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**Summary of Proposed CTIA Amendments to S.181/Draft 2.1 (Television Assessment)
Senate Finance Committee, 3/14/24
Offered on behalf of CTIA by Clare Buckley, Partner, Leonine Public Affairs, LLP**

The “gross receipts” definition in Draft 2.1 is very broad and excludes only mobile telecommunications service and Internet access. Wireless providers also sell other goods and services such as phones, accessories, and insurance for damage/loss. Without a carve out, these non-telecom, non-Internet receipts could be subject to the 5% gross receipts tax as well as the sales tax in some cases. These amendments ensure that mobile telecommunications companies are exempt from the tax.

Specifically, the amendments do the following:

- 1) Various places on pages 2-5, propose to strike “provision,” “delivery,” “distribution,” and “furnishing” so that the definitions reference only “distribution” and/or “broadcasting,” as applicable. The intent of the proposed amendments is to make sure that companies that provide the conduit for streaming, but not the streaming service itself, are not inadvertently subject to the tax.
- 2) Page 3, line 10, insert an exclusion for “charges for mobile telecommunications services” (wireless) from the “gross receipts” definition. Both the Maine law and the Massachusetts drafts exclude wireless services from the tax since wireless providers should not be paying a “television assessment.”
- 3) Page 4, line 20, insert an exclusion for commercial mobile service (wireless) providers and Internet service providers from the definition of “video streaming service provider.” Wireless service and Internet service are not video streaming services, and the definition should be clear about that.
- 4) Page 5, line 14, strike the language prohibiting service providers from imposing a surcharge on customer bills. There are cases that have found that similar language is an unconstitutional restraint on commercial speech that has been invalidated in other states (*Bellsouth Telecomm. v. Farris*, 542 F.3d 499 (6th Cir. 2008), *invalidating a statutory prohibition on adding the Kentucky telecommunications gross receipts tax on customer bills*; also *Expressions Hair Design v. Schneiderman*, No. 15-1391, 581 US __ (Mar. 29, 2017).
- 5) Page 10, strike retroactive effective date and make the tax effective 1/1/2025.

Thank you for considering these amendments.