

CAPITAL PERSPECTIVE

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A REPORT TO LEAGUE MEMBERS ON SIGNIFICANT STATE GOVERNMENT ISSUES

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Promoting Electronic Commerce in Pennsylvania: A Strategy for State Government

This issue of "Capital Perspective" is based on a study of the same title which PEL-Capital Division prepared for the Pennsylvania State Chamber of Business and Industry in June 1998. Readers who wish to receive a copy of that study free of charge should contact PEL-Capital Division or www.pachamber.org.

Overview

During the past five years, the widespread use of technology has begun to change the way we do business on a scale not seen since the Industrial Revolution of the last century. Like any historical change, this technological revolution presents tremendous economic opportunities as well as pitfalls, and at this early stage, the Commonwealth can choose the path it follows.

The application of technology to every aspect of commercial activity has become widely known as electronic commerce. The term refers to the use of computer networks – the most familiar and accessible being the Internet - for everything from simple communications to notarizing contracts and transferring payments.

Private industry recognizes that electronic commerce is not just convenient, it adds value - creates more for less. Both multinational and small and medium-sized business are using

electronic commerce to lower purchasing costs, reduce inventories, shorten cycle times, improve customer service, and lower sales and marketing costs. These opportunities, coupled with rapidly expanding electronic retail markets, indicate exponential growth in electronic commerce in the coming years. In Pennsylvania alone, experts estimate a potential for \$350 million in retail and \$15 billion in business to business commerce by the year 2000.

This technological revolution is driven by and will take place primarily in the private sector. State government does, however, have a limited role to play. The Commonwealth should, and in some cases must, help build the legislative, educational, and physical framework to make Pennsylvania competitive in terms of economic growth based on electronic commerce. These roles are outlined in the following four sections.

The State as Lawmaker

Because most of the laws governing business transactions were developed prior to the use of technology in commerce, they often represent

obstacles to the development of electronic commerce. So-called "quill pen" laws which require documents to be written on paper and

signed in ink are not easily adapted to the requirements of paperless electronic commerce. The majority of states have recognized these obstacles and 35 of them have already passed legislation designed to encourage electronic commerce. They focus on the following issues:

- *Electronic/Digital Signatures* - Because electronic commerce is generally paperless, the new business paradigm requires a verifiable substitute for the hand-written signature which can be transmitted via electronic network. An electronic signature recognized by state law meets that need.
- *Certification Authorities* - The use of electronic signatures raises security issues including the integrity and verifiability of the mark. The certification authority addresses that need by acting as a trusted third party to verify the identity of each party involved in a business transaction.

- *Recognition of Electronic Records* - State laws should, and increasingly do, contain provisions which recognize electronic records as legal and valid, equal to paper records.
- *Electronic Contracts* - Provisions for legally valid electronic contracts are another necessity for the development of commerce over computer networks, and one many states are providing for in their statutes.

As of this printing, Pennsylvania is just one of three states which have not considered legislation related to electronic commerce. While it is advisable to let the market develop electronic commerce without excessive regulatory encumbrance, Pennsylvania is behind the curve in providing a limited, but necessary structure. The Pennsylvania legislature should address this issue immediately.

Leader by Example

Beyond developing an electronic commerce-friendly legal structure, many states have taken steps to lead by example by shifting the business of government to electronic media. This might take the form of posting bid opportunities online, accepting proposals electronically, or transferring payments via computer.

Like the private sector, government benefits from the use of electronic commerce by providing more efficient service to taxpayers at less cost. The development of online government also ensures that the infrastructure is in place for both the public and private sectors to conduct commerce electronically. In addition, electronic bidding and procurement at the state level serves to encourage government contractors to engage in electronic commerce.

Many Pennsylvania state agencies already use electronic commerce for a variety of applications, although these efforts are uncoordinated at the central level and lack strategic

vision. At the direction of the Governor, the State Office for Information Technology is in the early stages of developing a comprehensive plan for online government.

