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**Michigan House Committee on Ways and Means
HB 4541
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Verizon appreciates the opportunity to provide comments on HB 4541 pertaining to marketplace facilitators. Verizon supports an amendment to the substitute version of HB 4541 that is before this committee to clarify that a person is not considered a marketplace facilitator with respect to telecommunications services. This amendment is particularly important to avert problems related to the collection and remittance of Michigan taxes and fees that are imposed on telecommunications services in addition to use tax. The proposed amendment that we are seeking is similar in concept to the provision in HB 4541 related to the sale of lodging accommodations.

Most states have enacted legislation similar to HB 4542 and HB 4543 that are also before this committee, to establish provisions consistent with the decision the U.S. Supreme Court rendered in *South Dakota v. Wayfair, Inc.* These 'Wayfair' bills codify tax collection obligations on out-of-state sellers that do not have a physical presence in a state. Additionally, policymakers in most states are considering legislation similar to HB 4540 and HB 4541 to specify tax collection obligations on 'marketplace facilitators'. The marketplace facilitator legislation is a popular adjunct to the Wayfair legislation, presumably to close a 'loophole' for some online sellers and to make tax compliance more efficient for marketplace transactions and state tax administrators.

The telecommunications industry is not the reason the Wayfair and marketplace facilitator laws are being enacted across the country. Verizon already has physical presence in all fifty states and has a well-established history of collecting and remitting the applicable state and local taxes and fees on our sales in Michigan and elsewhere. The broad reach of HB 4541 will have a negative impact on our business and our customers by creating confusion and disruptions to our established practices for efficiently remitting taxes. Extending this approach to our industry is a solution in search of a problem. Adoption of the amendment we are seeking will continue to recognize that telecommunications service providers are the most qualified to determine the appropriate taxes and fees to be imposed on the services we sell.

Many states have recognized that there may be unintended consequences with this broad approach and the need to pursue consistency and clarity in marketplace platform legislation is being discussed in various forums. Some states have recognized the need for flexibility for certain sellers that already collect and remit sales and use tax; Ohio, Massachusetts, Maryland, Minnesota, and Wisconsin have enacted exclusions or waiver provisions to provide that flexibility. Additionally, thirteen states have enacted marketplace facilitator laws that are limited to the sales of tangible personal property and do not include the sale of services.

Telecommunications services are commonly subject to myriad other taxes and fees in addition to sales and use tax. In Michigan for example, wireless telecommunications customers are subject to 911 impositions at the state and county levels. HB 4541 does not provide a mechanism for the

collection and remittance of 911 charges on the sale of telecommunications services over a marketplace platform. The unfortunate consequences of this omission will likely be a decrease in the amount of 911 remittances being made and/or costly litigation. Unfortunately, the bill language is vague in terms of liability protections for either the marketplace facilitator or the marketplace seller, which will undoubtedly be the subject of confusion and controversy. These deficiencies will create an unworkable situation and prevent efficient and transparent collection of all taxes and fees due on the sale of telecommunications services over a marketplace platform.

Additionally, telecommunications services are subject to unique sourcing conventions that are different than how sales of tangible personal property or other services are sourced. In fact, federal law specifies how the sales of mobile telecommunications service shall be sourced for tax purposes. The Mobile Telecommunications Sourcing Act (P.L. 106-252) requires taxes and fees to be imposed on mobile telecommunications services based on a customer's place of primary use (PPU). PPU is a unique concept to wireless consumers and it is not based on the more traditional billing address or place of purchase that is used to source other sales.

Verizon understands the general purpose behind the marketplace facilitator legislation and the overall goal to ensure that taxes are being collected and remitted on all taxable sales. We have always supported the fair and effective collection of the sales and use tax. Verizon was a founding member of the Business Advisory Council at the Streamlined Sales Tax Project and, as a company with a physical presence in all fifty states, we agree that sales and use tax laws should not create winners and losers. However, HB 4541 presents significant technical issues for our industry that must be addressed.

Thank you for your consideration of the proposed amendment that will preserve our ability to accurately and efficiently collect and remit all of the appropriate taxes and fees imposed on the telecommunications services that we sell to Michigan consumers.