

## **SUMMARY OF SIIA GOVERNMENT AFFAIRS PRIORITIES**

### **2010**

As the principal trade association of the software and digital content industry, SIIA plays the key industry role of promoting software and information content in the digital economy. SIIA works to promote a legal, regulatory and policy environment that promotes the digital economy. A recognized leader in providing cutting edge analysis of the industry, SIIA promotes, protects and defends our industry in the following areas of public policy:

- Intellectual Property Protection
- Education Technology
- eGovernment & Information Policy
- eCommerce & Trade
- Tax, Finance & Accounting
- Privacy & Information Security
- Competition in the Software Industry
- Global Workforce
- Developments affecting our industry in:
  - China
  - European Union

## Intellectual Property Protection

SIIA supports enactment of adequate and effective domestic and foreign intellectual property laws that protect the rights of IP owners and allow for effective enforcement of those rights. To achieve this goal, SIIA seeks to:

- Advocate reforms to the U.S. patent system through legislation or administrative measures that reduce frivolous litigation and improve patent quality. Support legislation to end the diversion of user fees from the U.S. Patent and Trademark Office
- Promote legislation intended to help combat the piracy of copyrighted works.
- Actively monitor implementation of new and existing digitization projects and any related lawsuits and industry response resulting from the projects. Oppose any such projects that entail the digitizing and copying of copyrighted works without the authority of the copyright owners and offer to work with those who implement such projects to re-fashion the projects so that they operate within the confines of the law.
- Monitor for and oppose draft and proposed legislation that would alter copyright law in ways that narrow the existing rights and remedies available to copyright owners or broadens existing or creates new exceptions to such rights and remedies. Ensure appropriate implementation of the DMCA.
- Represent the interests of the code and content industry in the judicial process by filing amicus briefs in significant cases.
- Vigilantly monitor for and adamantly oppose any legislative initiatives aimed at further reducing the thin protection presently afforded to databases and look for appropriate opportunities to fill the gaps in the legal protection accorded to databases.
- Support orphan works legislation that would limit the legal remedies against a user who could not, after a “reasonably diligent” search, identify and locate the copyright owner before commencing use of the work.
- Urge Congressional consideration of appropriate and constitutional legislation to address Supreme Court and lower court decisions that immunize States and their instrumentalities from monetary liability for infringement of another’s intellectual property.
- Monitor developments in China, with particular attention on implementation of China’s WTO Commitments under TRIPs.

## **Education Technology**

All citizens must have the knowledge and skills to succeed in today's highly competitive and information technology driven economy. Education and training through and about technology are vital to this effort. SIIA member companies are partnering with educators at all levels to provide innovative technology-based educational tools, but a successful national strategy requires federal and state government to enhance their investment in this challenge.

SIIA is the only national advocacy organization focused on the specific needs of the education technology industry, especially those providing educational software, digital curriculum and related learning technologies to schools and universities. This provides SIIA with a unique opportunity to inform the policy debate representing companies with a dual interest in the education and training market – as technology providers working to improve teaching and learning; and as high-tech employers seeking high-skilled workers.

SIIA public policy priorities include the following:

- Public investment in school and university education technology and its integration into teaching and learning, including educator professional development.
- Support for education technology research and development through government-industry partnership, not government competition with the private sector.
- Work with state and federal regulators to ensure that technology accessibility for students with disabilities is achieved in a meaningful and technology-neutral fashion that takes into account unique instructional design issues.
- Reform of outdated regulations in favor of 21st Century e-learning policies, including a shift from a seat-time, assembly-line education model to a more flexible, student-centered model built around individual learning needs and pace, anytime-anywhere learning, and differentiated instruction (i.e., a shift from mass production to mass customization).
- Targeted education, training and other workforce development policies to meet the nation's, and SIIA members', needs for a skilled high-tech workforce.
- Work with state lawmakers and agency officials to reform state K-12 instructional materials (textbook) adoption regulations and processes in the 21 states where the review, approval and funding of K-12 instructional materials was originally designed for print-based materials so that electronic instructional materials are not disadvantaged.
- Translate public policies and regulations into actionable market intelligence for SIIA members serving the education market.

