STATEMENT OF

GAIL W. MAHONEY, COMMISSIONER
JACKSON COUNTY, MICHIGAN

BEFORE THE

SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

September 18, 2008

H.R. 5793
"Cell Tax Fairness Act of 2008"

Statement of Gail W. Mahoney, Commissioner
Jackson County, Michigan
Chair, NACo Finance and Intergovernmental Affairs Committee

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Chair Sanchez and distinguished members of the House Subcommittee on Commercial and Administrative Law:

My name is Gail W. Mahoney. I am a county commissioner from Jackson County, Michigan and a member of the Board of Directors of both the Michigan Association of Counties and the National Association of Counties (NACo). I have served for more than a decade and am currently the chair of NACo's Finance and Intergovernmental Affairs Committee.

I appreciate the opportunity to appear before you today on behalf of the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Association of Telecommunications Officers and Advisors, and the Government Finance Officers Association.

We are witnessing an explosion in telecommunications technology. Everyday, we see new products being introduced to the marketplace and new, better and faster services being marketed to America's consumers. Just look at the changes we have seen in the mobile telephone arena. Just a few years ago, we had shoe-size phones with hit and miss service coverage. Today, we have palm-sized phones that can provide nationwide voice, video, and broadband services. Consumers can't wait to see what new wireless gadgets and services are going to hit the market next.

And this consumer excitement has resulted in the unprecedented growth of the wireless phone market. In the Twelfth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, released by the Federal Communications Commission on February 4, 2008, it was stated that there were 33.8 million cell phone subscribers at the end of 1995. Twelve years later, there were 255.4 million subscribers – an increase of over 700%! It is estimated that 83 percent of U.S. consumers have a cell phone – a number that is expected to reach 89 percent by the end of this decade.

And along with this explosive growth, there was a corresponding growth in company profits. In the second quarter of 2008, Verizon reported signing up 1.5 million new subscribers and saw its profits rise to $1.88 billion, up from $1.68 billion during the same quarter in 2007.

Even to the casual observer, it is clear that the current tax treatment of cell phone services by Federal, State, and local authorities has not hindered product innovation and service and financial growth. But that is not to say that improvements to the telecommunications tax scheme cannot be made.

Telecommunications tax policy has not kept pace with the industry's growth and our current tax system is outdated. Local governments have called for comprehensive reform that would ensure revenue neutrality and ensure that functionally equivalent services that make use of different technologies are treated in a similar manner.

Telecommunications tax "reform" should not be a disguise for federal preemption of state and local governments' taxing authority. Nor does comprehensive reform mean a piecemeal approach that would give preferential treatment to any one service or means of delivery. This approach is what the cell phone industry seeks and what legislation such as H.R. 5793 would accomplish.

Unlike the federal government - with its projected budget deficit of $407 billion, most state and local governments are required to balance their budgets. This job has become increasingly difficult for many jurisdictions across the country. In a report issued by the Center on Budget and Policy Priorities, at least 29 states face a combined budget shortfall of $48 billion for fiscal year 2009. California alone represents nearly half that amount. And it is expected that more states will join that list as revenue forecasts are updated.

If you combine the housing collapse and the ever-increasing number of home foreclosures, throw in growing unemployment and stagnant economic growth, add a pinch of high fuel costs and a dash of investment firm bankruptcies, you have the recipe for the economic mess currently confronting state and local governments. To make up revenue shortfalls, many local governments find themselves in the position of spending reserve funds, cutting services, such as fire, police, and teachers, and/or raising taxes.

Faced with these looming economic problems, the last thing Congress should do at this time is enact legislation that would preempt the taxing authority of state and local governments, especially when such preemption would result in the preferential treatment of one technology over another.

The true aim of this legislation is a federal preemption that reduces the level of taxes that the cell phone industry pays to state and local governments and an ***increase*** *to everyone else's taxes*. As consumers switch from older services to new, for example, from land lines to cell, local revenues will continue to erode if cities are not able to continue to tax mobile communication services in a fair and equitable manner. This may force many localities to rely even more heavily on property and income taxes. In this difficult economy, with foreclosures on the rise and the tax base eroding, the greater likelihood will be that State and local governments will have to cut the services they provide to their residents – police, fire, and education, among others. Congress must not take any actions that will make an already difficult job harder.

Thank you for the opportunity to provide testimony on behalf of the National Association of Counties. I would ask that my full written statement be made part of the record. I look forward to answering any questions.