



COMMONWEALTH of VIRGINIA

Office of the Governor

James S. Gilmore, III
Governor

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To The Congress of the United States:

I began work on the Commission with a firm belief that the Internet is a global tool of empowerment for citizens, consumers and entrepreneurs. The Internet represents the most transforming economic development since the industrial revolution and is responsible for the advent of a new Age of Opportunity for the American people.

I also was guided by the philosophy that no taxation should be presumed necessary. To the contrary, the presumption should favor the right of individual citizens to keep their own hard-earned money. Government must prove a tax is absolutely necessary for the provision of essential services before taxing a new realm of economic activity or human endeavor. Government has no right to expand tax burdens on Americans just because a similar commercial transaction is taxed. Government should take only what it needs to operate government and stop there.

I remained uncommitted through two meetings of the Commission and listened to both sides. In the end, my fundamental belief in the Internet to empower citizens as consumers and entrepreneurs and the failure of pro-tax advocates to demonstrate a real need for additional tax revenues led me to conclude that the Internet should remain tax free.

According to evidence presented to the Commission, the Internet is driving America's economic boom – creating new jobs, increasing productivity and efficiencies in every sector of the economy, and generating new wealth in America. The Internet economy is not just facilitating commerce – it is *creating new commerce*. As a result, government tax coffers are full with tax surpluses at all levels. In short, pro-tax advocates failed to prove their case for expanding taxation to additional commercial realms.

Pro-tax advocates attempted to justify expanded tax burdens on American citizens and businesses by what was euphemistically called “fairness” between “brick and mortar” storefront retailers, “click and mortar” retailers, and pure Internet-based retailers. This argument presumed, however, that the American people should automatically pay more taxes simply to minimize market distortions created by tax treatment of interstate commerce. When pro-tax advocates were asked to keep the playing field level for taxpayers by reducing other taxes to compensate for additional taxes on electronic

commerce, they steadfastly rejected “revenue neutrality.” When they were asked to propose a “burdenless” tax collection system, they presented only a “concept paper.” The point was clear that, to them, “tax fairness” means all citizens pay more taxes – not that collection and compliance burdens are reduced for any retailer in America.

Similarly, according to evidence presented to the Commission, “brick and mortar” retail is not suffering losses at the cash register. Retail sales, like tax revenues, have increased substantially each year for the last decade, especially during the Christmas season of 1999 – known as the first “Internet Christmas.” The Commission received credible evidence showing that commerce is shifting from catalogues to the Internet, that the Internet is generating new purchases that otherwise would not have occurred, and that many people browse on the Internet and then purchase in a local store where they experience immediate tactile benefits.

For large corporations, tax collections for multiple states are burdensome and expensive but manageable with the investment of significant administrative resources. For small businesses, however, compliance costs and administrative burdens associated with thousands of tax jurisdictions can be crippling, forcing a Hobson’s choice—limit potential markets to those in their home jurisdiction or close their doors. This is not tax fairness or a level playing field. In my opinion, the only practical way to achieve “fairness” in the marketplace is to update nexus standards to permit large national retailers that adopt “click and mortar” business models to compete against other Internet retailers in a tax-free zone.

Moreover, pro-tax advocates have authority to assume the burdens of tax collection by directly collecting use taxes from their citizens if they are concerned about market distortions, but they have made little or no effort to enforce use taxes for decades. Government has been more interested in imposing greater burdens on private businesses than it has been willing to assume itself. As a result, use tax collections from consumers make up an insignificant portion of state budgets.

My own view is that no sales or use taxes should be imposed on interstate business-to-consumer transactions. This balanced approach would preserve the sales tax within states and on business-to-business Internet transactions, while maximizing the tax freedom of individual people. This policy would encourage expansion of electronic commerce specifically and the U.S. economy generally, thereby producing net increases in tax revenues to government at all levels. This approach would decriminalize millions of Americans participating in electronic commerce.

I proposed this idea during Commission discussions. It did not spark wide interest, in my opinion, because of the ideological determination by state and local government representatives to leave all avenues of taxation open.

This Report declares that any consideration of expanded sales and use taxes to interstate commerce is premature at this time and not inevitable. While some people on this Commission wished to trade simplification of sales tax systems for the right to expand sales taxes to all Internet transactions, I oppose expanded taxation of the American people under any circumstances. Tax simplification is a policy objective in its own right. Accordingly, I support sales tax simplification and oppose extension of sales taxes to the Internet.

America's response to the Internet revolution should NOT be to tax it or the people – the individual taxpayers, consumers and small businesses – who have been empowered by it. The history of the 20th Century was about bigger government built at the expense of hardworking people. But the 21st Century offers the promise of smaller, more efficient government and a proportionate increase in the economic freedom and liberty of individual people who are permitted to keep more of their own money. The certain and quantifiable value of these tax savings in the lives of working men and women and their families guides my beliefs.

It has been my high honor to serve the people of the United States as a Commissioner and Chairman of the Advisory Commission on Electronic Commerce. It is my fervent hope that the ideas generated by this Commission will leave a lasting legacy on a new way of thinking about the New Economy and lay the philosophical foundation for a new paradigm for a new century in America.

Very truly yours,

A handwritten signature in black ink, reading "James S. Gilmore, III". The signature is fluid and cursive, with a large, stylized flourish at the end.

James S. Gilmore, III
Governor of Virginia