## E-Government & Information Policy

SIIA supports e-government policies that rely on commercial, off-the-shelf technologies and services, recognizing that governments should not compete with the private sector in the development of technology or the implementation of electronic commerce. SIIA is also committed to ensuring that e-government policies maintain a consistent, desirable approach to protecting personal privacy, security of information and transactions, maximizing public accessibility, and avoiding governments from adopting standards, unique requirements or protocols that limit choice and interoperability. Additionally, SIIA is the leading proponent of information policies that promote a diversity of sources for government information and embrace the critical role served by the digital content industry. SIIA's policy priorities in this area are:

- Closely monitor new Federal e-government and openness policies and initiatives, working closely with relevant policy-makers where appropriate to promote SIIA's vision of effective e-government..
- Monitor e-government funding, legislative direction and administrative policy with the objective of identifying opportunities and preventing harmful effects for SIIA member companies.
- Promote a vision of e-government that relies on commercial, off-the-shelf technologies and services, recognizing that government should not compete with the private sector in the implementation of electronic commerce.
- Monitor key court cases, federal and state policies and legislation that could potentially limit public access to government information, including public records data, actively oppose legislation or policies that would impose inappropriate restrictions on access to government information and public records, and participate in landmark legal decisions that could impact these laws.
- Monitor and promote effective implementation of Section 508 and related accessibility issues by both agencies of the Federal Government and state initiatives as well as the eAccessibility initiatives of the European Union.
- Promote and advance the use of open standards where appropriate, particularly open data format standards, as a key element of desktop and web-based document creation as well as use within a service-oriented architecture for governments and public authorities to construct and deliver online government services.
- Working with various federal agencies on a case-by-case basis to encourage conformance with government information policies and to discourage efforts that compete with the private sector.

## Trade, Cross-Border Services & e-Commerce

With SIIA members at the forefront of developing a global e-Commerce market in which business, consumers and users can have confidence, our e-Commerce agenda focuses on the legal, regulatory and policy environment in the US, Europe and globally on the following issue areas:

- Removal of barriers to eCommerce (including, for example, promoting a predictable legal framework for global electronic commerce; management of risk and costs associated with litigating in foreign courts; removal of barriers to electronic records, contracts and signatures; development of efficient, timely and cost-effective means of resolving disputes through alternative mechanisms that are practical for consumers and least burdensome for e-business; and other laws or regulations that impede digital commerce)
- Security and Trust, based on private sector leadership, focusing on implementation of a national cybersecurity strategy and monitoring and opposing as appropriate efforts to impose government-developed standards in this area
- The Internet and Taxes: implement a multi-prong strategy that is outlined in the section on Tax, Finance & Accounting
- Trade Agenda:
  - Pass the Free Trade Agreements (FTAs) that have been negotiated and work toward additional market opening measures based on the highest standards possible.
  - Work toward an effective liberalization of services in the “Doha Round” of Multilateral Negotiations, and advocate strong Ministerial-level recognition of liberal treatment of “digital products” when downloaded, accessed or hosted across borders.
  - In the area of Exports, Customs and Global Logistics, build on the progress made in multilateral trade agreements to address reduction of tariffs and foster effective trade facilitation.
  - Monitor and seek reform of U.S. export control requirements consistent with a 21<sup>st</sup> economy and national security needs.

## **Tax, Finance and Accounting Policy**

SIIA supports tax, finance and accounting policies that encourage strong growth of the software and digital content industries, and the digital economy. Such policies should promote a borderless electronic marketplace free from unfair and inconsistent taxation and provide an environment that encourages research and innovation critical to continued strong economic growth, such as the following:

- **E-Commerce and Internet Taxation** — To help maximize growth of electronic commerce and the digital marketplace, SIIA maintains the following priorities:

- ◊ Prevent the imposition of Internet access taxes and discriminatory taxation of e-commerce.
- ◊ Establish bright-line standards regarding business activity tax nexus in order to protect businesses from double-taxation, and
- ◊ Oppose the efforts to overturn the current physical presence nexus standard for collection of state and local sales and use taxes absent Federal legislation that ensures an adequate level of simplification and an effective oversight and enforcement mechanism.

- **Tax Policies that enable IT to continue driving economic growth**—The software and digital content industries are key drivers of

the global knowledge economy. SIIA supports tax policies that maximize the ability for investment in research and development and the utilization of innovative IT products and services by all sectors of the U.S. economy. SIIA opposes tax reform that would stifle future growth and limit international competitiveness of U.S. IT companies

- **Financial Regulatory Reform / Consumer Protection** —Closely monitor proposed financial reform, particularly that focused on consumer protection, assess the potential impact on software and digital content companies and oppose overly-broad new regulations that could thwart future growth of these industries.

## Privacy & Information Security

SIIA's multifold strategy on privacy protection – effective self-regulation, use of appropriate technology, and working constructively with enforcement authorities to implement laws that have been passed – provides a unique position as an industry resource for policy makers. SIIA -- through its broad-based membership and historical expertise and experience -- plays a leadership role on this crucial issue.

