



**Testimony of  
Mike Blank  
CTIA**

**In Opposition to  
Colorado HB 1090**

**Before the  
Colorado Senate Judiciary Committee**

**March 11, 2025**

On behalf of CTIA®, the trade association for the wireless communications industry, I write in opposition to House Bill 1090, relating to deceptive trade practices. 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, robust federal regulations and public industry commitments already exist, thereby making any new state-specific law imposed on our *interstate* service potentially duplicative and not in the consumer’s interest. We are specifically seeking the following amendment:

- *Replace Page 8, Line 25 – Page 9, Line 2 with “(V) CAN DEMONSTRATE THAT THE PERSON OR ITS AFFILIATE IS PROVIDING A SERVICE THAT IS REGULATED BY THE FEDERAL COMMUNICATIONS COMMISSION”*

#### **Industry is Committed to Keeping Consumers Informed**

In the competitive wireless marketplace, CTIA and its members have established the *Consumer Code for Wireless Service*<sup>1</sup>—an evolving set of principles designed to help consumers make informed decisions when selecting wireless services. This code has been regularly updated since it 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

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<sup>1</sup> 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*”).



service being the first commitment. Further, Principle 5 *establishes a commitment to “clearly and conspicuously” disclosing material charges.*

Wireless services are used every day to connect consumers to school, work, and loved ones, and as of 2023, there are more than 1.6 wireless connections for every person in the United States.<sup>2</sup> Consumers tend to use their wireless devices throughout the day, which serves as a tangible reminder of the services they are receiving. Wireless services are thus distinguishable from other products and services where consumers may not even be aware that they are being charged for a service, such as services that may renew on an annual basis. Moreover, wireless providers typically have regular engagement with their customers, including through monthly notices regarding plan terms and itemized costs, as well as through alerts that may be sent in accordance with commitments made as part of the *Consumer Code for Wireless Service*.

### **Robust Federal Regulation of the Wireless Industry Already Exists**

The wireless industry is regulated by the FCC, which has its own regulatory regime to protect consumers from surprise or unfair fees and billing practices, including broadband labeling and Truth-in-Billing regulation. The FCC’s rules already require the wireless industry to convey relevant information to consumers and prevent unfair or deceptive fees. CTIA’s members have for years embraced regulatory efforts already undertaken by the FCC to ensure consumers have clear information about service charges and to help protect consumers from fraud and unauthorized third-party fees. These rules and policies effectively prevent and hold wireless providers responsible for any unfair or deceptive fees.

FCC Broadband Labeling: Implementing a Congressional directive, the FCC adopted requirements for broadband labeling in 2023.<sup>3</sup> 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. The labels clearly lay out key information about

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<sup>2</sup> See CTIA, *2023 Annual Survey Highlights*, at 5 (July 25, 2023), <https://www.ctia.org/news/2023-annual-survey-highlights>.

<sup>3</sup> See *Empowering Broadband Consumers Through Transparency*, Order, CG Docket No. 22-2, DA 23-617 (CGB rel. July 18, 2023).



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*.<sup>4</sup>

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.<sup>5</sup> 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 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.<sup>6</sup>

Therefore, the law should clearly exempt services that are regulated by the FCC.

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."<sup>7</sup> It is also not clear if the proposed exceptions in the legislation related to "tax or fees imposed by a government entity on the transaction" would include the wide range of monies wireless providers collect at the behest and with the blessing of government regulators.

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<sup>4</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 60504(a), 135 Stat. 429, 1244 (2021).

<sup>5</sup> *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).

<sup>6</sup> See FCC Truth-in-Billing R&O, 14 FCC Rcd at 7499, ¶ 10

<sup>7</sup> 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).



## **Compliance Challenges and Potential Consumer Confusion**

If wireless providers were subject to HB 1090, as written, there would be a variety of compliance challenges and potential consumer risks that undermine the intent of the bill and Colorado's more general consumer protection requirements.

