

The NetChoice Coalition

Promoting Convenience, Choice, and Commerce on The Net

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April 13, 2010

Governor Brad Henry
State Capitol Building
2300 N. Lincoln Blvd., Room 212
Oklahoma City, OK 73105

RE: **Opposition to tax on digital downloads (as included in proposed budget)**

Dear Governor Henry:

We write to respectfully oppose Oklahoma's proposal to add a new sales tax on digital goods. Oklahoma's proposed budget for 2011 includes a new tax on certain digital products that will harm the growth of online businesses located in Oklahoma.

Now is a critical point in the evolution of e-commerce and internet content distribution. Online companies are experimenting with new ways to deliver information, services, and content, and businesses of all kinds are going online to reach consumers and advertise to receptive audiences.

At the same time, state governments are looking online for additional revenue, including taxing digital products. However, New York and other states have recently concluded that the negatives outweighed any benefits of such a tax, and rejected efforts to tax digital goods.

Likewise, we believe that Oklahoma should conclude that this tax proposal will negatively impact the state. It will penalize the environmental benefits of digitally delivered goods and discourage economic development and job creation among Internet companies.

This tax will also burden the environment by causing consumers to slow their growing shift from physical goods to digital alternatives. Oklahoma's residents will log more miles in their cars to buy physical products whose raw inputs and carbon outputs contribute to global warming.

A digital download is the greenest way to buy music, movies, books, and software. Downloading requires no driving to the store, no delivery vans, and no plastics or packaging. When a consumer downloads a CD's worth of music, her carbon footprint is only 1.3lbs. But if she were to drive to a store and buy a physical CD, she'd use up almost three times the amount of natural resources.

According to the Recording Industry Association of America, in 2007 nearly 100 million full albums' worth of music was digitally downloaded by Americans. In 2007 alone, more than 200 million pounds of natural resources were saved by US consumers buying music digitally instead of driving to the store for a CD. This works out to more than 380 pounds of natural resources every minute.

Oklahoma's leaders should instead be identifying ways to encourage the environmental benefits realized when consumers use digital delivery instead of driving to a store for a tangible item that had to be produced and packaged.

While a digital goods tax is bad for the environment, it would also extend the long arm of government to the long tail of online commerce. As an example, independent music artists are increasing bypassing traditional music distribution methods and are instead using Internet websites to sell their own creative works. A tax on digital downloads turns artists into tax collectors, and impairs their ability to survive in today's tough economy.

Furthermore, under current law, out-of-state businesses would not be required to collect sales tax on digital downloads sold to Oklahoma consumers, which places in-state sellers at a disadvantage. A tax on digital downloads would place new burdens on Oklahoma's small businesses, who would be forced to implement costly new systems to calculate, collect and remit sales taxes.

Oklahoma should instead exempt digital goods from taxation. North Dakota and Wyoming passed legislation doing just that, largely to create an advantage for economic development purposes. But if a state with Oklahoma's commitment to environmental sustainability were to introduce similar legislation, it would send a strong positive message about the benefits of eco-commerce.

We urge you to reconsider the proposal to tax digital goods, and thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco
Executive Director

NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. NetChoice members include AOL, eBay, the Electronic Retailing Association, IAC, News Corporation, Overstock.com, VeriSign, Yahoo! and others. More information about NetChoice can be found at www.netchoice.org.