

105TH CONGRESS
1ST SESSION

H. R. 1054

To amend the Communications Act of 1934 to establish a national policy against State and local interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1997

Mr. COX of California (for himself and Mr. WHITE) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Communications Act of 1934 to establish a national policy against State and local interference with interstate commerce on the Internet or interactive computer services, and to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Tax Freedom
3 Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) As a massive global network spanning not
7 only State but international borders, the Internet is
8 inherently a matter of interstate and foreign com-
9 merce within the jurisdiction of the United States
10 Congress under Article I, Section 8 of the United
11 States Constitution.

12 (2) Even within the United States, the Internet
13 does not respect State lines and operates independ-
14 ently of State boundaries. Addresses on the Internet
15 are designed to be geographically indifferent.
16 Internet transmissions are insensitive to physical
17 distance and can have multiple geographical address-
18 es.

19 (3) Because transmissions over the Internet are
20 made through packet-switching, it is impossible to
21 determine with any degree of certainty the precise
22 geographic route or endpoints of specific Internet
23 transmissions, and infeasible to separate intrastate
24 from interstate, and domestic from foreign, Internet
25 transmissions.

1 (4) Inconsistent and unadministrable taxes im-
2 posed on Internet activity by State and local govern-
3 ments threaten not only to subject consumers, busi-
4 nesses, and other users engaged in interstate and
5 foreign commerce to multiple, confusing, and bur-
6 densome taxation, but also to restrict the growth
7 and continued technological maturation of the
8 Internet itself, and to call into question the contin-
9 ued viability of this dynamic medium.

10 (5) Because the tax laws and regulations of so
11 many jurisdictions were established before the
12 Internet or interactive computer services, their appli-
13 cation to this new medium in unintended and unpre-
14 dictable ways threatens every Internet user, access
15 provider, vendor, and interactive computer service
16 provider.

17 (6) The electronic marketplace of services,
18 products, and ideas available through the Internet or
19 interactive computer services can be especially bene-
20 ficial to senior citizens, the physically challenged,
21 citizens in rural areas, and small businesses. It also
22 offers a variety of uses and benefits for educational
23 institutions and charitable organizations.

24 (7) Consumers, businesses, and others engaging
25 in interstate and foreign commerce through the

1 Internet or interactive computer services could be-
2 come subject to more than 30,000 separate taxing
3 jurisdictions in the United States alone.

4 (8) The consistent and coherent national policy
5 regarding taxation of Internet activity that is needed
6 to avoid burdening this evolving form of interstate
7 and foreign commerce can best be achieved by the
8 United States exercising its authority under Article
9 I, Section 8, Clause 3 of the United States Constitu-
10 tion.

11 **SEC. 3. MORATORIUM ON IMPOSITION OF TAXES ON**
12 **INTERNET OR INTERACTIVE COMPUTER**
13 **SERVICES.**

14 (a) MORATORIUM.—Except as otherwise provided in
15 this section, no State or local government (including any
16 political subdivision) may impose, assess, or attempt to
17 collect any tax or fee directly or indirectly on—

18 (1) the Internet or interactive computer serv-
19 ices; or

20 (2) the use of the Internet or interactive com-
21 puter services.

22 (b) PRESERVATION OF STATE AND LOCAL TAXING
23 AUTHORITY.—Subsection (a)—

1 (1) does not apply to taxes imposed on and
2 measured by net income derived from the Internet or
3 interactive computer services;

4 (2) does not apply to fairly apportioned busi-
5 ness license taxes applied to businesses that have a
6 business location in the taxing jurisdiction, and

7 (3) does not affect the authority of a State, or
8 political subdivision thereof, to impose a sales or use
9 tax on sales or other transactions effected by use of
10 the Internet or interactive computer services if—

11 (A) the tax is the same as the tax imposed
12 and collected by that State, or political subdivi-
13 sion thereof, on sales or interstate transactions
14 effected by mail order, telephone, or other re-
15 mote means within its taxing jurisdiction; and

16 (B) the obligation to collect the tax from
17 sales or other transactions effected by use of
18 the Internet or interactive computer services is
19 imposed on the same person or entity as in the
20 case of sales or transactions effected by mail
21 order, telephone, or other remote means.

