



**Testimony of
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**In Opposition to
Minnesota House File 2021**

**Before the
Minnesota House Commerce Finance and Policy Committee**

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On behalf of CTIA®, the trade association for the wireless communications industry, I submit this testimony in opposition to Minnesota House File 2021. CTIA and its member companies support an open internet. To further that goal, we support a bipartisan federal legislative solution to enshrine open internet principles to resolve this issue nationwide and once and for all and to provide certainty for U.S. consumers and broadband providers.

In the meantime, in the fall of 2023, the Federal Communications Commission (FCC) proposed to re-adopt its open internet framework that it first established in 2015, which was subsequently reversed in 2018. CTIA respectfully opposes piecemeal state regulation of the borderless internet and mobile wireless broadband – an inherently interstate service - like this legislation. With an FCC decision on nationwide policy expected in the first half of 2024, CTIA urges Minnesota to refrain from moving HF2021.

Americans' internet experience is already fast, open, and fair due in significant part to the regulatory framework that exists today under the federal Communications Act's Title I.



The current framework fosters a dynamic broadband ecosystem, drives investment and innovation in next-generation networks, and promotes vibrant competition and internet openness.

From the beginning of the Internet Age in the 1990s through the start of the 21st century, the FCC, acting on a bipartisan basis, carefully and purposefully applied a national regulatory framework to internet service that allowed providers to invest, experiment, and innovate while maintaining an open internet. In that time, an entire internet-based economy grew at unprecedented levels. But in 2015, the FCC dramatically changed course, applying for the first time ill-fitting and misplaced 80-year-old common-carrier mandates meant for traditional monopoly public utilities, such as landline phone service, to broadband internet access.

In 2018, the FCC restored the same national regulatory framework that applied before 2015, which is credited with facilitating the internet-based economy we have today. Under the current regulatory framework, U.S. wireless investment has increased for five consecutive years, with a historic \$39 billion invested in wireless networks in 2022 alone. This investment is promoting wireless broadband coverage across the United States – more than 99 percent of the U.S. population lives in areas with 4G LTE coverage, and more than 97 percent of the U.S. population lives in areas with 5G coverage.

The broadband marketplace is providing tremendous consumer benefits – in the past seven years, median download speeds have quadrupled while wireless prices have decreased



11 percent - despite near historic general inflation increasing 26 percent, according to the Consumer Price Index. And it is paying off in times of need. When the COVID-19 pandemic hit, America's networks handled an unprecedented surge in voice and data traffic almost overnight. Of the ten countries with the highest populations, only the United States did not experience any download speed degradation in April 2020. Wireless networks delivered more data faster than ever, as median wireless speeds in the U.S. increased from 2020 to 2021 by nearly 50 percent.

America's broadband providers have shown they are committed to internet openness. First, it makes sound business sense to provide consumers access to the content, apps, and services they want. Second, the competitive broadband marketplace demands nothing less. Wireless providers in particular give Americans unprecedented choice and on-the-go access to the open internet. Every day, we benefit from exciting new services and pioneering plan options while enjoying the content, applications, and services we want without interference.

Moreover, the FCC open internet proceeding launched last year has generated thousands and thousands of pages of comments filed in the record, and it reveals no evidence of harms to internet openness that could warrant net neutrality rules. Wireless broadband providers have made meaningful commitments to their customers, in keeping with the current transparency rule, not to block or throttle or engage in paid prioritization, which the Federal Trade Commission can enforce.



Nonetheless, to the extent concerns persist about internet openness - despite today's robust and open internet and lack of evidence of harm - the FCC has proposed a return to the 2015 open internet rules. Those rules imposed nationwide Title II common carrier obligations on broadband providers, including specific open internet rules involving no blocking, no throttling, no paid prioritization, a general conduct rule, and transparency requirements. As noted, an FCC order is expected in the first half of 2024.

While CTIA has concerns about the path the FCC may take, this FCC action is yet another reason why Minnesota should refrain from also taking action. The FCC made clear in the current proposal that it seeks to ensure that broadband "is governed primarily by a national framework," and it seeks comment on how to use its preemption authority to achieve that. (¶¶ 94, 96) When the FCC takes action as expected, HF2021 would be ripe for preemption.

In any event, any attempt to apply multiple states' requirements would sow confusion and harm consumers, as a patchwork of state-level requirements at best would be different and at worst contradictory from each other, let alone from the proposed FCC framework. Problems multiply in the case of mobile broadband: questions will arise over whether a mobile wireless broadband transmission is subject to the laws of the state where users purchased service, where they are presently located, or even where the antenna transmitting the signal is located. State-by-state regulation even raises the prospect that different laws will apply as the user moves between states. For example, a mobile broadband user could travel



through two (or more) states during a train ride, even during a morning commute, subjecting that rider's broadband service to multiple different legal regimes even if the rider spent that trip watching a single movie. In the mobile environment, state-by-state rules would be especially burdensome, difficult to comply with, costly, and subject providers to differing state interpretations and enforcement of facially similar net neutrality requirements – creating further business uncertainty. Such a patchwork of disparate regulation is untenable for the future success of the internet economy.

The internet does not stop at state boundaries. Consumers regularly access content from across the country and around the world making virtually all internet traffic interstate and making it impossible to distinguish between that interstate traffic and the limited amount of internet traffic that begins and ends in a single state. And courts have long recognized that interstate communications services are subject to the exclusive authority of the FCC.

The internet is inherently interstate – and even international. State-by-state legislation is both unworkable and could harm the vibrant ecosystem that exists today. We must work together to ensure investment continues while protecting the flow of information consumers expect. Thus, we support federal legislation to ensure there is a uniform national framework for the open internet. We welcome Minnesota calling on Congress to resolve this issue but must oppose state-by-state legislation. Minnesota should not muddy the waters further and sow further confusion by passing this bill. Accordingly, I respectfully urge you not to move HF2021.