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Joint statement from Australia and the United States on electronic commerce

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Australia and the United States believe that the growth of the information economy is a significant and positive development for both countries and, generally, for society and global business. The benefits of e-commerce, in particular, include access to new markets, quality of service, encouragement of innovation, more efficient management of supply and distribution and better customer service. These benefits should accelerate economic growth in all sectors, and across all regions and communities.

I. Purpose of Statement

This joint statement is being made in order to accelerate the development of e-commerce in both countries and empowerment of individual citizens by: providing certainty and building confidence for government, business and consumers in key areas of ecommerce; facilitating progress in key areas, particularly a transparent and consistent legal framework; promoting a dialogue between Australia and the US on e-commerce issues which will benefit government, business and consumers.

IL Policy Principles

The growth of electronic commerce will be led by the private sector, and its continued development depends on leadership by the private sector in key areas both domestically and internationally.

Competitive market-based solutions to specific issues for the information economy will promote optimal growth and benefits. Governments should avoid imposing unnecessary regulations. When regulation is necessary, they should rely on a "light touch" regulatory environment. Where the market alone will not solve problems, self-regulation gives maximum control and responsibility to the individual and should be the preferred approach. In some cases this may need to be facilitated by legislation to ensure effective arrangements. In light of the global nature of e-commerce, government-based or industry-based approaches should be coordinated and harmonized domestically and internationally, as far as possible.

Government should actively pursue excellence in the online delivery of government services and in its dealings with business. IlI. Policy Issues

Australia and the United States agree on the following approaches to key areas of electronic commerce and the information economy:

1. Taxes and Tariffs

Rules for the taxation of the Internet and electronic commerce should be neutral, effcient, simple to understand and should promote certainty. Governments will cooperate closely to ensure effective and fair administration of their tax systems in relation to electronic commerce, including prevention of tax evasion and avoidance. In support of this the Australian and US national tax authorities should continue to consult and cooperate on the taxation issues associated with electronic commerce in international fora, such as the OECD and other bodies, and at a bilateral level in accordance with the exchange of information provisions of the 1982 AustraliaUS Double Tax Convention.

Australia and the US support the indefinite extension of the WTO declaration of May 1998 not to impose customs duties on electronic transmissions.

2. Developments in International Fora

A. World Trade Organization (WTO): The international trading system under the WTO should foster the growth of electronic commerce by reducing the scope for trade-distorting government intervention and to give enterprises greater access to the global marketplace. Australia and the United States are actively participating in the WTO work program on e-commerce, with the shared objective of undertaking a comprehensive review of the implications of e-commerce for the application of WTO agreements and for mandated negotiations, taking into account the application of the established body of trade rules to electronic commerce and the importance of further expanding market access and trade liberalization commitments within the WTO framework. The program should also consider the potential contribution of e-commerce to development objectives, and means to promote greater access for enterprises in developing countries to the global digital network. The General Council should continue to coordinate the work program, avoiding duplication with work done elsewhere, focussing on workable outcomes, and keeping open the possibility of adding new issues to the work program.

B. Asia-Pacific Economic Cooperation (APEC): Both governments welcome the ongoing e-commerce work program in a range of APEC sub-fora, including agreement to the key themes and future work program outlined in the APEC Blueprint for Action on Electronic

Commerce.

3. Business and Consumer Confidence It is essential that business and consumers have confidence in transactions conducted electronically. This will be facilitated by action in the following areas:

A. Electronic Authentication: Governments should work towards a global framework that supports, domestically and internationally, the recognition and enforcement of electronic transactions and electronic authentication methods (including electronic signatures). At an international level this should include exploring the possibility of a convention or other arrangements to achieve a common legal approach that will support electronic transactions as well as a variety of authentication technologies and implementation models. This approach should:

a. Remove paper-based obstacles to electronic transactions by adopting relevant provisions from the UNCITRAL Model Law on Electronic Commerce; b. Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transaction, with assurance that, to the maximum extent possible, those technologies and implementation models will be recognized and enforced; c. Permit parties to a transaction to have the opportunity to prove in court that their authentication technique and their transaction is valid;

d. Take a non-discriminatory approach to electronic signatures and authentication methods from other countries.

B. Privacy: Ensuring the effective protection of privacy with regard to the processing of personal data on global information networks is necessary as is the need to continue the free flow of information. With regard to frameworks for personal data protection, governments and businesses should consider consumers' concern about their personal information. Governments should support industry in implementing effective privacy protection. Personal information should be collected and handled in a fair and reasonable manner consistent with generally accepted privacy principles. The OECD Privacy Guidelines provide an appropriate basis for policy development.