Disparate Legal Requirements: There would be disparate legal requirements applied to the same services if they were provided to consumers as standalone offerings – creating compliance complexities and potentially inhibiting customer choice.

The Current exemptions for our industry on referring only to the FCC's Broadband Consumer Label requirements are incomplete (Page 8, Line 25 – Page 9, Line 2). If a wireless provider offers a voice- or text-only option, it would not be exempt from this law, even though that same service would be exempt if it were bundled with a broadband service. Exempting from the new law only offerings that include some broadband component creates a confusing and complex compliance burden for the wireless industry because the wireless industry regularly offers a variety of plans to ensure their customers are getting the services they want, while not buying services they may not want or need.

As a practical matter, this means that a company often offers both bundled plans of broadband, voice, and text as well as plans that may be voice-only, text-only, or voice and text. Indeed, voice- and text-only options are very attractive for certain use cases. This proposed state-level regulation over voice- and text-only options is unnecessary and can discourage wireless providers from offering such plans in Colorado.

Unintended Consequences: To reduce the risk of legal liability, compliance with the law could be met with less advertising on pricing by wireless providers, which would be contrary to the objectives of the legislation. Advertising is essential for businesses to share their innovative products and services with potential customers. Wireless providers – with mixed offerings that span jurisdictions and exempt/nonexempt product categories – may be reluctant to risk noncompliance in advertising and reduce traditional advertising of wireless services. Reducing regional advertising harms competition.



Our proposal to expand the bill to deem an FCC-regulated entity compliant with the pricing transparency requirements would alleviate these issues, ensuring the Federal regulator of jurisdiction is the arbiter of such actions and giving wireless providers greater assurance regarding obligations associated with their pricing practices.

### **Wireless Services are Already Regulated by the FCC**

Commitments made by wireless service providers through the *Consumer Code for Wireless Service*, coupled with regulatory protections adopted by the FCC, serve today to provide protection and clarity to consumers regarding their commercial decisions. Given the incentives wireless providers have to ensure their trusted relationship is maintained with consumers, CTIA urges Colorado to recognize the dynamics within the competitive wireless marketplace and refrain from imposing a new state law on the wireless industry that would be unnecessary, duplicative, and not in the consumer interest.

If Colorado ultimately enacts a law regarding unfair and deceptive fees, any new law should expressly exempt services already regulated by the FCC for the reasons stated above.



March 11, 2025

**RE: HB25-1090 Protections Against Deceptive Pricing Practices—SUPPORT**

Dear Members of the Judiciary Committee:

My name is Kathy Smith, and I am a Volunteer Lobbyist with the League of Women Voters of Colorado's Legislative Action Committee. **I am writing in support of HB25-1090 on behalf of the League of Women Voters of Colorado.**

The League of Women Voters of Colorado (LWVCO) has been a nonpartisan organization for 105 years, encourages informed and active participation in government, and influences public policy through education and advocacy. Our membership spans the state of Colorado with 18 local leagues operating in several regions around our state. The LWVCO supports policies to provide a decent home and a suitable living environment for everyone and continued evaluation to provide a basis for revision and strengthening of all procedures so that equality of opportunity for access to housing can be accomplished.

This bill mandates transparency, requiring landlords and businesses to clearly disclose the total cost of goods, property, or services, including any hidden fees. Landlords will be prohibited from charging "junk fees" for services beyond rent and utilities, with violations classified as deceptive trade practices. Hidden charges hinder consumers' ability to compare prices and manage their finances effectively. In Colorado, over a third of residents are renters, and half of them are cost burdened. These hidden fees contribute to financial strain and exacerbate the challenges of housing affordability.

**We urge the committee members to vote YES on HB25-1090** to help protect Colorado consumers and renters. Thank you for your consideration of this bill.

