

## WRITTEN TESTIMONY OF GARY IMIG

### Subcommittee on International Trade of the Committee on Finance

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It is an honor to submit my testimony in regard to internet taxation to this Subcommittee on International Trade.

I am Gary Imig, Executive Vice President of Sierra Trading Post, Inc. Sierra Trading Post is a 20 year old direct marketing company, founded in 1986 by Keith and Roberta Richardson. We currently employ 800 people in three separate locations in Wyoming and Nevada. We have close to three million customers across the U.S. We also sell our products in several foreign countries. We will mail approximately 60 million catalogs this year. Our website, on average, gets close to 75,000 unique visitors per day, and our revenue from the website ranks us as the 75<sup>th</sup> largest retail website by revenue in the *Internet Retailer Top 500 Guide*. And even with all of this, we are a very typical mid-range small business.

I feel that it is very important for me to be here today to present my testimony to help protect and nurture the direct marketing industry, an industry that I deeply care about. When I refer to the direct marketing industry, I am referring to both sales through a catalog and sales through the web. These two areas have blended so much over the last several years that they have become one in many ways. I believe the direct marketing industry is one of the last truly great industries that encourages entrepreneurial risk taking. The evolution of the internet, in conjunction with catalog mailings, has allowed many undercapitalized, entrepreneurial people with good ideas to form companies. The good thing about these startups is that they can happen anywhere, on the farms of Kansas to the

inner city neighborhoods of Detroit. The internet has allowed many of these companies to compete with much larger companies on a level playing field. The creativity and imagination currently coming out of our industry is breathtaking. Almost daily, Sierra Trading Post is reinventing the way we sell to our customers. It is a very exciting time, but also a very dangerous time. Many new direct marketing startups occur every day. Sadly, many also cease to exist every day.

Several years ago I had the pleasure of listening to a speech that Mike Sullivan, then Governor of the State of Wyoming, gave to a group that I was a part of. This was right after he had finished his two terms as Governor. He talked about the “Homogenization of America.” He and his wife had recently taken some time off to travel America, and he was shocked at how different areas of the country looked so much the same. From the interstates, everything looked eerily similar. Of course, there was always a McDonalds. Also, there was always a Wal-Mart around the corner. All the usual examples were there. There were grocery store chains, fast food chains, shoe store chains, and discount store chains. There were chain stores for everything. Mike wondered what had happened to the uniqueness of America. I agree with him. America did not become great, and its economy did not become great, by being the same. This uniqueness is what I believe our industry offers the consumer. Our entrepreneurial thoughts encourage freshness and creative product offerings. We would not exist as companies if we could not somehow differentiate ourselves from the behemoths that occupy the consumer retail space. Sierra Trading Post could never compete with a Wal-Mart or a Target. Sierra Trading Post competes by how we service our customer, the uniqueness of our product offerings, and our low cost direct marketing structure.

This entrepreneurial explosion in the direct marketing business and on the web has not been lost on entrenched consumer retail forces. All of a sudden, large retail

chains, which have squeezed their markets to the point where small business can no longer compete against them for the retail consumer, are now faced with a whole set of new competitors. These competitors are quicker and more flexible. They take care of their customer better, and in a lot of ways, pay much better attention to the needs of their customers. And these new, quicker competitors have begun to take market share from these retailers.

## **SO HOW DID THESE RETAIL FORCES REACT TO THIS NEW COMPETITOR?**

I submit to you that my being here in front of this committee is one of the results of how big retail and its allies felt they needed to address this competitor. The statement that is always made by the retail industry is, “You need to level the playing field. Make them charge taxes like we do.” Of course, what these interests don’t mention is that we charge shipping, which in most instances is greater than sales tax. We don’t have a competitive advantage in this area, and they know it. They know that if we have to charge sales tax up front, we will probably have to cut our shipping charges to make our offerings attractive to the customer. And in this day and age of ever rising fuel charges and postal rates, this will substantially impact our bottom line. This could also have a significant impact on new startups in our industry and overall growth. They know this, and that is why they are pushing it.

