate Federal Regulation of the Wireless Industry Already Exists

The wireless industry is currently regulated by the FCC, which has its own regulatory regime to protect consumers from surprise or unfair fees and billing practices, including its broadband labeling and Truth-in-Billing policies and proceedings. The FCC's rules already require the wireless industry to convey relevant information to consumers and prevent unfair or deceptive fees. These rules and policies effectively prevent and hold wireless providers responsible for any unfair or deceptive fees.



FCC Broadband Labeling: Implementing a recent Congressional directive, the FCC adopted requirements for broadband labeling in 2023.¹ These requirements will ensure consumers are given clear, accurate, and transparent information to guide their purchasing decisions. Under these new broadband consumer label rules, all wireless consumers will have access to easy-to-understand labels modeled on the nutrition labels that appear on food products. These labels will clearly lay out key information about prices (including monthly and one-time fees, and the availability of discounts and bundles), the amount of data included in the base price, typical upload and download speeds that consumers can expect, and a provider's network management and privacy practices. Importantly, in adopting its directive, Congress clearly intended that the FCC should regulate the advertising of broadband on a *national* level.² During its comprehensive consideration of broadband price transparency in connection with the broadband label rulemaking, the FCC considered and rejected the concept of "all-in" pricing.³ The state of Minnesota should not enact laws where Congress has expressly directed a federal agency to regulate for the country, as is the case here.

FCC's Truth-in-Billing: For nearly two decades, wireless voice providers have abided by the FCC's Truth-in-Billing requirements, which are broad, binding principles that ensure voice providers offer information on customers' bills that is clear and not misleading.⁴ The Truth-in-Billing rules have also served to help protect consumers from fraud and unauthorized third-party charges. Importantly, the FCC created a comprehensive framework that affords providers flexibility in their billing

¹ See *Empowering Broadband Consumers Through Transparency*, Order, CG Docket No. 22-2, DA 23-617 (CGB rel. July 18, 2023).

² Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60504(a), 135 Stat. 429, 1244 (2021).

³ FCC Final Rule, *Empowering Broadband Consumers Through Transparency*, 87 Fed. Reg. 76959, 75964 (Dec. 16, 2022)

⁴ *Truth-in-Billing and Billing Format*, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492 (1999) ("FCC Truth-in-Billing R&O"); *Truth-in-Billing and Billing Format*; *National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing*, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, 20 FCC Rcd 6448 (2005).



procedures without discouraging the introduction of new pricing plans or impairing the ability of providers to adopt improvements to their billing systems or bill structures.⁵

FTC Regulations: The Federal Trade Commission (“FTC”) has pending proceedings regarding unfair and deceptive consumer fees, whereby it proposes provisions applicable to the wireless industry that are preemptive at best, and duplicative or inconsistent at worse, with this legislation. In November 2023, the FTC published a Notice of Proposed Rulemaking (“FTC NPRM”) that proposes to prohibit unfair or deceptive practices relating to fees for goods or services.⁶ The rule, if adopted, would prohibit businesses from offering, displaying, or advertising amounts consumers may pay without clearly and conspicuously disclosing the “Total Price,” as considered in the legislation.

Title 47 U.S.C.: It is not clear if the requirements in the bill is consistent with federal law, which plainly states that “no State or local government shall have any authority to regulate the entry of or *the rates charged by any commercial mobile service . . . except that this paragraph shall not prohibit a State from regulating the *other* terms and conditions of commercial mobile services.*”⁷ It is also not clear if the proposed exception in the legislation for taxes or fees would include the wide range of monies wireless providers collect at the behest and with the blessing of government regulators.

Industry Commitments and the *Consumer Code for Wireless Service*⁸

In the competitive wireless marketplace, CTIA and its members have established the *Consumer Code for Wireless Service* —an evolving set of principles designed to help consumers make informed decisions when selecting wireless services. This code has been regularly updated since it

⁵ See FCC Truth-in-Billing R&O, 14 FCC Rcd at 7499, ¶ 10

⁶ See Trade Regulation Rule on Unfair or Deceptive Fees, 88 Fed. Reg. 77420 (Nov. 9, 2023).

⁷ 47 U.S.C. § 332(c)(3)(A) (emphasis added); see also, e.g., *MCI Telecommunications Corp. v. FCC*, 822 F.2d 80 (D.C. Cir. 1987).

⁸ CTIA, *Consumer Code for Wireless Service* (2020), <https://api.ctia.org/wp-content/uploads/2020/03/CTIA-Consumer-Code-2020.pdf> (“*Consumer Code for Wireless Service*”).



was first created nearly 20 years ago. Importantly, more than half of the principles contained in the *Consumer Code for Wireless Service* speak to this important issue, with disclosure of rates and terms of service being the first commitment. Further, Principle 5 *establishes a commitment to “clearly and conspicuously” disclosing material charges.*

Existing Wireless Service Regulations Already Protect Consumers

CTIA urges Minnesota to recognize the dynamics within the competitive wireless marketplace and refrain from imposing a new state law on the industry that would be unnecessary, duplicative, and not in the consumer interest given existing regulation. If Minnesota ultimately enacts a law regarding unfair and deceptive fees, any new law should look to limit the scope to specific industries that don’t face the same robust regulation by the federal government.

Thank you for your consideration.