Although a recent national survey indicates that up to half the states have not developed similar plans, this state of affairs may change very quickly. In order to ensure that our state is competitive, the Office of Information Technology should:

- “fast track” efforts to develop and implement online government;
- develop internal expertise in the various aspects of electronic commerce in order to act as consultants to state agencies and oversee the implementation of the strategy; and
- develop a budget initiative to help nurture the development of electronic commerce in state government.

Catalyst for Private Sector Development

The key to Pennsylvania's future economic development is likely in large part dependent upon the extent to which electronic commerce is utilized in every sector of private industry, as well as how quickly it is implemented. While larger corporations are already addressing this need internally, it is a more difficult proposition for small and medium-sized businesses which may lack the necessary time, expertise, or resources to implement electronic commerce.

Valuable state-sponsored efforts might include:

- educational programs to introduce small businesses to electronic commerce;
- programs to ensure small businesses have access to technology including financial assistance to defray the costs of initiating and maintaining electronic commerce; and

- clearinghouse services to put businesses in contact with the technology providers appropriate for their needs and geographical location.

Any state government may also use its considerable purchasing power to influence the market towards the development of an advanced physical infrastructure necessary to support electronic commerce and thus, economic development. The Commonwealth is doing that with a technology purchasing strategy designed to develop infrastructure that is

- widely accessible to the public via common modes of electronic communication, i.e. offers the broadest access; and
- relevant for the longest time period possible based on adaptable technology, i.e. cost effective in the long term.

Creating a Friendly Business Climate

Businesses engaged in providing or using electronic commerce depend on a positive business climate to help them compete effectively. In addition to a broad approach to improving the business climate, initiatives targeted towards the specific circumstances of providers and users of electronic commerce would add to a competitive advantage enjoyed by Pennsylvania employers.

Two tax related business climate factors, in particular, impede the growth of electronic commerce nationally as well as in Pennsylvania. First, for any multi-state business, compliance with differing laws, rules and regulations in the 46 states that tax sales is a difficult and burdensome task. This is particularly true for those engaged in electronic commerce, which tends to dissolve borders. Thus, uniformity among states is a priority as more transactions

take place across geographic boundaries. The Commonwealth is working with other states to achieve a high degree of uniformity in areas such as taxpayer registration forms and tax base definitions. They should continue to do so on the same or a broader scope in the future.

Second, Pennsylvania's business tax system treats electronic commerce in the same manner as most other types of commerce. Therefore, to the extent that Pennsylvania is not competitive in its overall tax structure, it is not competitive in terms of tax liabilities for electronic industry related businesses. In order to encourage the widespread use of technology at a faster pace than would otherwise take place, Pennsylvania's tax laws should treat employers engaged in providing and using electronic commerce in a manner similar to other targeted economic generators such as the manufacturing industry.

Conclusion

All indicators point to future economic expansion in our country and around the world built on the ability to do business electronically. Those states, regions, and markets that provide the legislative, regulatory, educational and physical framework necessary for electronic commerce to flourish will secure opportunities for their citizens provided by increased economic activity - an expanding economy, new business, better market access, additional jobs, and a better way of life. Those that don't, will see their vitality siphoned off to areas that can offer growth and opportunity.

Other states are taking actions to support the growth of electronic commerce. To the extent that they are successful in assisting their businesses to expand markets and lower costs, Pennsylvania will suffer proportionately as employers and jobs shift to those growing markets.

Pennsylvania clearly has many of the raw materials necessary to keep up with the pace of technologically-driven expansion in commerce including infrastructure, an already notable infusion of hi-tech activity, and superior educational institutions. With the participation of state government, however, the Commonwealth can marry those resources to a vision of Pennsylvania as the leader in the new technology-based economy.

State government must certainly provide the necessary regulatory and legislative atmosphere to encourage electronic commerce. Just as important, however, our government entities have the statewide presence and resources to develop a plan for leadership and bring together the private and public sectors to carry it out, not just to "keep up," but to achieve the sort of economic greatness we last knew in the industrial revolution.

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