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Memorandum on electronic commerce.

July 1,1997

Heads of Executive Departments and Agencies

Subject: Electronic Commerce

The invention of the steam engine two centuries ago and the subsequent harnessing of electricity for communications ushered in an industrial revolution that fundamentally altered the way we work, brought the world's people closer together in time and space, changed the way we organize our economies, and brought us greater prosperity.

Today, we are on the verge of another revolution. Inventions like the integrated circuit, the computer, fiber optic cable, and the Internet are changing the way we work, learn, and communicate with each other.

Students and teachers can have immediate access to the world's informationfrom their classrooms; doctors can administer diagnoses to patients in remote parts of the globe from their offices; and citizens of many nations are finding additional outlets for personal and political expression.

As the Internet empowers citizens and democratizes societies, it is also changing the way business is conducted: entrepreneurs are able to start new businesses more easily by accessing the Internet's worldwide network of customers; world trade involving computer software, entertainment-products, information services, professional consulting, financial services, education businesses, medical diagnostics, advertising, and technical services is increasing rapidly as the Internet dramatically lower costs and facilitates new types of commercial transactions; engineers, product developers, and managers thousands of miles apart can collaborate to design and manufacture new products more efficiently; businesses can work more efficiently with their suppliers and customers; consumers have greater choice and can shop in their homes for a wide variety of products from manufacturers and retailers all over the world, and they will be able to view these products on their computers or televisions, access information about the products, and order and pay for their choices, all from their living rooms.

According to several estimates, commerce on the Internet will total tens of billions of dollars by the turn of the century and could expand rapidly after that, helping fuel economic growth well into the 21st

century.

For this potential to be realized, governments must adopt a market-oriented approach to electronic commerce, one that facilitates the emergence of a global, transparent, and predictable environment to support business and commerce.

Government officials must respect the unique nature of the medium and recognize that widespread competition and increased consumer choice should be the defining features of the new digital marketplace.

Many businesses and consumers are still wary of conducting extensive business over the Internet because of the lack of a predictable legal environment governing transactions. This is particularly true for international commercial activity where concerns about enforcement of contracts, liability, intellectual property protection, privacy, security, and other matters have caused businesses and consumers to be cautious.

Many companies and Internet users are also concerned that domestic or foreign governments will impose extensive regulations on the Internet and electronic commerce including taxes and tariffs, restrictions on the type of information transmitted, control over standards development, licensing requirements, and extensive regulations of Internet service providers. Indeed, signs of these types of commerce-inhibiting actions already are appearing in many nations.

Governments can have a profound effect on the growth of electronic commerce. By their actions, they can facilitate electronic trade or inhibit it. Knowing when to act and - at least as important - when not to act, will be crucial to the development of electronic commerce.

Today I have approved and released a report - "A Framework For Global Electronic Commerce" - outlining the principles that will guide my Administration's actions as we move forward into the new electronic age of commerce. This report articulates my Administration's vision for the emerging digital marketplace by declaring a set of principles, presenting a series of policies, and establishing an agenda for international discussions and agreements to facilitate the growth of electronic commerce. I expect all executive departments and agencies to review carefully the principles in this framework and implement appropriate policies.

Accordingly, I am hereby directing that executive department and agency heads should be guided in any future actions they take related to electronic commerce by the following principles:

* For electronic commerce to flourish, the private sector must lead. Therefore, the Federal Government should encourage industry

self-regulation wherever appropriate and support private sector efforts to develop technology and practices that facilitate the growth and success of the Internet.

* Parties should be able to enter into legitimate agreements to buy and sell products and services across the Internet with minimal government involvement or intervention. Therefore, the Federal Government should refrain from imposing new and unnecessary regulations, bureaucratic procedures, or taxes and tariffs on commercial activities that take place on the Internet.

* In some areas, government involvement may prove necessary to facilitate electronic commerce and protect consumers. Where governmental involvement is necessary, its aim should be to support and enforce a predictable, consistent, and simple legal environment for commerce.

* The Federal Government should recognize the unique qualities of the Internet including its decentralized nature and its tradition of bottom-up governance. Existing laws and regulations that may hinder electronic commerce should be revised or eliminated consistent with the unique nature of the Internet.

* The Internet is emerging as a global marketplace. The legal framework supporting commercial transactions on the Internet should be governed by consistent principles across State, national, and international borders that lead to predictable results regardless of the jurisdiction in which a particular buyer or seller resides.

