



June 30, 2020

**VIA E-MAIL**

Commissioner Liane M. Randolph  
Commissioner Clifford Rechtschaffen  
Committee on Policy and Governance  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, California 94105

**Re: Draft Enforcement Policy**

Dear Commissioners:

On June 17, 2020, the above referenced Draft Enforcement Policy (“Draft Policy”) was released by the California Public Utilities Commission’s (“Commission’s”) Committee on Policy and Governance (“Committee”). The stated goal of the Draft Policy is “to promote maximum compliance with Commission rules and requirements through adoption and application of consistent enforcement practices and to develop a sufficient record that ensures that regulated entities subject to an enforcement action receive due process (e.g., notice and an opportunity to be heard).”<sup>1</sup> CTIA hereby responds to the invitation to provide feedback on the Draft Policy prior to the July 1, 2020 meeting of the Committee.

The Draft Policy seems to present an in-depth recitation of various types of enforcement actions that could potentially be pursued by Commission Staff<sup>2</sup> against entities regulated by the Commission. CTIA is concerned that the detailed nature of the Draft Policy appears to elevate it beyond a policy to an implementable action plan. There are, however, deficiencies in the Draft Policy that must be examined prior to its use as either a guidance document or an action plan. For example, certain elements of the “Enforcement Actions” listed on pages 6 through 14 appear to constitute unlawful delegations of authority to Staff, while other elements, despite the stated

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<sup>1</sup> Draft Policy, p. 1.

<sup>2</sup> “Staff” is broadly defined in the Draft Policy as “division staff or such other staff as may be designated by the Executive Director or a Deputy Executive Director to carry out the functions involved in taking enforcement action.”

goal of the Draft Policy, would appear to effect a violation of the basic due process rights of the subject entity.

Given the broad scope of the Draft Policy, the Commission must ensure that it receives sufficient input from all interested stakeholders, and, in particular, those entities that could be the subject of a Staff enforcement action.<sup>3</sup> CTIA notes that in other instances in which the Commission established a program aimed at enforcing compliance with its directives as well as applicable provisions of the Public Utilities Code, the Commission did so in a manner that ensured input from the affected industries.<sup>4</sup> CTIA encourages the Commission to engage in a substantially similar process here.<sup>5</sup>

Respectfully submitted:

/s/ Benjamin J. Aron

Benjamin J. Aron  
Director, State Regulatory and External Affairs  
CTIA

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<sup>3</sup> It appears that the Draft Policy was only served on the service list established by the Commission for notice of amendments to the Rules of Practice and Procedure. This does not constitute service aimed at reaching the entities that may be most impacted by the Draft Policy.

<sup>4</sup> See Resolution SED-3, *Establishes Citation Procedures for the Enforcement of Safety Regulations by the Safety and Enforcement Division (SED) Staff for violations of General Orders and other applicable Decisions, Codes, and Regulations Regarding Communications Facilities* (December 2, 2016) (adopted by the Commission after notice and comment in accord with Section 311 of the Public Utilities Code); Resolution T-17601, *Approval of a Citation Program To Enforce Compliance by Telecommunications Carriers With The Commission's Resolutions, Decisions, Orders, and The Public Utilities Code and Authorizes Staff To Issue Citations; Procedures For Appeal Of Citations* (June 22, 2018) (adopted by the Commission after notice and comment in accord with Section 311 of the Public Utilities Code).

<sup>5</sup> If the Enforcement Policy is implemented as outlined in the current draft, it would have the impact of a Commission decision and, therefore, requires notice and opportunity to comment pursuant to Public Utilities Code Section 311.