When reviewing and commenting on legislative and regulatory proposals, SIIA applies the following key tenets: Personalization enhances the value of online user experiences; Industry is addressing consumer confidence concerns surrounding online privacy issues; Government must avoid micro-management of online privacy issues. Among the priorities for coming year:

- Engage policy makers in Congress as possible privacy legislation is developed and considered based on the principles above. If federal legislation is to be adopted, it must provide for meaningful and effective **state preemption** of related privacy statutes.
- Work with Congress to achieve a national framework to promote on-going **data security** plans and provide for effective security **breach notification**.
- Monitor the FTC's inquiry into **Internet advertising**, and work with policy makers to educate on the complex issues surrounding Internet advertising and promote, as appropriate, self-regulatory solutions to identified problems.
- Work, to the greatest degree possible, towards global approaches to privacy that recognize the key role of self-regulatory efforts, **cross-border information flows**, and prevention of barriers to trade.
- Engage policymakers at a global level on a meaningful approach to **cybersecurity** that is based on a public-private partnership and a global framework for promoting confidence.
- Work to prohibit the “bad practices” associated with **spyware**, and avoid legislative efforts to regulate the technology. Monitor FTC actions brought against purveyors of spyware in the market.
- Educate policymakers on the implications of technology on privacy policy and uses of privacy enhancing technologies through demonstrations and briefings.
- Monitor implementation of the **FTC's Privacy Agenda**, including implementation of the **Gramm-Leach-Bliley Act; Children's Online Privacy Protection Act**, especially its Sliding Scale Rule; **CAN-SPAM Act**, and the various rulemakings it requires; **Telemarketing Sales Rule**, including the “Do Not Call Registry”; and **Section 5 actions generally**.
- Internationally, monitor regional and national developments related to privacy protections, especially in the EU regarding the **US-EU “Safe Harbor”**, model contract provisions.

## Competition in the Software Industry

SIIA has been a consistent advocate for vigorous, but fair, competition within the software industry, working to maintain a competitive environment through balanced, comprehensive approaches. In the coming year, SIIA will:

- Monitor implementation of the Consent Decree resulting from *U.S. v. Microsoft*.
- Monitor and assess competition developments in jurisdictions such as South Korea and Japan, and as appropriate participate in similar proceedings.
- Continue in its role as interested third party in proceedings in the European Union.

## Global Workforce

The global nature of our industry demands the best in worker training, education and services. To meet the needs of our industry, SIIA will engage policy makers in the following areas:

- Educate policy makers and opinion leaders on the challenges of competing in the global marketplace and the reality of “worldwide sourcing.”
- Promote a positive agenda of job training and education reform, enhanced R&D, meaningful trade agreements and removal of trade barriers in order to promote economic growth and create jobs.
- Oppose harmful legislation at the federal and state levels that attempts to legislate the location of jobs as a response to the worldwide sourcing debate.
- Advocate immigration and visa policies that will help members meet their workforce and business needs. Seek an increase in the number of both temporary visas and permanent residence status with priority to individuals with the education, experience, knowledge and skills that are critical to U.S. competitiveness in the 21<sup>st</sup> century.
- Explore opportunities to provide regulatory relief with the visa processing challenges to ensure that temporary business visitors are able to work with their US partners to conclude contracts, engage in training, and participate in joint product development and other activities that help get US companies market access abroad.
- Work constructively with US officials on appropriate and least burdensome measure to enhance border and homeland security.

## International Developments

Below are highlights of the issues SIIA is engaged in internationally:

### Europe

- Implementation of the **eEurope** Action Plans that promote accessibility, broadband and network security, and touches the areas of e-government, e-learning and e-business.
- Implementation of the updated VAT rules that now encompass electronically-delivered goods and services from non-European suppliers.
- Implementation of intellectual property laws.
- Enforcement and policy developments related to various EU privacy Directives, including supporting US companies participation in the US-EU “Safe Harbor” Agreement.

### China

Through SIIA’s leadership in the US Information Technology Office in Beijing (USITO):

- Work to ensure China’s implementation of its WTO commitments announced in December 2001, especially with regard to ensuring enforcement of intellectual property laws that meet the requirements of TRIPs for effective deterrence in practice.
- Engaged China on its Indigenous Innovation policies. Promote implementation of China’s Government Procurement Law in a manner that does not discriminate against non-Chinese software and information companies. Work aggressively to ensure implementation of government procurement policies regulations in a manner that is transparent, non-discriminatory and provides for Chinese government agencies to get the best value in their expenditures.
- Continue its leadership role to engage the Chinese government on its “information assurance” strategy and cybersecurity initiatives (including implementation of its Multi-Level Protection Scheme).