

Subj: ACEC: Perspectives of the E-Fairness Coalition
From: The E-Fairness Coalition, 202-789-2111
To: Internet Caucus Advisory Committee

The Failure of the Advisory Commission on Electronic Commerce (ACEC)

The Internet Tax Freedom Act appointed a Commission with 19 members to study and report back on the taxation of sales made over the Internet. The Commission failed to reach consensus, yet Virginia Governor James Gilmore, the Commission Chairman, is peddling a biased "Majority Report" that purports to represent the views of the Commission. The Gilmore Report violates the law that established the Commission, fails to level the playing field for the collection of sales taxes, and instead, promotes tax breaks for the businesses represented on the Commission.

"Majority Report" Violates the Law

- The Internet Tax Freedom Act clearly states, *"No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission."*
- Despite this black-and-white requirement, Chairman Gilmore is sending to Congress a report that was agreed to by only 10 of the 19 commissioners, clearly short of the 13 votes necessary to send a recommendation to Congress.

Bias in the Make-up of the ACEC

- Traditional brick and mortar retailers were not represented on the Commission. The six business representatives on the ACEC are from the high tech., telecommunications, and electronic commerce industries that benefit from subsidies for Internet sales.
- Governor Gilmore released his proposal to prohibit all sales and use taxes on Internet sales before the Commission had even heard from public witnesses. The Chairman was biased from the start.
- 46 Governors and the National Governors' Association support equal sales tax collection responsibilities for all retailers. Nonetheless, Gov. Gilmore used his ACEC leadership role to promote a permanent tax haven for Internet sales.
- Not surprisingly, the stacked ACEC "Majority Report" advocates an unlevel playing field for the collection of sales taxes where brick and mortar retailers are required to collect but online retailers are exempted.

Tax Breaks for Business Commissioners

- The press has criticized the six business members of the Commission for pursuing generous tax breaks instead of proposing a clear plan to level the playing field for sales tax collection.
- Instead of acting in the Nation's interest, the business commissioners acted in their corporate self-interest and received the following tax hand-outs which help specific industries:
 - "Nexus carve-outs" that allow businesses to form legally "separate" on-line subsidiaries that do not have to collect sales taxes.
 - A new loophole to exempt from taxation all "digitized goods" that can be sold in digital or tangible format (CD's, books, software, pornography, etc.).
 - Repeal of the 3 percent federal excise tax on telephone calls.
 - Exempt local affiliates of online companies from paying state income tax, as well as sales tax.

<p>The e-Fairness Coalition includes brick-and-mortar and online retailers, retail corporations and associations, publicly- and privately-owned shopping centers, outlet centers and independently owned shops. The coalition advocates fairness for businesses and consumers. It supports a level playing field that ensures consumers are treated fairly regardless of where they choose to shop.</p>
