Maryland Tax Reform Commission
Proposed Reform Proposal

December 5, 2012

Submitted by: Scott Mackey (Wireless Industry Representative)

I respectfully submit the following options for reforming the Maryland Communications Tax Structure on behalf of the wireless industry.

INTRODUCTION/BACKGROUND

Maryland law Chapter 261 & 262, Acts of 2012 created the Communications Tax Reform Commission (CRTC) to review Maryland's existing communications taxes and fees and to report on feasible alternatives for a modern and competitively neutral tax and fee system. These alternatives must also take into account any fiscal implications for the State and local governments and must also consider ways to encourage investment in broadband networks and emerging technologies through tax and other incentives. An initial report of findings and recommendations is due by December 31, 2012.

The CRTC has met twice (October 3rd and November 7th) and is still in the process of gathering information. Unfortunately, the short timeframe available to develop these recommendations precluded us from sharing this proposal with all commission members prior to the December 5th meeting. Given more time, we would have attempted to work with other commission members to solicit comments and engage in a constructive dialogue to try to achieve consensus on reform options.

Therefore, we submit this recommendation as an initial proposal with the understanding that additional discussions and dialogue may lead to modifications to address the concerns of other commission members and stakeholders. In other words, we submit these proposals as a starting point for further commission deliberations.

CURRENT COMMUNICATIONS TAXES & FEES IN MARYLAND

The CRTC is charged as part of its study to examine existing taxes and fees on Maryland communications consumers and companies, specifically including the following items:

- State and local property taxes;
- Public service company franchise tax;
- Sales and use taxes;
- Corporate income tax;
- Local communications taxes and fees; and
- Any other communications tax or fee that the Commission determines is relevant.

Maryland consumers and communications companies are currently subjected to a mixed bag of taxes and fees (including those that had their origin in the telephone monopoly era[1]) that have been outpaced by a rapidly changing economy. Communications companies and services continue to converge and evolve in this economy to meet the demands of the marketplace (e.g., landline and wireless companies provide video, cable companies provide VoIP, all are offering broadband services, and many provide "all of the above"). Consumers may select a myriad of services that were traditionally offered by individual enterprises (e.g., the "telephone company", the wireless company, the cable company, the satellite company, etc). Additionally there are new players and services outside of the conventional communications business model that are provided "over the top" using an Internet connection (e.g., "Netflix", "Hulu, etc.) and possibly outside of the existing tax and fee structure in Maryland. As technology and the means of providing communications services continues to evolve, it will be critical for the state of Maryland and its local governments to consider a tax base and taxation that provides a stable and predictable revenue stream to meet the needs of government and its citizens.

I respectfully recommend for consideration of the Commission the following two proposals:

OPTION 1: COMPREHENSIVE STATE-LOCAL COMMUNICATIONS TAX REFORM

A comprehensive communications reform proposal would include the following elements:

1) Impose the 6% state sales tax on all communications services, including wireline services, ancillary services, wireless services, cable TV services, and direct broadcast satellite services. The public utility gross receipts tax on communications companies would be repealed.

2) For customers of cable TV service, cable customers would receive a credit against the sales tax for the 5% franchise fee and up to 1% in PEG fees. (For example, if a jurisdiction had a 4% cable franchise fee and a 1% PEG fee, the first 5% would be remitted to the local jurisdiction and the remaining 1% would be paid to the state as sales tax for a net tax of 6%.)

3) Network equipment purchased by communications service providers would be exempt from the sales and use tax.

4) The current discriminatory property tax treatment of landline providers would be eliminated, and these providers would be assessed and taxed under the same method used for general businesses.

[1] Monopoly era taxes and fees were part of a structure by which local governments assessed taxes and fees, and regulated providers were able to recover the cost of local fees that were assessed directly on them through the ratemaking process. As unregulated providers entered the marketplace and as the industry shifted to a competitive model, the monopoly era tax and fee structure that still applied to certain communications services and not to others have become highly discriminatory and unfair to customers as well as providers.

5) All existing local communications taxes and fees, other than a maximum combined 6% in cable franchise and PEG fees, would be phased out over a four-year period.

6) The additional revenue to the state from the addition of new services to the base, and the increase in the rate on landline services, would cover the revenue losses from the elimination of sales taxes on network investments, addressing discriminatory property tax treatment, and providing transitional assistance to local governments.

OPTION 2: REFORM DISCRIMINATORY TELECOMMUNICATIONS TAXES

A reform proposal limited to telecommunications services would include the following elements:

1) Impose the 6% state sales tax on all telecommunications services, including wireline services, ancillary services, and wireless services. The public utility gross receipts tax on communications companies would be repealed.

2) Existing taxes and fees on video services, including cable and direct broadcast satellite, would not be changed.

3) Network equipment purchased by communications service providers would be exempt from the sales and use tax.

4) The current discriminatory property tax treatment of landline providers would be eliminated, and these providers would be assessed and taxed under the same method used for general businesses.

5) All existing local telecommunications taxes and fees would be phased out over a four-year period.

6) The additional revenue to the state from the increase in the rate on landline services would cover the revenue losses from the elimination of sales taxes on network investments, addressing discriminatory property tax treatment, and providing transitional assistance to local governments.