

Online sales tax is immoral, runs contrary to the free markets

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The central fallacy with crony capitalism is that it ignores the invisible hand of the free marketplace. This is precisely what the Retail Industry Leaders Association (RILA) is doing with their support for "e-fairness" legislation (i.e., an Internet sales tax).

According to their press release, RILA distributed copies of the [Retail Industry Leaders Association 2013 Public Policy Agenda: Empowering Retailers and Consumers to Grow the Economy](#) [1] today [February 5] to congressional offices.

Among other initiatives, it highlights "e-fairness" as a top priority:

"Level the playing field for Main Street retailers and give states the right to enforce their sales tax laws online."

"Level the playing field" is a transparent euphemism for federal legislation that monkeys with the natural ebb and flow of the free markets. Any time a politician or trade group spits out that phrase, you should be worried.

But it's worth asking: Is it moral to "level" any sort of playing field?

The brick-and-mortar club is in a tizzy over the "competitive advantage" enjoyed by e-commerce, whereby online sellers aren't required to collect sales tax unless the business has a physical presence in the same state as the buyer.

RILA's Public Policy Agenda notes the following:

"The fundamental lack of fairness governing sales tax collection puts Main Street retailers at a competitive disadvantage to their online-only competitors. Specifically, out of state online retailers are often exempted from collecting and remitting the sales tax owed on purchases made online, resulting in a perceived price

advantage."

Coming from a frequent patron of e-commerce, I can affirm that the "perceived price advantage" stretches far beyond taxes. Reduced overhead often enables a healthy online discount. But I digress.

The legality of this "competitive disadvantage" is not in dispute. In [Quill Corp. v. North Dakota](#) [2], 504 U.S. 298 (1992), the Supreme Court ruled that states may only collect a use tax from businesses if that business has a physical presence in the state.

As such, the Court referenced [National Bellas Hess v. Department of Revenue](#) [3], 386 U.S. 753, 87 S.Ct. 1389 (1967), which noted that "a seller whose only connection with customers in the State is by common carrier or the United States mail" lacked the requisite minimum contacts with the State.

National Bellas Hess was a mail-order service, the prerequisite to the Internet (insofar as interstate commerce is concerned).

It's worth noting that we're discussing a case from 1967, long before the Internet became the e-commerce juggernaut it is today. In other words, no one used the power of the federal government to lobby for legislation favorable to the Internet. Rather, the pioneers who exploited the potential of the Web simply took advantage of new technologies.

For those living under a rock, the Internet does more than dodge sales taxes. It also connects the world community, and the businesses who've established virtual bases of operations tout the convenience factor endemic to *not* having to drive to Main Street.

Instead of shoring up their own natural disadvantages (which may signal a paradigm shift), brick and mortars want to handcuff their competition through artificial means (i.e., the federal government).

There's a reason why digital media has exploded in popularity, and it's not just because of taxes (or lack thereof). New mediums and successful businesses always keep a sharp focus on the bottom line and exploit inefficiencies and burgeoning technologies. So, just as retail outsources production overseas to save on labor costs, e-commerce exploits pre-existing interstate commerce regulations (among many natural advantages).

The answer to perceived disadvantages — real or imagined — isn't to legislate your competition into some perceived "level" playing field. This can only serve to handicap new technologies and stifle innovation.

Let the free markets run their course.

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[1] <http://grcdirect.ipaperus.com/RILA/RILAEmpoweringRetailersandConsumerstoGrowtheEconomy/>

[2] <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=504&invol=298>

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