

TO: Members of the Fourth Estate

FROM: Marketplace Fairness Coalition

DATE: November 18, 2014

RE: Questions for Senator Cruz on E-Fairness

Just one day after the *Austin American-Statesman* [reported](#) that Texas small business owners are “*extremely displeased*” with Senator Ted Cruz’s opposition to e-fairness and his support for special federal tax carve-outs for online businesses, Texas’ junior Senator is apparently doubling-down on his unpopular position this morning.

At 11:30 AM, Senator Cruz is holding a press conference with Senator-elect Steve Daines and Washington conservative groups like Heritage Action to reiterate his support for an antiquated government loophole that allows online giants like eBay to have a competitive price advantage over brick-and-mortar retailers in Texas and across-the-country. Of course, Senator Cruz will claim that he’s actually supporting “small” online businesses, yet he will conveniently ignore that the Marketplace Fairness Act (MFA) includes a key exemption for small businesses that make under \$1 million, meaning that over 96 percent of all online retailers would not be affected by MFA in any way.

So this raises the question of exactly whose interests Senator Cruz is really looking out for? Senator-elect Daines’ position is at least understandable, even if unfair, given that Montana is one of the few in the country without a states sales tax. You will recall that MFA was passed by the Senate in an overwhelming, bipartisan vote last year over the opposition of Democrat Senate Finance Committee Chairman Max Baucus whose seat Daines is filling next year.

Yet, in Texas, small business owners and conservative state legislators have implored Senator Cruz to support a level retail playing field and he’s consistently ignored them.

In fact, there are several Texas State legislative leaders on Capitol Hill today as part of the National Conference of State Legislatures support for MFA, including conservative Texas Republican State Rep. John Raney who wrote this in the [San Antonio Express-News last year](#):

- *Local stores fuel the engine that drives economies in most small communities across the U.S. We cannot leave them twisting in the winter wind with an ongoing online tax collection loophole. Community-based retailers are prepared to compete in a free market and that's what we should give them. I*

am calling on our delegation in Congress to pass the Marketplace Fairness Act and restore the level playing field for all retailers no matter where they choose to sell.

In advance of this morning's press conference, please consider the following questions that Senator Cruz has consistently refused to address on this issue:

- 1) You have referred to MFA as a "new tax" calling it "*a national Internet sales tax*" even though, as you surely know, it simply enforces existing tax law – in other words, the taxes are already owed. Is it your position as a U.S. Senator that citizens should be evading current state sales taxes? If not, how exactly would you square that with your rhetoric?
- 2) You have called e-fairness a "job-killing tax hike." Given your rhetoric, are you seriously claiming that all of the Texas small business owners who support e-fairness actually want to "kill jobs" instead of creating them and that the conservative Republicans in Texas who support e-fairness are actually supporting higher taxes?
- 3) As a conservative who claims to support free-market principles, how do you defend a tax system where the federal government is picking the winners and the losers by applying one set of tax laws to brick-and-mortar businesses, while applying a different set of tax laws to online businesses?
- 4) You have claimed that supporters of MFA see it "*as another source of revenue to bail out their big-spending governments*." Yet, states like Wisconsin, Idaho and Ohio have already passed legislation to lower taxes in their states if MFA passes. Why are you opposing lower taxes for the families in these states?
- 5) Whose interests are you really standing up for by ignoring Texas retailers and conservative state legislators in favor of the Washington conservative groups who supported you on the government shutdown and your future political ambitions?

BACKGROUND: Ted Cruz Versus Texas Conservatives & Business Owners on MFA

Texas Small Business Owners Fire Back At Senator Cruz:

- "I am extremely displeased with him on this one issue," said Rex Solmon, a Houston jeweler on the board of the Texas Jewelry Association. Solomon said Friday it was disingenuous of Cruz to refer to this as an Internet tax. Solomon said it is simply a tax on out-of-state sales, which individuals are already supposed to pay — but don't — under Texas law.

He said the failure to effectively impose that tax gives huge on-line competitors a terrific competitive advantage over local businesses that actually have physical locations and provide in-person customer service, but have to collect the tax as part of the price of the purchase.

- David Kruger of Kruger's Diamond Jewelers on Congress Avenue in Austin, said it is doubly unfair because businesses have to pay a "use tax" equivalent to the sales tax when they make out-of-state purchases. "I want to think of America as a fairer country," Kruger said. "This clearly is an instance where people are not being treated fairly." (*The Austin American Statesman*, [Ted Cruz in Austin unveils his 'Don't mess with Internet' agenda](#), 11/14/2014)

Texas Tea Party Leaders Respond To Ted Cruz On Marketplace Fairness

- "The Texas Conservative Tea Party Coalition has supported Ted Cruz since our group was formed and we are proud of his leadership in Texas, but when it comes to e-fairness, Senator Cruz is just plain wrong and his positions hurt our small business owners, Texas taxpayers, and our state's economy. For the life of me, I just can't understand why Senator Cruz thinks a small business in Texas should be forced to play by a different set of rules than an out-of-state Internet retailer. That's not fair and it is certainly not conservative. You would think if there was one person whom we could count on to stand against the federal government picking winners and losers, it would be Senator Cruz. Instead, he appears to be the one leader in favor of the Congress picking sides on which businesses have to play by the rules and which ones get a free pass. Either Senator Cruz doesn't understand the issue or else he's willing to launch his potential Presidential bid on the backs of Texas business owners and taxpayers." (*Statement by Duane Ham, Executive Chair of the Texas Tea Party Coalition*, 11/14/2014)

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