View from the States

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The internet and e-commerce continue to provoke intense discussion as to how this form of commercial communication fits into the overall American economy. This debate is at bottom a policy debate. The discussion is less about absolute truths than about what policy objective is to be selected by all the actors in this process: the federal government, state governments and businesses engaged in the internet, or in competition with it.

This debate is as new as the advent of the commercial internet itself, but is not entirely new. The Internet Tax Freedom Act (ITFA) was introduced in Congress in March 1997, to place a moratorium on new taxes on electronic commerce. While it was signed into law in October of 1998, Congress was not entirely comfortable that they understood all of the policy implications of that act, so they included the formation of the Advisory Commission on Electronic Commerce. I chaired that commission, which carried on a raging debate for one year, and produced a report on April 12 of 2000. That debate contained many of the policy debates going on right now, including in this conference sponsored by the Federal Trade Commission.

The relevant actors must choose the policy which they believe best serves the public, and then manage regulation to effectuate that policy. How is the public best served; by maximum competition, lower barriers to entry, more choice and lower prices? Or is the public best served by ensuring a "level playing field", equality for all actors, preservation of existing industry and jobs and methods of doing business? Whatever policy is chosen or crafted, I am confident that competent managers can create a regulatory system to achieve the selected policy goal. There may be no objective correct answers, only policy choices based on values.

The states often assert very legitimate policy concerns and goals they seek through regulation - temperance in alcohol sales, protection from unscrupulous internet business not subject to state control, preservation of the state sales tax base, among others. Others in government believe that a state is best served by the growth of e-commerce as unfettered as possible. Some argue that the state is best served by the jobs and revenue generated by the industry, and by the choices afforded to the consumers to conduct transactions without taxation, thus benefiting the quality of life of their families. Already established companies in states fear competition from the internet which requires less fixed costs and overhead. These firms and industries have great influence over elected officials who care about existing jobs in their districts, and want to stay on the good side of potential contributors to their re-election campaigns. E-commerce often takes on the aspect of a struggle to maintain the status quo in the economy versus new methods that might show a better way to empower and enrich consumers, and to offer them an additional choice of how to do business.

I believe these different methods of commerce can live together, and even enhance each other, but we should resist the notion that laws and regulations must apply identically to both, because bricks and mortar commerce and e-commerce are not the same - they are not simply two ways of doing the same activity. While e-commerce offers ease of obtaining information, it has offsetting deficiencies as a commercial vehicle. Consumers clearly like to visit stores, shop, see, touch and feel the merchandise. They still like bookstores, and the immediacy of purchase and taking home the product. Fear that e-commerce is so powerful that it may overwhelm existing businesses or destroy the tax base may be overblown. The FTC reported that second quarter e-commerce sales increased 24.2% compared to the second quarter of 2001, but it should be noted that e-commerce still represents only 1.2% of all retail sales, down slightly from the percentage in the 1st quarter of 2002.

The economy of the U.S. and the world constantly evolves. Methods that work persist, and those that don't disappear. Ultimately this flexibility of the free market is what best sparks innovation, and best benefits consumers. The buggy whip industry died, and the auto industry emerged – bad luck for the buggy whip industry. If the internet provides a true competitive advantage, maybe it's time for another economic evolution to benefit the public. In this instance I suspect that a hybrid of "clicks and mortar" will prove to be the best method of commerce – a blend of internet sales, supplementing and enhancing brick and mortar stores.

Maximum freedom of opportunity to try new economic models, without undue barriers and regulations is the best way to allow commercial innovation. This will lead to better policy choices, and a better quality of life for people everywhere.