



Governor Mike Leavitt

When I accepted a seat on the Advisory Council on Electronic Commerce (ACEC) I did so with the expectation that I would be helping to create an environment that fosters innovation and technological advancement. Internet commerce, particularly the business-to-consumer end of it, has been one of the driving factors in the commercial revolution that continues to fuel our unprecedented economic prosperity.

The foundation of this environment is a level playing field for all. What I, and a majority of my fellow Commissioners, favored is really very basic – tax equity across all retail channels of distribution. No matter where a product is bought – over the Internet, in a store or through a catalogue – they should be taxed in an equitable manner.

A fair tax system should strive for neutrality, uniformity and simplicity. Moreover, government should keep the tax and administrative burden on business and consumers as low as possible. One of the most critical questions we all have to struggle with is whether the sales tax is or can be violable for this new century and new economy. Because, if it cannot be made to work in a fair and equitable manner, then the failure would have significant consequences for the future of state and local property and income taxes.

Media reports suggest that the Commission was wracked by dissension over this very serious issue. Quite the opposite was the case. A majority of my fellow Commissioners recognized the need for both a level playing field and for radical simplification of state sales tax systems.

The final vote to send this flawed report to Congress could not have been closer – 10 to 8 in favor. It highlights the important fact that had even one retailer been represented at the Commissioner level – the ACEC would have benefited from this knowledge and it is likely that consensus would have been reached.

Even still, we came very close to reasonable compromise. Under the alternative plan supported by at least eight Commissioners, states and localities agreed to undertake an extensive and comprehensive plan to simplify antiquated states sales and use tax systems in exchange for the clear right to collect these taxes.

The simplification process endorsed by these eight Commissioners presented the states and localities with enormous challenges. However, we believe this issue is vital – and we were and are willing to undertake the hard work needed to achieve much-needed

simplification procedures if the states are given the right to have remote sellers collect use taxes.

The requirements for a simplified sales and use tax system include, but are not limited to:

- Centralized, one-stop registration system
- Uniform tax base definitions
- Uniform, simple sourcing rules
- Uniform exemption administration rules (including a database of all exempt entities and removal of “good faith” acceptance rule)
- Appropriate protection of consumer privacy
- Methodology for certifying software used in the sale tax administration process for tax rate and taxability determinations
- Uniform bad debt rules
- Simplified, consistent tax returns and remittance forms
- Consistent electronic filing and remittance methods
- State administration of all state and local sales taxes
- Uniform audit procedures
- Reasonable compensation for remote sellers
- De minimis threshold below which small business remote sellers would not be required to collect use tax

To implement this streamlined sales tax system, we recommend that Congress enact legislation authorizing states to develop and enter into an Interstate Sales and Use Tax Compact by December 31, 2003. The legislation should provide that states joining the Compact will be required to adopt a simplified sales tax system addressing the criteria outlined above. States adopting the simplified system would be authorized to require remote sellers above the sales volume threshold to collect use tax on all taxable sales into a state. The legislation should also authorize a single use tax "collection" rate per state for remote sales with the revenues therefrom to be allocated proportionately among local governments. This authorization should offer states the option of employing a “blended” rate reflecting the weighted average of state and local rates across the state.

The legislation would provide that states joining the Compact would be required to work with appropriate parties to develop and adopt a simplified sales tax system, thereby removing all burdens on remote sellers. This proposal would allow states that have accomplished such a system to begin collecting use taxes on remote sales by January 1, 2004. For those states that do not chose to simplify their tax collection system, current law will apply. Beyond 2004 states that had either chosen not to simplify, or failed to meet the required criteria, by December 31, 2003 can opt into the system, commencing with any succeeding calendar year, by meeting the simplification standards set forth. Under the Compact, an independent third party, such as the General Accounting Office

(GAO), would need to verify for each state that they have met the standards set forth before they could commence to collect remote use tax. Congress and the National Governors Association should work together to select a mutually agreeable third party for this task of verification, and this independent verifier should be named in the legislation creating the Compact.

A level playing field and a ban of Internet access and discriminatory taxes is something that nearly all Commissioners agreed to. Yet it's interesting to note that those entities directly affected by this issue, namely, the states, localities, retailers, retail real estate and consumers support our proposal. While government was represented, the Commission excluded these other vital voices. I look forward to working with Congress to ensure that a proposal such as the one outlined above is enacted and that all who are impacted by this issue are fairly heard.