

# The Association for Competitive Technology (ACT)

## Tech Environmental Quality Index (TEQI)

2nd Quarter 2004

July 2004

[Compiled from surveys of relevant technology-related bills, regulatory activity, and judicial action as listed on *National Journal's "Technology Daily"*, *Library of Congress - Thomas, Tech Law Journal*, the *Bureau of National Affairs*, and surveys and reviews of periodicals and other publications]



Issue area Event/activity affecting the TEQI	Probability		Impact, if outcome occurs	Net effect on TEQI (Probability x Impact)	Notes  (Refer to the "Scoring Guide" tab/sheet for an explanation of probability and positive and negative factors)
	Status as of 07.01.04	Probability of outcome			
<b>IP Protection:</b>					
S 692 - Digital Consumer Right to Know Act (Wyden)	Referred	0%	1.00	-	<p><b>Background:</b> This bill directs the Federal Trade Commission (FTC) to issue rules to implement requirements that a producer or distributor of copyrighted digital content disclose the nature of restrictions that limit the practical ability of the content purchaser to play, copy, transmit, or transfer such content on, to, or between devices commonly used with respect to that type of content. Requires such disclosure in the case of limitations on: (1) the recording for later viewing or listening of certain audio or video programming; (2) the reasonable and noncommercial use of legally acquired audio or video content; (3) making backup copies of legally acquired content subject to accidental damage, erasure, or destruction; (4) using limited excerpts of legally acquired content; and (5) engaging in the secondhand transfer or sale of legally acquired content. Provides disclosure exceptions. Requires the FTC to annually review the effectiveness of such rules. Expresses the sense of Congress that: (1) competition among distribution outlets and methods generally benefits consumers; and (2) copyright holders selling digital content in electronic form for distribution over the Internet should offer to license such content to multiple unaffiliated distributors.</p> <p><b>Analysis:</b> Generally favorable in that this legislation would empower and educate consumers about the scope and nature of DRM technologies included in products they buy and works to reduce some of the uncertainty surrounding IP in the digital age.</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation. No action since 3/24/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 8</p>
S 2237 - Protecting Intellectual Rights Against Theft and Expropriation Act of 2004 (Leahy)	Referred	35%	1.00	0.35	<p><b>Background:</b> This bill would amend Federal copyright law to authorize the Attorney General to commence a civil action against any person who engages in conduct constituting copyright infringement, collect statutory damages and profits resulting from such infringement. It also directs the AG to develop a program to ensure effective implementation of the authority for civil enforcement of the copyright laws, including training programs for Department of Justice and United States Attorneys Offices; and report annually to Congress on the use of such enforcement authority and progress made in implementing the training programs.</p> <p><b>Analysis:</b> This bill will accomplish much when it comes to enforcement and prosecution and serve as a useful discouragement to copyright infringement and theft of IP. The bill would effectively empower the AG to prosecute copyright infringing on a case by case basis, avoiding sweeping legislation that may have unintended consequences on innovation and fair use.</p> <p><b>Status:</b> Passed the Senate in June 2004, received by the House, and referred to the House Judiciary Committee.</p> <p><b>Positive factor(s):</b> 7</p>
S 2242 - Anticounterfeiting Act of 2004 (Biden)	Referred	15%	1.00	0.15	<p><b>Background:</b> This bill would seek to curb trafficking in counterfeit authentication tools that are used to falsely identify software packages, phonorecords, and other products as bonafide. This bill would also provide for civil recourse for aggrieved parties.</p> <p><b>Analysis:</b> Any action that will protect copyright holders who invest millions in research and development of intellectual property in the form of computer software, audio/video works etc. is a positive. The protection of IP encourages innovation and production and seeks to stem criminal piracy.</p> <p><b>Status:</b> Referred to the Committee on the Judiciary.</p> <p><b>Positive factor(s):</b> 7</p>
S 2560 - Inducing Infringement of Copyrights Act of 2004 (Hatch)	Referred	15%	(-1)+1	-	<p><b>Background:</b> This bill is intended to bolster the legal arsenal for copyright holders to protect their property by codifying that one who intentionally induces would be liable as an infringer even if they just aid, abet, or assist.</p> <p><b>Analysis:</b> This bill amounts to a net zero. Although increased legal tools to protect copyright holders from intellectual property theft and/or infringement is positive in principle, vague language concerning what is an "inducer" to infringement may have unintended consequences. Media players and legitimate music services and software may be unfairly categorized as "infringers" and thereby stunt innovation and growth with these products.</p> <p><b>Status:</b> Referred to the Committee on the Judiciary.</p> <p><b>Positive factor(s):</b> 7</p> <p><b>Negative factor(s):</b> 7</p>

