

Retailers employ crony capitalism in push for online sales tax

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The Retail Industry Leaders Association (RILA) has written a [letter](#) [1] to Congress urging them to pass the [Marketplace Fairness Act](#) [2] by the end of the year. This "e-fairness legislation" would allegedly "close the decades-old loophole enjoyed by online-only retailers" and "restore free market principles."

The bill — and attendant controversy — concerns the Commerce Clause and its application to the Internet. If a retailer (or online seller, as it were) has a physical presence in the state they do business in, the law requires them to collect sales tax. Otherwise, inter-state commerce is exempt. Because so much of e-commerce is interstate, this exemption allegedly gives online sellers an advantage over their physical cousins.

Sandy Kennedy, president of the Retail Industry Leaders Association, [said](#) [3] that "Because of a loophole that predates the Internet itself, online giants like Amazon.com are not required to collect state sales tax at the point of purchase the way their Main Street competitors do."

Online consumers still owe this tax - and are required to report it on their own - but few comply.

The Marketplace Fairness Act would close this "loophole" and give America's retailers the opportunity to "compete in a free market on a level playing field."

Obviously, the brick-and-mortar shops stand behind the Marketplace Fairness Act. But I was surprised to find that Consumer Electronics Association (CEA) Chairman Gary Shapiro — normally a very pragmatic, reasonable fellow — has come out in support of it.

Shapiro wrote the best-selling book, *The Comeback: How Innovation Will Restore the American Dream*, which expended long and glorious prose in support of technological innovation. He also [opposed](#) [4] the PROTECT IP Act (PIPA) and the Stop Online Piracy Act (SOPA), both of which could have the same net effect (no pun

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intended) as the Marketplace Fairness Act - to stifle innovation and handicap a burgeoning industry.

Referring to the status quo, Shapiro noted that "The result of this convoluted system is different rules for different retailers, and an uneven playing field in the economy-driving retail sector."

"The federal government has a role in regulating commerce by ensuring that out-of-state sellers are not favored over brick-and-mortar, in-state sellers," he said.

Kennedy concurs: "Government shouldn't be picking favorites, and needs to take its thumb off the scale and give every business a fair shot."

The consensus seems to be that the Marketplace Fairness Act would "level the playing field" and force e-commerce to comply with free-market principles.

But was it not the free-market that commercialized the Internet — heretofore the ARPANET — and drew out its principle benefits - namely, its convenience and immunity from burdensome (and in many states, *outrageous*) sales taxes. Doesn't innovation — at its core - take advantage of new technologies and force the gradual obsolescence of legacy technologies?

Moreover, and as has been point out, the rules and regulations governing interstate commerce have existed long before the internet. The government didn't enact the existing arrangement to benefit e-commerce and - other than allowing the status quo to continue - hasn't picked any favorites.

The Marketplace Fairness Act seems like it would *artificially* level the playing field. Instead of shoring up their own business, they seek regulation to handicap the competition. In this editor's humble opinion, that seems like *crony capitalism*.

What do you think? Does e-commerce have an unfair advantage over brick-and-mortar, violating free-market principles? Does this "loophole" need correction? Or do innovative technologies which — by virtue of their innovation — displace older technologies follow the letter of spirit of the free markets? Leave your thoughts below.

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Links:

- [1] <http://www.rila.org/email/FinalHillLetterMSFLameDuck.pdf>
- [2] http://en.wikipedia.org/wiki/Marketplace_Fairness_Act
- [3] <http://www.usnews.com/debate-club/should-states-be-able-to-collect-sales-tax-on-goods-sold-online/closing-online-tax-loophole-will-level-the-playing-field>
- [4] <http://www.huffingtonpost.com/gary-shapiro/oppose-pipa-and->

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