22 **SEC. 4. ADMINISTRATION POLICY RECOMMENDATIONS TO**
23 **CONGRESS.**

24 (a) CONSULTATIVE GROUP.—The Secretaries of the
25 Treasury, Commerce, or State, in consultation with appro-

1 p r i a t e c o m m i t t e e s o f t h e C o n g r e s s , c o n s u m e r a n d b u s i n e s s
2 g r o u p s , S t a t e s a n d p o l i t i c a l s u b d i v i s i o n s t h e r e o f , a n d o t h e r
3 a p p r o p r i a t e g r o u p s , s h a l l—

4 (1) u n d e r t a k e a n e x a m i n a t i o n o f U n i t e d S t a t e s
5 d o m e s t i c a n d i n t e r n a t i o n a l t a x a t i o n o f t h e I n t e r n e t
6 a n d i n t e r a c t i v e c o m p u t e r s e r v i c e s , a s w e l l a s c o m -
7 m e r c e c o n d u c t e d t h e r e o n ; a n d

8 (2) j o i n t l y s u b m i t a p p r o p r i a t e p o l i c y r e c -
9 o m m e n d a t i o n s c o n c e r n i n g U n i t e d S t a t e s d o m e s t i c
10 a n d f o r e i g n p o l i c i e s t o w a r d t a x a t i o n o f t h e I n t e r n e t
11 a n d i n t e r a c t i v e c o m p u t e r s e r v i c e s , i f a n y , t o t h e
12 P r e s i d e n t w i t h i n 18 m o n t h s a f t e r t h e d a t e o f e n a c t -
13 m e n t o f t h i s A c t .

14 (b) P R E S I D E N T . — N o t l a t e r t h a n 2 y e a r s a f t e r t h e
15 d a t e o f e n a c t m e n t o f t h i s A c t , t h e P r e s i d e n t s h a l l t r a n s m i t
16 t o t h e a p p r o p r i a t e c o m m i t t e e s o f C o n g r e s s p o l i c y r e c -
17 o m m e n d a t i o n s o n t h e t a x a t i o n o f s a l e s a n d o t h e r t r a n s -
18 a c t i o n s e f f e c t e d o n t h e I n t e r n e t o r t h r o u g h i n t e r a c t i v e
19 c o m p u t e r s e r v i c e s .

20 (c) R E C O M M E N D A T I O N S T O B E C O N S I S T E N T W I T H
21 T E L E C O M M U N I C A T I O N S A C T O F 1996 P O L I C Y S T A T E -
22 M E N T . — T h e S e c r e t a r i e s a n d t h e P r e s i d e n t s h a l l t a k e c a r e
23 t o e n s u r e t h a t a n y s u c h p o l i c y r e c o m m e n d a t i o n s a r e f u l l y
24 c o n s i s t e n t w i t h t h e p o l i c y s e t f o r t h i n p a r a g r a p h s (1) a n d

1 (2) of section 230(b) of the Communications Act of 1934
2 (47 U.S.C. 230(b)).

3 **SEC. 5. BAN ON REGULATION OF INTERNET PRICES BY THE**
4 **FEDERAL COMMUNICATIONS COMMISSION.**

5 (a) PROHIBITION ON COMMISSION REGULATION OF
6 COMPUTER SERVICES.—Section 230 of the Communica-
7 tions Act of 1934 (47 U.S.C. 230) is amended—

8 (1) by redesignating subsections (d) and (e) as
9 subsections (e) and (f), respectively; and

10 (2) by inserting after subsection (c) the follow-
11 ing new subsection:

12 “(d) PROHIBITION ON COMMISSION REGULATION OF
13 COMPUTER SERVICES.—The Commission shall have no
14 authority or jurisdiction under this Act, nor shall any
15 State commission have any authority or jurisdiction, to
16 regulate the prices or charges paid by subscribers for
17 interactive computer services, or information services
18 transmitted through the Internet, except for the require-
19 ment in section 254(h) that such services be provided at
20 affordable rates to rural health care providers, schools,
21 and libraries.”.

22 (b) CONFORMING AMENDMENT.—Section 223(h)(2)
23 of the Communications Act of 1934 (47 U.S.C. 223(h)(2))
24 is amended by striking “230(e)(2)” and inserting
25 “230(f)(2)”.

1 **SEC. 6. DECLARATION THAT THE INTERNET BE FREE OF**
2 **FOREIGN TARIFFS, TRADE BARRIERS, AND**
3 **OTHER RESTRICTIONS.**

4 It is the sense of the Congress that the President
5 should seek bilateral and multilateral agreements through
6 the World Trade Organization, the Organization for Eco-
7 nomic Cooperation and Development, the Asia Pacific
8 Economic Cooperation Council, or other appropriate inter-
9 national fora to establish activity on the Internet and
10 interactive computer services is free from tariff and tax-
11 ation.

12 **SEC. 7. DEFINITIONS.**

13 For purposes of this Act—

14 (1) **INTERNET; INTERACTIVE COMPUTER SERV-**
15 **ICE.**—The terms “Internet” and “interactive com-
16 puter service” have the meaning given such terms by
17 paragraphs (1) and (2), respectively, of section
18 230(e) of the Communications Act of 1934 (47
19 U.S.C. 230(e)).

20 (2) **TAX.**—The term “tax” includes any tax, li-
21 cense, or fee that is imposed by any governmental
22 entity and the imposition on the seller of an obliga-
23 tion to collect and remit a tax imposed on the buyer.

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