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HR 3632 - Anti-Counterfeiting Amendments of 2003 (L. Smith)	Committee hearing	20%	1.00	0.20	<p><b>Background:</b> This bill rewrites Federal criminal code provisions regarding trafficking in counterfeit labels. Prohibits knowingly trafficking in: (1) a counterfeit label affixed to, enclosing, or accompanying (currently, affixed to) a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, or documentation or packaging. Expands the definition of "counterfeit label" to include a genuine label that is: (1) distributed for a product for which it was not intended, without authorization of the copyright owner; or (2) altered to falsify the number of authorized copies, the authorized user, or the edition of the program. Authorizes the court, when a person is convicted of violating this Act, to order the forfeiture and destruction or other disposition of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels. Authorizes a copyright owner who is injured, or threatened with injury, by a violation of this Act to bring a civil action in U.S. district court. Authorizes the court: (1) to grant one or more temporary or permanent injunctions to prevent or restrain violations of this Act; (2) to order the impounding of any article in the alleged violator's custody or control that the court has reasonable cause to believe was involved in a violation; and (3) to award to the injured party reasonable attorney fees and costs, actual damages, and any additional profits of the violator or statutory damages, as specified. Sets forth provisions regarding subsequent violations and limitation on actions.</p> <p><b>Analysis:</b> Much like the Biden bill on the Senate side, this bill is positive in that it would strengthen penalties for the false use of authentication products that fool consumers into thinking they are getting bonafide copyrighted goods. Protections such as these protect consumers and IP owners, thereby ensuring consumers receive high-quality, genuine products and encourage producers to innovate and bring products to market.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary; Referred to the Subcommittee on Courts, the Internet, and Intellectual Property. Forwarded by Subcommittee to Full Committee, 3/31/2004.</p> <p><b>Positive factor(s):</b> 7</p>
HR 107 - Digital Media Consumers' Rights Act (Boucher)	Referred	20%	(2.00)	(0.40)	<p><b>Background:</b> Amends the Federal Trade Commission Act to prohibit: (1) introduction into commerce of prerecorded digital music disc products that are mislabeled, or falsely, or deceptively advertised or invoiced; and (2) removal or mutilation of any label required by either this Act or any rules or regulations prescribed by the Federal Trade Commission before the time a prerecorded digital music disc product is sold and delivered to the ultimate consumer. States that such transactions constitute either an unfair method of competition, or an unfair and deceptive act or practice in commerce. Authorizes the Commission to develop rules and regulations governing such transactions. Amends Federal copyright law to exempt from its prohibitions against circumvention of copyright protection systems any persons acting solely in furtherance of scientific research into technological protection measures. Declares it is not a violation of copyright law, but fair use, to: (1) circumvent a technological measure in connection with access to, or the use of, a work if such circumvention does not result in an infringement of the copyright in the work; or (2) manufacture, distribute, or make noninfringing use of a hardware or software product capable of enabling significant noninfringing use of a copyrighted work.</p> <p><b>Analysis:</b> This bill would effectively dismantle the Digital Millennium Copyright Act (DMCA) to allow more circumvention and expands by statute the definition of what constitutes "fair use." Both reduce the incentive to innovate and produce by limiting markets and introducing uncertainty of financial compensation for artists, producers, and distributors.</p> <p><b>Status:</b> Referred to House Energy and Commerce &amp; the House Judiciary Committees. Referred to the Subcommittee on Courts, the Internet, and Intellectual Property. Subcommittee hearing held, May 2004.</p> <p><b>Negative factor(s):</b> 2, 7</p>
HR 1066 - Benefit Authors without Limiting Advancement or Net Consumer Expectations (BALANCE) Act of 2003 (Loftgren)	Referred	1%	(2.00)	(0.02)	<p><b>Background:</b> The bill would allow consumers to make backup copies of their digital works and to use them on whatever digital devices they prefer. It also would prohibit copyright holders from including non-negotiable "shrink-wrap" licenses with products they sell that restrict consumer's uses of the products they purchase. The bill also would allow amend the DMCA to allow consumers to use tools to circumvent technological protections for legal purposes. In addition, it would extend current law, which allows consumers to sell or lend a book or other copyrighted work, to digital works. However, consumers could only transmit one copy of their work and must destroy their copy of the work after they transfer it to another person.</p> <p><b>Analysis:</b> This bill diminishes rights of copyholders and waters down the DMCA by allowing circumvention for purposes other than interoperability and includes an unnecessary 'digital first sale' requirement. This requirement makes no means to allow seller to get rid of original copy and therefore unworkable and unenforceable.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary; May 5, 2003 Referred to the Subcommittee on Courts, the Internet, and Intellectual Property. No action since 5/5/2003. As such, downward adjustment made to probability of 2 percentage points for each month (7) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 14% = 1%</p> <p><b>Negative factor(s):</b> 2, 7</p>
HR 1561 - United States Patent and Trademark Fee Modernization Act of 2003 (Smith)	Passed	35%	3.00	1.05	<p><b>Background:</b> This bill would amend Federal patent law to: (1) lower patent filing and basic national fees; (2) increase excess claims, disclaimer, appeal, extension, revival, and maintenance fees; and (3) add new application examination, patent search, and patent issuance fees.</p> <p><b>Analysis:</b> This bill would greatly aid small IT firms in the patent application and approval process through better leveraged fees. Big firms have traditionally had the advantage in the patent filing process due to their greater resources and existing body of patents. This bill would work to level the playing field for small, innovative IT firms, who are responsible for a significant portion of new, emerging technologies brought to market.</p> <p><b>Status:</b> Passed by House on March 3, 2004. In April 2004, it was placed on Senate Legislative Calendar under General Orders. Calendar No. 487.</p> <p><b>Positive factor(s):</b> 3, 6, 7</p>

