



May 8, 2017

The Honorable Maria Milagros Charbonier Laureano
President
Commission on Judiciary
Puerto Rico House of Representatives
San Juan, PR 00902-2220

Dear President Charbonier Laureano:

On behalf of CTIA®, the trade association for the wireless communications industry, I write this letter in response to requests for comment received by AT&T and Sprint, regarding concerns with Puerto Rico P.C. 398, which would require any computer programmer or computer technician or internet service provider to inform Puerto Rico Police if they find child pornographic material on any computer in which they perform work. The wireless industry supports the underlying policy goals of this legislation and already takes its responsibility to report under federal law very seriously. The wireless industry already reports to the National Center for Missing and Exploited Children (NCMEC) when employees come in contact with images, etc. that put children at risk, however this requirement in the legislation is not necessary.

Federal law, specifically Section 2258A of Title 18 of the United States Code, already requires our companies to comply (because they are electronic communications or remote computing service providers) and report this material to NCMEC when our employees find it. Specifically, the law requires:

- (a) DUTY TO REPORT.—(1) IN GENERAL.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains actual knowledge of any facts or circumstances described in paragraph (2)¹ shall, as soon as reasonably possible—
 - (A) provide to the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by such center, the mailing address, telephone number, facsimile number, electronic mail address of, and individual point of contact for, such electronic communication service provider or remote computing service provider; and
 - (B) make a report of such facts or circumstances to the CyberTipline, or any successor to the CyberTipline operated by such center.²

In addition to imposing the duty to report to the NCMEC, the federal law outlines what information should be included in a report and that the NCMEC will forward reports to any appropriate law enforcement agency, either domestic or foreign.

In addition, the bill does not define what constitutes "pornography." This vagueness leaves a computer technician to make that decision, under pain of criminal prosecution if the technician is wrong. If this bill

¹ 18 U.S.C. §2258A, Paragraph (2): FACTS OR CIRCUMSTANCES. – The facts or circumstances described in this paragraph are any facts or circumstances from which there is an apparent violation of (A) section 2251, 2251A, 2252A, 2252B, or 2260 that involves child pornography; or (B) section 1466A.

² 18 U.S.C. §2258A.



moves forward, CTIA strongly suggests that these issues be considered and the bill more thoroughly thought through.

The wireless industry takes the responsibility to report to the NCMEC when employees encounter images that put children at risk very seriously and since companies are already obligated under federal law, the establishment of a duplicative law in Puerto Rico is unnecessary. For these reasons, CTIA does not support passage of P.C. 398.

Sincerely,

Lisa McCabe
Director, State Legislative Affairs

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