There is one significant fallacy in this debate about internet taxation. Many people think that the players in this debate are very large companies. If you look at the top 500 retail websites in the U.S., you will see very quickly that this is not true. This might be true with the top 50 sites, but after the top 50 sites, you start getting into typical small business territory. If it is not a small business, then it probably is

a company that not only has a website, but a lot of retail locations already paying sales tax. A look at the top 50 sites would include such companies as Office Depot, Staples, Office Max, Sears, Kmart, Best Buy, Wal-Mart, J.C. Penney, Target, etc. All of these entities are probably paying sales tax because of their physical locations. It is very important to keep in mind when anyone starts talking about internet taxation and its effect, they're not talking about big business. Make no mistake, this is about small business; this is about the creativity of small business and the development of jobs in small business. In fact, the 500<sup>th</sup> largest retail website on the *Internet Retailer Top 500 Retail Websites* list has only three million in sales from the web.

## **SO, HOW DO WE ADDRESS THE ISSUE THAT IS BEFORE US TODAY?**

First and foremost, I would suggest caution. This is not just about sales tax leakage. In fact, in my opinion, the leakage is overstated. If you eliminate the players from the debate that are large retailers or very large web pure plays (like Amazon and Ebay), that leaves about 15 to 20 billion dollars in sales a year generated by the remaining top 500 retail websites. This seems like a lot, but in my opinion it adds up to about a billion dollars per year in sales tax revenue leakage. Dividing this up between all the U.S. tax authorities does not give much to each.

Instead, this discussion and issue is about small business. It is about maturing small entrepreneurial startups. This discussion is about recognizing that we want unique offerings for consumers, not the homogenized offerings we, as a country, are quickly rushing toward. This is about job creation. It is about creating jobs in areas where new job creation is hard to do. Sierra Trading Post is a good example of this. We have created 500 new jobs over the last 14 years in Cheyenne,

Wyoming. We have added 150 new jobs in Cody, Wyoming. Remember, this industry levels the playing field; this industry allows somebody with a bright idea and very little money to get in the game. This drives big business crazy. Finally, this discussion is about a still fledgling industry. Direct marketing, and especially selling over the web, is still in its formative stages. Don't let people kid you. Selling over the web is not close to maturing. It has a bright future, but perils abound. Significant additional financial and governmental red tape and roadblocks will dampen this entrepreneurial engine. I would not like to see this happen, and I don't believe you would either.

## **SO, WHAT WOULD I RECOMMEND?**

My recommendations on this issue are twofold. I believe the concept of Nexus is paramount. If an entity has a physical presence in a state, then I believe that entity needs to collect sales tax in that state. Sierra Trading Post religiously adheres to that concept. I believe Nexus should be strictly enforced and defined further, if necessary. This philosophy predates the web and has worked well for years with the catalog direct marketing industry. Secondly, I believe that we, as an industry, need to quit playing shell games. Nexus is Nexus. Setting up operations in separate companies, holding companies, etc. does not negate Nexus. We need to be honest in this.

I know there is a significant rush toward tax simplification in an effort to tax internet sales. There is a lot of pressure on this committee and this body to address these issues. Many governmental entities are clamoring for you to address this. This is all being done in the guise of fairness and the belief that there is leakage of tax revenue. I would urge you to be very cautious, however, before you rush into a tax program. As already mentioned in this discussion, in my opinion this isn't

about fairness or leakage. It is about small business and job creation. I'm afraid that people will rush to grab the gold ring of internet taxation, and when they grab it, discover the ring is not gold but dust because of the burden of implementing, managing, and collecting this tax revenue. And this more burdened taxation structure, I'm afraid, will also result in a loss of jobs and entrepreneurial creativity.

In closing, I would like to relate a personal anecdote. One of the people who works for me has a friend in Oregon, in John Day, Oregon, to be exact. This friend was a struggling antique dealer until she decided to sell her pieces over the internet. Her husband had some expertise in setting up websites, so she convinced him to set up a website for her. After setting up her website, years of frustration melted away. Almost immediately she started getting a trickle of new sales from the web. The web has allowed her to keep her business open even during the tourist off-season. She is a very specific example of what I have been saying. Be careful not to hurt this small business engine.

I appreciate your time on this matter and my ability to discuss this with you.

Gary Imig

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