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HR 2752 - Author, Consumer, and Computer Owner Protection and Security (ACCOPS) Act of 2003 (Conyers)	Referred	0%	-	-	<p><b>Background:</b> The bill would amend the Copyright Act and the criminal code to protect digital works from online infringement. It would criminalize the unauthorized placement of copyrighted works on P2P networks, and criminalize offering certain P2P software without first giving notice of the privacy and security risks. It would also criminalize registering a domain name with false information with intent to defraud, and provide that registering a domain name with false information shall be considered evidence of willfulness with respect to infringement committed with that domain name. The bill also calls for increased cooperation between the U.S. and foreign prosecutors, and authorizes appropriations for investigation and prosecution of copyright crimes.</p> <p><b>Analysis:</b> This bill would work to protect the rights of inventors, innovators, and creators of copyrighted works. This is aimed to spur investment and advancement in IP and impede the illegal sharing of files over P2P networks. Yet, it is overly broad and ambiguous, and places the burden on ISVs, domain name system registrars, and other vendors and would hurt small software developers and programmers the most with considerable compliance challenges. So has positive aspects with respect to the protection of IP and copyright, its heavy-handed and far-reaching nature regarding liability and enforcement result in this measure equaling a net zero.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary; Referred to the Subcommittee on Courts, the Internet, and Intellectual Property. No action since 7/17/2003. As such downward adjustment made to probability of 2 percentage points for each month (8) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to Committee) - 16% = effectively 0%</p> <p><b>Positive factor(s):</b> 7 <b>Negative factor(s):</b> 2</p>
HR 4077 - Piracy Deterrence and Education Act of 2004 [ART Act] Artists' Rights and Theft Prevention Act of 2004 (L. Smith)	Committee mark-up held; Forwarded to Full committee	20%	1.00	0.20	<p><b>Background:</b> This legislation would require the Director of the Federal Bureau of Investigation to: (1) develop a program (including suitable warnings) to deter the public from committing acts of copyright infringement through the Internet; and (2) facilitate the sharing among law enforcement agencies, Internet service providers, and copyright owners of information concerning copyright infringement activities. Directs the Attorney General to ensure that any unit in the Department of Justice responsible for investigating computer hacking or intellectual property crimes is assigned at least one support agent who has received training in the investigation and enforcement of such crimes. Establishes within the Office of the Associate Attorney General an Internet Use Education Program for educating the public about the value of copyrighted works and the effects of their theft. A component of the Act, the Artists' Rights and Theft Prevention Act of 2004 or ART Act - would amend Federal criminal law to provide criminal penalties for the unauthorized use of an audiovisual recording device in a motion picture theater in order to transmit or make a copy of such motion picture or other copyrighted work. This bill also expresses the sense of Congress that: (1) respect software developers should be commended for their efforts to protect consumers; (2) illegal and dangerous activity on publicly accessible