



February 21, 2013

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Dear FreedomWorks member,

As one of our millions of FreedomWorks members nationwide, I urge you to contact your Senators and urge them to oppose S. 336, the Marketplace Fairness Act. Introduced by Senator Michael Enzi (R-WY), this bill would require online retailers to collect sales taxes when shipping to states in which they have no physical presence.

The judicial precedent set by *Quill Corp v. North Dakota* (1992), as well as the anti-discrimination requirement in the Commerce Clause of the Constitution, raises significant questions with respect to the constitutional validity of the bill, and there is a concern that to require a business to pay taxes in a state where it has no physical presence would be an instance of taxation without representation.

Apart from constitutional concerns, the bill would impose a substantial administrative burden on out-of-state retailers, requiring them to keep track of the requirements of thousands of different tax municipalities, while brick and mortar stores have only to keep track of one set of rules. Online retailers are already faced with the cost of shipping their merchandise, and the disadvantage that customers must wait several days before delivery. It is our view that the imposition of a further tax on these businesses serves less to eliminate unfair competition, and more to promote special interests and protect them from the business models of their more efficient competitors.

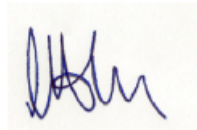
Furthermore, as a greater number of retailers embrace new technologies, the line between brick and mortar stores and those focused on remote sales has become increasingly blurred. It is not clear how imposing an onerous new requirement on online retailers makes the marketplace fairer with respect to those who also operate in physical locations.

It is our fear that allowing states to collect sales taxes from remote sellers undermines the ability of the states to compete with one another on questions of fiscal policy, and indeed the original purpose of a fiscally federalist government, namely that states act as laboratories to separate those policies which are successful at fostering economic growth from those that fail.

Any increase in the taxation requirements of online retailers will retard economic growth and harm those businesses which have done the most to innovate over the past two decades. In the midst of recovery from a painful and protracted recession, it would be a mistake to enact policies that will reduce consumer spending and impose new regulatory requirements on businesses responsible for creating American jobs.

I urge you to contact your Senators and ask them to take a principled stance against special interest protectionism by opposing the Marketplace Fairness Act, S. 336.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MK', is placed on a light-colored rectangular background.

Matt Kibbe
President and CEO
FreedomWorks