Respectfully,  
Kathy Smith, Volunteer Lobbyist, Housing  
League of Women Voters of Colorado  
110 16<sup>th</sup> Street Mall, Suite 1326  
Denver, CO 80202  
303-863-0437

Dear Senator Gonzales and members of the Senate Judiciary Committee:

On behalf of Instacart, this email is to express our serious concerns with CO HB25-1090, unless amended. We value the constructive discussions held with proponents of this legislation over the past month during the stakeholder process to ensure Coloradan's have the information they need before making a purchase, but it is clear that revisions are still needed to align this legislation with national standards.

Instacart is fully committed to transparency. That's why we already provide clear, straightforward information including any fees related to long distance orders, prescription pick up, or government-mandated and regulatory fees before a customer checks out.

There is an important distinction between fixed pricing models, where companies know all of the applicable fees for their goods or services upfront, and dynamic pricing models, which consider several factors in their pricing process. Delivery network companies utilize dynamic pricing models to satisfy different consumer preferences or item selections, including expedited delivery, long distance delivery, or bag fees. Because of the dynamic nature of delivery network company pricing models, whether these fees will be triggered is oftentimes not ascertainable at the beginning of the shopping experience. The disclosures in this legislation could lead to a frustrating user experience where pricing information takes up a large portion of the screen, and hurts the ability of the consumer to compare multiple items at once or view nutrition information.. Therefore, the proposed amendments, which acknowledge the unique nature of delivery network companies, remain essential to ensure the effective implementation of this policy that works for consumers and business.

Instacart respectfully requests that the Senate Judiciary Committee adopt the proposed amendments below in their entirety. These amendments strike the proper balance between ensuring consumers have the information they need to make informed decisions, while acknowledging the practical realities of companies that utilize dynamic pricing models.

Thank you for your consideration.

On page 7, line 14 insert:

**(II) IS A DELIVERY NETWORK COMPANY THAT:**

(A) CLEARLY AND CONSPICUOUSLY DISCLOSES, AT THE POINT WHEN AN INDIVIDUAL VIEWS AND SELECTS EITHER A VENDOR OR ITEMS FOR PURCHASE, THAT AN ADDITIONAL FLAT FEE, VARIABLE FEE, OR PERCENTAGE FEE IS CHARGED, INCLUDING THE AMOUNT(S) OR, IN THE CASE OF A VARIABLE FEE THAT IS DEPENDENT ON CONSUMER SELECTIONS OR DISTANCE AND TIME, THE FACTORS DETERMINING THE FEE, ANY MANDATORY FEES ASSOCIATED WITH THE TRANSACTION, AND THAT THE TOTAL COST OF THE SERVICES MAY VARY,

(B) PROVIDES AN ACCURATE DESCRIPTION OF THE RECIPIENT OR THE PURPOSE OF THE ADDITIONAL FLAT FEE, VARIABLE FEE OR PERCENTAGE; AND

(C) DISPLAYS, AFTER AN INDIVIDUAL SELECTS ITEMS FOR PURCHASE BUT BEFORE COMPLETING THE TRANSACTION, A SUBTOTAL PAGE THAT ITEMIZES THE PRICE OF THE ITEMS FOR PURCHASE AND THE ADDITIONAL FLAT FEE, VARIABLE FEE, OR PERCENTAGE THAT IS INCLUDED IN THE TOTAL PRICE.

(D) FOR THE PURPOSES OF THIS SUBSECTION, "CLEARLY AND CONSPICUOUSLY" MEANS THE USE OF CONCISE LANGUAGE AND A COMMERCIALY REASONABLE AND ACCESSIBLE MEANS TO PROVIDE ADDITIONAL INFORMATION, WHICH MAY INCLUDE INFORMATION BUTTONS OR LINKS IN ELECTRONICALLY PRESENTED ADVERTISEMENTS, MARKETING MATERIALS, SOLICITATIONS, OR OFFERS OF SALE, THAT DISCLOSES THE INFORMATION REQUIRED IN THIS SUBSECTION.

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Item always in my cart: Berries