peer-to-peer file sharing services is harmful; and (3) all appropriate measures to protect consumers and children and prevent such illegal activity should be considered. This bill also amends Federal copyright law to provide criminal penalties, as well as civil remedies in damages, for the willful infringement of copyrighted works, including illegal distribution to the public by electronic means. Lastly, this bill directs the United States Sentencing Commission to review and, if appropriate, amend its sentencing guidelines and policy statements applicable to the infringement of copyrighted works and related crimes.</p> <p><b>Analysis:</b> This bill strengthens enforcement power and increases public education to the importance of respecting copyrighted works. This bill allows both government enforcers and citizens to be better educated about the importance of a solid respect for IP and further delineates remedies and processes to address violations of copyright.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary; Referred to the Subcommittee on Courts, the Internet, and Intellectual Property; Subcommittee Consideration and Mark-up Session Held; Forwarded by Subcommittee to Full Committee.</p> <p><b>Positive factor(s):</b> 7</p>
Dastar Corp. v. Twentieth Century Fox	Decided	100%	(2.00)	(2.00)	<p><b>Background:</b> The Supreme Court was asked to decide whether a videocassette producer broke copyright laws by copying and distributing a 1940s World War II television series without giving credit to prior producers. The company, Dastar Corp. of Eugene, Ore., was found guilty and fined for distributing the "Crusade In Europe" television series, which is based on General Dwight Eisenhower's memoirs in lower courts. Dastar obtained the series from the public domain after New Line Home Video Inc. began distribution of the same television series through a licensing agreement with Twentieth Century Fox Film Corp. of Los Angeles. Dastar's version was called "Campaigns In Europe." Twentieth Century Fox and New Line, among others, sued in federal court, alleging Dastar should have given them credit for the series. A separate claim alleged Dastar also violated the copyright for the book on which the TV series was based. A U.S. district judge in California ruled Dastar had violated copyright laws and ordered it to turn over \$783,000 in profits from the videocassette series. The 9th U.S. Circuit Court of Appeals upheld part of the ruling by affirming the ruling on the TV series violations and throwing out the claim the book copyright was violated. Dastar appealed to the Supreme Court, challenging the court rulings on the ground that the federal circuits are in conflict over whether its activities amount to infringement. "This conflict is sharp, acknowledged and long-standing," Dastar said in the appeal. In June 2003, the US Supreme Court unanimously decided that Section 43(a) of the Lanham Act does not prevent the unaccredited copying of a work whose copyright has expired.</p> <p><b>Analysis:</b> The Supreme Court based its decision on an origin of the work argument, where in this case, the origin of the work of the 1949 series, which Fox lets its copyright lapse in 1977. Fox, however, reacquired the rights to the television series and accompanying book in 1988, restoring and only minimally modifying the original. Therefore, the Court argued, the original work had entered the public domain and Fox had forfeited all exclusive rights. This is unfortunate as it further waters down and adds confusion to the IP debate.</p> <p><b>Status:</b> Decided</p> <p><b>Negative factor(s):</b> 2, 7</p>

