



November 14, 2001

Mr. Timothy Miles  
Office of Information Technologies  
U.S. Department of Commerce

Dear Mr. Miles:

Thank you for giving me the opportunity to respond to your inquiry regarding CCIA's interest in trade issues. As I am sure you are aware, the Computer & Communications Industry Association (CCIA) has long and vigorously supported free, open, and fair trade. In today's global economic climate, open trade policies clearly benefit all participants, and the IT industry sees it as a necessity to promote continued growth in our sector. As such, let me outline several key points.

#### Passage of Trade Promotion Authority (TPA)

We are very encouraged to see that the Administration has made TPA such a high priority in this session of Congress. CCIA has worked in concert with several industry coalitions to encourage Congressional support for TPA. Unfortunately, TPA appears to have become hostage to political forces and partisan friction. While some opposed to TPA have brought up tangential issues such as labor and environmental standards—issues CCIA recognizes as important—we note that these issues have never been stressed as forcefully before in previous legislative debates.

In our view, many of these concerns may be red herrings. The current legislative proposal (H.R. 3005) goes much farther in addressing these concerns than past trade agreements supported by Congress. Most notably, the recently passed Jordan Free Trade Agreement did not go as far as H.R. 3005 in this regard, yet enjoyed overwhelming, bipartisan support.

We recognize, and appreciate, that the Administration has worked hard for passage of TPA and has promoted sensible, balanced trade policies. However, in recognition of the political problems we have faced, we would recommend that any further negotiations focus on the process of inclusiveness and bringing as many parties to the table as possible. It is my sincere hope that Congress will consider and pass TPA in the near future. However, if this does not occur, we strongly recommend an open, bipartisan approach.

## Intellectual Property Issues

CCIA supports the rights of copyright holders to enforce their intellectual property rights and to prevent misuse or theft of their copyrighted content. However, CCIA also recognizes that cumbersome, unbalanced rules regarding intellectual property can hamper the Internet and flow of information. As such, CCIA has worked very hard to ensure that Internet Service Providers are afforded a protection from third party liability; that new laws protect fair use rights of licensees; and that reverse engineering be allowed for lawful purposes. All these issues were actively debated during negotiations over the Digital Millennium Copyright Act (DMCA), and CCIA and others were successful in securing important protection of these rights in the final legislation.

CCIA strongly encourages extension of these provisions to any international agreements that deals, directly or indirectly, with intellectual property. This includes trade agreements, negotiations at the Hague conference, and other multilateral or bilateral agreements in which the United States engages. CCIA has been actively engaged with the Office of the U.S. Trade Representative in this regard, and USTR staff has been extremely helpful and receptive to our concerns.

## Antitrust Issues

The United States has a long history of vigorous, effective enforcement of its antitrust laws, which the Supreme Court has termed "the Magna Carta of free enterprise." Across the Atlantic, the European Union has begun to recognize the importance of a strong competition policy that opposes anticompetitive actions by dominant firms, which can impede development of vibrant, competitive markets. While both governments share the same goals, approaches may be different, and in certain cases, there may exist a lack of complete harmony.

This was most recently evidenced by the EU's objections to the proposed General Electric-Honeywell merger. While not commenting on the merits of that specific case, CCIA recognizes the legitimate role of the EU to examine the ramifications and effects a merger of such magnitude would have on European markets. CCIA would strongly oppose -- as some have suggested -- any retaliatory actions by the United States in response to the legitimate exercise of any investigatory and/or enforcement action taken by the EU, including the denial of the GE-Honeywell merger.

We are also aware that the EU is currently investigating the anticompetitive practices of Microsoft. While similar in some respects to the United States case against Microsoft, which enjoys strong support from consumer groups, the antitrust bar, and the information technology industry, the EU's case involves very different facts and legal issues, and will be evaluated under the EU's competition laws. CCIA fully expects that the United States will not engage in any sort of action to hinder or disrupt this or any future legitimate exercise of EU authority.

## Anti-Dumping Laws

CCIA has observed that domestic and foreign firms have all used anti-dumping provisions in many of our worthy trade agreements as protectionist measures. While CCIA recognizes the need for anti-dumping measures, we also recognize their potential for abuse. As such, we would prefer anti-dumping laws to be far more limited and thus less susceptible to abuse as an instrument of protectionism.

## Post September 11 proposals

Like the rest of the country, CCIA is terribly upset by the tragedy that occurred on September 11. However, CCIA believes that it would be a terrible mistake to allow these events to serve as the basis for bad public policy. Some specific proposals in the international sphere that give us concern include new encryption restrictions; more extensive export controls on IT products; new limitations on immigration; and other limits on our free and open society.

Clearly, the world is a different place and certain precautions do need to be taken. However, we feel it would be unwise to place such burdensome limits on our economy, which is under significant stress already. CCIA is encouraged that in many of these areas, the Administration strongly has defended the position of openness and expansion. We would simply encourage the Administration to take great care in considering any proposal that can limit our open economy or the free expression of ideas.

## Public-Private Partnerships

CCIA and its members are eager to support the government as it seeks to meet the challenges of the Digital Economy, and we encourage the Administration to do all that it can to leverage to incredible advances in technology to the advantage of government agencies and our citizens. However, we would also like to caution that in many cases, the government has overstepped its role in the provision of "e-government" services and has entered into competition with the private sector in offering "e-commerce" services. CCIA recently commissioned a study that examined this growing problem, "The Role of Government in a Digital Age," authored by Nobel Laureate Joseph Stiglitz (a copy of the study is enclosed).

More often than not, the government-provided services that overstep the traditional governmental role could be offered through a public-private sector partnership or by the private sector exclusively. We would encourage you to be mindful of these concerns as the Department of Commerce and other agencies undertake new ventures and expand existing services.

Again, I thank you for the opportunity to share our concerns and priorities for upcoming fiscal year. If you have any further questions, please do not hesitate to contact me at (202) 783-0070 or [eblack@ccianet.org](mailto:eblack@ccianet.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Black". The signature is written in a cursive, slightly slanted style.

Ed Black  
President and CEO

enclosure