I also direct the relevant agencies as identified in "A Framework For Global Electronic Commerce" to pursue the following policies:

1. I direct the U.S. Trade Representative to work with foreign governments to secure agreement within the next 12 months that all products and services delivered across the Internet will not be subject to tariffs and that all equipment from which the Internet is built will also not be subject to tariffs.

2. I direct the U.S. Trade Representative to work with foreign governments to enforce existing agreements and secure new agreements to make electronic commerce a seamless global marketplace. This will include enforcing provisions of the recently concluded World Trade Organization (WTO) Telecommunications Services Agreement; ensuring that product testing, certification, and approval processes do not unnecessarily restrict trade; ensuring that service providers have nondiscriminatory access to customers worldwide; and other measures that ensure a free flow of commerce.

3. I direct the Secretary of Commerce to seek the protection of

copyright in the digital environment by working to achieve ratification in the United States and overseas within the next 12 months of the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty.

4. I direct the Secretary of Commerce to update and make more efficient our system for protecting patentable innovations to meet the needs of the fast-moving electronic age and to seek agreements with other governments to protect patentable innovations worldwide.

5. I direct the Secretary of Commerce to support efforts to make the governance of the domain name system private and competitive and to create a contractually based self-regulatory regime that deals with potential conflicts between domain name usage and trademark laws on a global basis.

6. I direct the Secretary of the Treasury to work with State and local governments and with foreign governments to achieve agreements that will ensure that no new taxes are imposed that discriminate against Internet commerce; that existing taxes should be applied in ways that avoid inconsistent national tax jurisdictions and double taxation; and that tax systems treat economically similar transactions equally, regardless of whether such transactions occur through electronic means or through more conventional channels of commerce.

7. I direct the Secretary of Commerce to work with the private sector, State and local governments, and foreign governments to support the development, both domestically and internationally, of a uniform commercial legal framework that recognizes, facilitates, and enforces electronic transactions worldwide. I further direct the Secretary of Commerce within the next 12 months to seek to gain agreement with the private sector, State and local governments, and foreign governments, both domestically and internationally, on common approaches for authentication of electronic transactions through technologies such as digital signatures.

8. I direct the Secretary of Commerce and the Director of the Office of Management and Budget to encourage private industry and privacy advocacy groups to develop and adopt within the next 12 months effective codes of conduct, industry developed rules, and technological solutions to protect privacy on the Internet consistent with the Privacy Principles issued by the Information Infrastructure Task Force (IITF) Privacy Working Group. I further direct the Director of the OMB to develop recommendations on the appropriate role of government consistent with "A Framework for Global Electronic Commerce." I further direct the Secretary and the Director to ensure that means are developed to protect the privacy of children.

9. I direct the Secretary of Commerce to encourage the development and adoption within the next 12 months by industry of easy to use and effective rating systems and filtering technologies that empower

parents, teachers, and other Internet users to block content that is inappropriate for children.

10. I direct the Secretary of Commerce to support private sector development of technical standards for the Internet and the U.S. Trade Representative to oppose efforts by foreign governments to impose standards or to use standards for electronic commerce as non-tariff trade barriers.

11. I direct the Secretary of the Treasury to cooperate with foreign governments to monitor newly developing experiments in electronic payment systems; to oppose attempts by governments to establish inflexible and highly prescriptive regulations and rules that might inhibit the development of new systems for electronic payment; and as electronic payment systems develop, to work closely with the private sector in order to keep apprised about policy development and ensure that governmental activities flexibly accommodate the needs of the emerging marketplace.

12. I direct all executive departments and agencies to promote efforts domestically and internationally to make the Internet a secure environment for commerce. This includes ensuring secure and reliable telecommunications networks; ensuring an effective means for protecting the information systems attached to those networks; ensuring an effective means for authenticating and guaranteeing confidentiality of electronic information to protect data from unauthorized use; and providing information so that Internet users become well-trained and understand how to protect their systems and their data.

13. I direct the Administrator of General Services to move the Federal Government into the age of electronic commerce by expanding "GSA Advantage," its online shopping service for the Federal community to cover four million items by 12 months from now.

I am asking the Vice President to lead an interagency group coordinating the U.S. Government's electronic commerce strategy. Further, I am directing that executive department and agency heads report back to the Vice President and me through this interagency group every 6 months on their progress in meeting the terms of this directive.

1 White House correction.

William J. Clinton