

**Consumer Action
Consumers Union
Privacy Rights Clearinghouse
Utility Consumers' Action Network
World Privacy Forum**

June 15, 2004

Sent by FAX: (916) 319-2131

Honorable Sarah Reyes
California State Assembly
State Capitol, Room 5136
Sacramento, CA 94249-0031

Re: Support AB 1733 -- Opt-In Wireless 411 Directory

Dear Assemblymember Reyes,

The California consumer organizations noted above, support your AB 1733.

California cell phone customers need to be able to control how their wireless phone number is used by others, especially because many must pay for incoming calls to their number. As such, an individual's cell phone number should *not* be added to a Wireless 411 Directory *unless* that person consents, in other words, unless they opt-in.

We are pleased that AB 1733 mandates the opt-in approach for both new customers *and* existing ones. That's as it should be. In addition to the opt-in provisions, we would ***strongly encourage*** you to amend the language of AB 1733 to include a prohibition for charging customers an extra fee for deciding not to be included in a Wireless 411 Directory.

Individuals are constantly battling the onslaught of "junk" mail and unsolicited commercial email ("spam") which occurs when marketers get access to their contact information. Consumers are concerned about this same trend occurring with their cell phone numbers.

Over the years, our organizations have been contacted by tens of thousands of Californians who wish they had more control over how their personal information is used by marketers and other third parties. The opt-in provision of AB 1733 is vitally important for stemming the tide of unwanted solicitations on cell phones.

Our organizations also have concerns about the wireless industry establishing a directory without oversight or accountability. Though the wireless industry claims that the directory will offer an opt-in for cell phone customers, our concerns about the wireless industry implementing and overseeing such a voluntary policy include the following:

- There is currently almost no federal regulation of the wireless industry and the Telecommunications Consumers Bill of Rights, recently adopted by the California Public Utilities Commission, does not address consumer privacy or issues related to a wireless directory. As a result, there is little recourse for individuals who might be harmed by being

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inadvertently listed in the wireless directory.

- Any standards established by the wireless industry on a voluntary basis can be changed and weakened at a later date, possibly without notice.
- The wireless industry states that its directory will maintain a strict opt-in standard and that consumers will not be charged if they do not want to be included. Yet, wireless contracts contain language that allows them to charge customers who do not want to be listed in the directory and mandate an opt-out mechanism rather than the suggested opt-in industry standard. These conflicts suggest that allowing the wireless industry to establish and implement voluntary standards may be difficult and problematic.

Because your AB 1733 requires that cell phone customers can only be listed in a wireless directory if they have provided express consent, we support this legislation.

Thank you.

Sincerely,

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Cc: Lenny Goldberg & Associates
Senator Debra Bowen, Chair
Senate Energy, Utilities and
Communications Committee