C. Critical Infrastructures: Protection of information, as well as the information systems and infrastructures themselves, is a key element in building user confidence. In some cases information infrastructures are critical to public safety and national economic wellbeing. The preferred approach to information security is through industry awareness and industry based solutions. The OECD Guidelines for the Security of Information Systems should be the basis for national approaches to information security. Governments should provide leadership and provide advice on threats, vulnerabilities

and security responses to ensure that critical information infrastructures are protected.

D. Consumer Protection: Consumers should receive effective protection in the online environment which can be promoted through enforcement of existing consumer protection laws, modification of these laws as necessary to accommodate the unique characteristics of the online market, consumer education, and industry supported mechanisms to empower consumers, and resolve consumer complaints and concerns.

4. Content

The Internet is a medium for promoting, in a positive way, diffusion of knowledge, cultural diversity and social interaction, as well as a means of facilitating commerce. Governments should not prevent their citizens from accessing information simply because it is published online in another country. Empowerment of users, including parents in relation to material which may be unsuitable for children, should be achieved through information and education, as well as through the availability of filtering/blocking systems or other tools. Industry self-regulation will assist in the promotion of content labeling. Industry will need to deal appropriately with complaints about prohibited content. We encourage international cooperation between law enforcement authorities to prevent, investigate and prosecute illegal activities on the Internet and the illegal use of e-commerce by criminal and terrorist organizations.

5. Government Services and Information Good administration is promoted by governments ensuring that they pursue excellence in delivery of government services and information online in a citizen-friendly way rather than reflecting bureaucratic structures. Governments can also contribute to the development of the information economy by acting as role models and market catalysts. Business and user confidence will be enhanced by effective government use of electronic payments systems.

Government led developments in public key and other authentication technologies should be encouraged to facilitate trade through the use of secure electronic exchange of permits and licenses.

Both countries recognize the value of, and will continue to support, international cooperation in electronic delivery of government services through bodies such as the International Council for Information Technology in Government Administration, and through collaborative work such as the G7 Government Online Project.

Governments consider the remediation of the Year 2000 computer date problem as a matter of critical importance to both countries and international communities. The exchange of appropriate information

and expertise would provide significant assistance in addressing this issue.

6. Domain Name System (DNS)

Both countries agree on the following guiding principles:

Stability: The US Government should end its role in the Internet name and numbering system in a manner that ensures the stability of the Internet. The introduction of a new management system should not disrupt current operations or create competing root systems. During the transition and thereafter, the stability of the Internet should be the first priority of any DNS management system. Security and reliability of the DNS are important aspects of stability, and as a new DNS management system is introduced, a comprehensive security strategy should be developed with input from the private sector.

Competition: The Internet succeeds in great measure because it is a decentralized system that encourages innovation and maximizes individual freedom. Where possible, market mechanisms that support competition and consumer choice should drive the management of the Internet because they will lower costs, promote innovation, encourage diversity, and enhance user choice and satisfaction.

Coordination: Certain management functions require coordination. In these cases, responsible industry self-regulation is preferable to government control and is likely to be more flexible and responsive to the changing needs of the Internet and of Internet users. The self-regulatory process should, as far as possible, reflect the bottom-up governance that has characterized development of the Internet in this area to date.

Representation: Private sector mechanisms should be developed to ensure that domain name system management is responsive to Internet stakeholders worldwide.

7. Intellectual Property Rights Adequate protection of intellectual property rights on a technology-neutral basis is essential for the development of e-commerce. The new WIPO Copyright Treaty and the Performances and Phonograms Treaty provide a sound basis in this regard. Further consideration of implementation of the measures in the treaties will be a positive step.

8. Infrastructure

The supporting infrastructure for online transactions must be technically and commercially suitable, particularly in terms of adequate bandwidth and competitive pricing. The optimal outcome will

be achieved through competitive provision of infrastructure and telecommunication services within a pro-competitive regulatory framework.

IV. Work Program

Recognizing that bilateral cooperation can complement the development of essential multilateral frameworks, Australia and the United States will:

Work with the private sector and consumer groups in both countries to promote dialogue and cooperation on the issues contained in this statement, and facilitate the translation of such dialogue and cooperation into meaningful international frameworks.

Cooperate closely in relevant international fora to support the growth of and access to global e-commerce; these may include, for example, the WTO, WIPO, OECD, UNCITRAL, UNCTAD, and APEC.

Actively promote exchange of information and views at government level on all relevant e-commerce issues. This could include economic and trade issues such as how e-commerce affects small and medium sized enterprises, including their ability to develop markets and generate employment; and the broader economic and social impacts of ecommerce.

Work to ensure that the benefits of such exchanges are shared more broadly, particularly in the Asia Pacific region.

NOTE: An original was not available for verification of the content of this joint statement.