



August 18, 2018

United States Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW, Suite CC-5510
Washington, DC 20580

Re: Competition and Consumer Protection in the 21st Century Hearings, Project Number P181201

Issue 10: The interpretation and harmonization of state and federal statutes and regulations that prohibit unfair and deceptive acts and practices

I. Introduction

These comments are submitted in response to the U.S. Federal Trade Commission (FTC)'s announcement on the hearings on competition and consumer protection in the 21st Century. The Computer & Communications Industry Association (CCIA)¹ commends the FTC's study of the legal and policy challenges and opportunities that arise with the digitalization of the economy, and welcomes the opportunity to provide views on the issues identified by the Commission.

CCIA is an international not-for-profit membership organization dedicated to innovation and enhancing society's access to information and communications. CCIA promotes open markets, open systems, open networks and full, fair and open competition in the computer, telecommunications, and Internet industries.

To ensure that tech-related innovation continues to drive the economy, businesses and consumers must be able to expect consistent rules governing trade practices and regulatory expectations across the United States. This means that the FTC and state attorneys general (AGs) should work to ensure they harmonize their approaches to consumer protection.

¹ CCIA represents large, medium and small companies in the high technology products and services sectors, including computer hardware and software, electronic commerce, telecommunications and Internet products and services. Our members employ more than 750,000 workers and generate annual revenues in excess of \$540 billion. A list of CCIA members is available at <https://www.ccianet.org/members>.



II. Whether the Commission can, and to what extent it should, take steps to promote harmonization between the FTC Act and similar statutes

Harmonization of the FTC’s enforcement activities pursuant to Section 5 of the FTC Act and the activities of state attorneys general under their respective unfair and deceptive acts and practices (UDAP) laws would be beneficial to consumers and businesses alike.

The National Consumer Law Center (NCLC) evaluated the wide disparities in practice among all fifty states in their enforcement of UDAP laws, with a range of differences in breadth of legal authorities, exceptions for particular industries, and variations in applicable remedies.² While CCIA differs with NCLC as to the specific fixes necessary within each state, it is clear that 50 states worth of disparity, in addition to federal policies, is burdensome for consumers and industry to navigate.

The FTC should collaborate with state attorneys general to help coordinate their policymaking and regulatory efforts. This exchange of ideas already occurs organically in the privacy and data security context, as state AGs look to the norms-setting work and technical expertise of the FTC in considering the basis for their own enforcement policies.³ Formalizing this relationship and reducing the divergence between federal and state consumer protection regimes would be beneficial to consumers seeking redress and businesses working to behave reasonably in the marketplace.

² National Consumer Law Center, *Consumer Protection in the States: A 50-State Evaluation of Unfair and Deceptive Practices Laws* (Mar. 2018), available at <http://www.nclc.org/images/pdf/udap/udap-report.pdf>.

³ Danielle Keats Citron, *The Privacy Policymaking of State Attorneys General*, 92 NOTRE DAME L. REV. 747 (2016), available at <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4693&context=ndlr>.