



Grover G. Norquist, President

Daniel Clifton, Executive Director

September 30, 2004

The Honorable R. Hewitt Pate
Assistant Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Assistant Attorney General Pate:

On behalf of Americans for Tax Reform (ATR) and American Shareholders Association (ASA), we are writing to urge the Department of Justice (DOJ) not to appeal the recent U.S. v. Oracle court decision.

As you may remember, last February we wrote to you asking not to recommend an injunction in the case. At that time, we wrote to you suggesting, "...in no way does this proposed acquisition violate any existing antitrust laws, no matter how the competitive effects are examined."

The DOJ obviously had a different opinion based on the data examined. In your letter to us dated March 18, 2004 you wrote, "...our extensive investigation found, under any traditional antitrust analysis, the proposed transaction would substantially lessen competition in an important market in violation of section 7 of the Clayton Act. The Department of Justice obviously moved forward with the case. While we disagreed with your analysis at the time, we still respected your decision to get a hearing on the case.

However, in light of Judge Vaughn R. Walker's very conclusive and definitive ruling, it is the opinion of our organizations DOJ should not appeal this ruling. The decision not to appeal will in the best interest of American taxpayers, shareholders, and the U.S. economy.

In our February letter we noted that changing the existing antitrust rules will place a damaging effect on the economy, especially the dynamic high tech sector. Making mergers and acquisitions more difficult to accomplish will send a shock to markets as companies need to readjust to the fact that the criteria to successfully merge has become much more difficult to achieve in the future. The prospects of these transactions are already priced into the value of firms. Yet, an unexpected change in the rules, as DOJ was asserting, would result in a lowering of value for all companies and send a financial shock to markets while the recovery is still very fragile.

In fact, a cloud of uncertainty has hung over mergers and acquisitions since the DOJ filed its injunction. Companies have been sitting on the sideline watching the results of this case before they make strategic business decisions at a time when consolidation was most needed, especially in the software market. Nearly 200 technology companies, including dozens of software firms, issued warnings that their earnings in the second calendar quarter of 2004 would fall short of expectations

due in large part to a slowdown in corporate spending. With sales lagging and too many firms chasing too few dollars, software companies need to grow through mergers and acquisitions. Obviously, the DOJ's action put much of this effort on hold.

Since the unequivocal decision by Judge Walker has been released a number of press reports have suggested that the industry is ready to move forward with market-based, competitive expansions. Companies are now waiting to see the decision made by the DOJ. An appeal by the DOJ will clearly restrain the ability for shareholders to realize the economic benefits of merger activity and keep the merger and acquisition market on hold.

We firmly believe competition is high, funding is available, and the American entrepreneur is ready to take on risk. A decision by DOJ to appeal will only further delay economic activity and contribute to greater uncertainty in the market. This will result in less investment, job creation, and ultimately a lower standard of living for all Americans. While we acknowledge this result is not your intention, it has been happening for nearly nine months. It is time to let the shareholders of both companies to decide what is best for the future of their two companies.

On behalf of Americans for Tax Reform (ATR) and American Shareholders Association (ASA), we urge you not to appeal Judge Walker's decision.

Thank you for your consideration on this very important matter and your ongoing commitment to American taxpayers and shareholders.

Sincerely,



Grover G. Norquist
President
Americans for Tax Reform



Daniel M. Clifton
Executive Director
American Shareholders Association

cc: Attorney General John Ashcroft
Deputy Attorney General James B. Comey
Associate Attorney General Robert D. McCallum, Jr.