



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

July 8, 2009

The Honorable John Kerry  
Chairman, Subcommittee on Communications and Technology  
Committee on Commerce, Science & transportation  
United States Senate  
Washington, D.C. 20510

The Honorable John Ensign  
Ranking Member, Subcommittee on Communications and Technology  
Committee on Commerce, Science & transportation  
United States Senate  
Washington, D.C. 20510

Dear Chairman Kerry and Senator Ensign:

I am writing on behalf of the National Conference of State Legislatures to offer our expertise, perspective and assistance as the Subcommittee on Communications and Technology considers legislation that would establish a national framework for wireless consumer protection. I write, too, to caution you that the results of a recent survey conducted by the National Association of Regulatory Utility Commissioners on this topic does not reflect the views of state legislators as articulated through NCSL's official policy approval process.

While I acknowledge that self-regulation and competition in the wireless industry has benefited consumers, I also believe that members of Congress and state legislators share the goal of ensuring protections to consumers who use wireless services. The interstate nature of the wireless industry makes achieving this goal particularly challenging. For the past three years, NCSL has held numerous sessions, discussions and debates over establishing a national framework for wireless consumer protection that would minimize burdens on the industry and preserve the states' authority to ensure protections of consumers. The capstone of these discussions was adoption in 2008 of an official NCSL policy statement--approved by over three-fourths of the states--**that "urges state and federal policymakers to work together to ensure that industry [wireless] targeted consumer protections can be applied within a national framework that ensures the continued ability of the state attorneys general to enforce such consumer protections."**

A key point in NCSL's discussions was the question of which is the appropriate agency at the state level to enforce protections under a national framework. State legislators involved in these discussions noted that public utility commission staffs have vast experience as economic regulators (that is, setting rates) and little as protectors of consumers. In most states it is attorneys general who have the responsibility, infrastructure and history of ensuring consumer protection. In fact, 30 states and the District of Columbia have laws specifically removing public utility commissions from regulating the wireless industry.

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It is not surprising, of course, that the NARUC survey, which was primarily targeted at public utility commissioners and not elected state policymakers, would reach a different conclusion. Although the commissioners are entitled to their own perspective on this, I urge you--as elected members of Congress--to defer to your state legislative colleagues on this important question.

NCSL stands ready to work with you and the members of the subcommittee on legislation that establishes a national framework for wireless consumer protection but guarantees the states' ability to enforce these protections through our states' attorneys general.

Thank you for considering the official views of state legislators on this issue. We look forward to working with you. For further information on our position, please feel free to contact Neal Osten, Federal Affairs Counsel, 202 624-8660 or [neal.osten@ncsl.org](mailto:neal.osten@ncsl.org).

Sincerely,

A handwritten signature in black ink that reads "Phil Montgomery". The signature is written in a cursive, flowing style.

Representative Phil Montgomery, Wisconsin  
Chair, Committee on Communications, Financial Services & Interstate Commerce  
National Conference of State Legislatures