



**Testimony of  
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CTIA**

**In Opposition to Connecticut Senate Bill 990**

**Before the  
Connecticut Joint Committee on Energy and Technology**

**March 9, 2021**

Co-Chairs, Vice-Chairs, and committee members, on behalf of CTIA®, the trade association for the wireless communications industry, I am here in opposition to Senate Bill 990, which would restrict when Internet Service Providers (ISPs) can implement data caps. Since the beginning of the COVID-19 pandemic, wireless carriers have worked to keep consumers connected. Whether it is the “Keep Americans Connected” pledge, CTIA’s “Connecting Kids” initiative, or the numerous connectivity programs and philanthropic contributions individually made by CTIA member companies, the wireless industry is proud of our response to the pandemic. SB 990, however, is preempted by federal law, specifically Section 332 of the Telecommunications Act as it pertains to mobile providers.

Wireless networks are unique. The mobile aspect of the network and the use of the finite resource of spectrum makes network management a necessity. Each customer’s usage can affect the quality of the connection of other customers. We use network management, including data plans, to ensure that every customer has the best experience possible. American consumers in 2019 used over 37 trillion megabits of data on U.S. wireless networks. That is 96 times more data than used in 2010. U.S. wireless carriers met this increasing consumer demand by investing in radio spectrum and infrastructure. The data consumers send travels over spectrum – or radio airwaves – to a nearby cell



site. Your mobile network experience can be affected by three core elements: mobility, capacity, and consumer choice. How carriers deal with these issues is called network management.

Mobile broadband services are highly dynamic and operate in a continuously changing environment. As you move about, your mobility can change the qualities of your connection based on network and spectrum congestion, interference, and a variety of other factors. Wireless providers continuously seek to improve the quality and expand the capacity of their networks. At the same time, mobile networks depend on a limited resource – spectrum, the invisible airwaves that enable your data to be sent wirelessly – and face other capacity-constraining factors. Intense competition remains at the core of the mobile broadband experience. Wireless carriers offer consumers numerous options and data plans that best meet their needs, including unlimited plans and plans that offer options on network use and service quality.

The three core elements that can affect a consumer’s mobile experience requires appropriate network management. The Federal Communications Commission (FCC) has recognized the need for wireless carriers to manage their networks differently than fixed broadband providers. In 2015, the FCC specifically acknowledged, “[t]he additional challenges involved in mobile broadband network management,” which “mean that mobile broadband providers may have a greater need to apply network management practices, including mobile-specific network management practices, and to do so more often to balance supply and demand while accommodating mobility.”

One way that wireless carriers may help to manage their networks is by offering data plans with tiered or usage-based pricing. These types of plans allow consumers to choose the plan that best fits their needs. Light users can choose a plan with a lower usage threshold while a consumer who uses



more data can choose a data plan with higher threshold or an unlimited plan. As the FCC acknowledged in 2010, “prohibiting tiered or usage-based pricing and requiring all subscribers to pay the same amount for broadband service, regardless of the performance or usage of the service, would force lighter end users of the network to subsidize heavier end users.”

Section 332 of the Communications Act 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 FCC has found that “the term ‘rates charged’ in Section 332(c)(3)(A) may include both rate levels and rate structures ... and that the states are precluded from regulating either of these.” Thus, states are prohibited from prescribing, “the rate elements for CMRS” and from “specify[ing] which among the [mobile] services provided can be subject to charge ...” For example, the FCC has found that states could not prohibit wireless providers from charging for incoming calls or charging in whole-minute increments, because such mandates would effectively regulate the rates charged by CMRS providers. Here, the state would similarly be prescribing what the provider can and cannot charge customers for – specifically, a state law restricting or banning usage-based pricing would be a prohibition against charging customers for using more than a set amount of data.

In closing, the wireless industry has prioritized keeping consumers connected during the pandemic. We share the goal of policymakers to help ensure consumers have broadband access during these difficult times. We are proud of the initiatives and practices the industry has undertaken to address the pandemic and to keep consumers connected. Federal law, however, preempts states from regulating wireless providers as proposed in SB 990. Therefore, we respectfully request that you not move this legislation.