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Recording Industry Association of America Inc. v. Verizon Internet Services Inc	Ordered	100%	1.00	1.00	<b>Background:</b> The U.S. Court of Appeals for the District of Columbia Circuit on June 4, 2003 denied a request to put on hold a court order requiring an Internet service provider to hand over the names, addresses, and phone numbers of four of its subscribers who allegedly engaged in music piracy over the Internet. On December 19, 2003, a federal appeals court ruled that Internet account providers do not have to give record companies the names of computer users who share songs online using P2P technology. The ruling throws out two lower-court decisions that gave the Recording Industry Association of America (RIAA) the right to subpoena the names of thousands of suspected users of file-sharing software programs without first filing lawsuits. <b>Analysis:</b> Although a strong respect for intellectual property is the basis of innovation and production in any economy, it is especially true in IT-related products and services. Although ranked modestly positive, the enforcement burden must not fall predominantly upon the technology industry or ISPs. <b>Status:</b> Ordered <b>Positive factor(s):</b> 7
Congressional Caucus on intellectual property protection	Active	25%	1.00	0.25	<b>Background:</b> In June 2003, a collection of representatives including Wexler, Smith, Feeney, and Bono announced the formation of a bipartisan Congressional caucus to educate Members and their staffs about the highly fluid and complex issues surrounding intellectual property protection in the digital age. <b>Analysis:</b> The creation of this bipartisan panel is a positive step forward and is indicative of Congress and is a positive sign as the proper balance is struck between the rights of content owners and consumers. The broad and inclusive approach of various players like government regulators, rights holders, Administration officials and others in the realm of IP is also sensible and accurately reflects the diverse and numerous interests in the debate. <b>Status:</b> Letters circulated, meetings held. <b>Positive factor(s):</b> 5
<b>Broadband/Telecom:</b>				<b>5.15</b>	
USDA Announces \$20 Million in Broadband Technology Grants	Being awarded	100%	2.00	2.00	<b>Background:</b> In June 2003, the selection of the first broadband community grants to be awarded by the U.S. Department of Agriculture were announced. The grants total \$20 million with over \$8.2 million benefitting 13 Native American and Native Alaskan communities. Through these grants, the communities will be able to participate and take advantage of the high-speed telecommunications tools needed to be a part of the global digital community. This investment in rural America goes to 40 communities in 17 states and supports the Bush Administration's efforts to enable all sectors of the economy to grow. The 40 application selected were among over 300 to submit requests. Communities selected do not have access to broadband connectivity for essential services of police, fire protection, hospitals, libraries and schools. In return for receiving a grant, the communities will provide community residents with computer and Internet access. The grant program supplements USDA Rural Development's standard high-speed telecommunications loan program. <b>Analysis:</b> Although a modest investment at only \$20 million, this is a positive precedent for the government assisting in and seeking to kickstart a more expansive national broadband infrastructure. An especially positive provision of this program includes a focused deployment assistance to rural and underserved areas where telecommuting and access to other data services help small firms most. <b>Status:</b> Currently being awarded. <b>Positive factor(s):</b> 2, 8
Bush Administration Task Force on spectrum use	Convened	5%	3.00	0.15	<b>Background:</b> The White House convened an executive branch task force that will have one year to develop new policies regarding the use of electromagnetic spectrum, which has been in great demand in recent years from, among others, national security agencies, public safety officials, and commercial wireless providers. <b>Analysis:</b> Executive branch intervention, even at the task force level convened for study, is a positive step towards understanding and reforming a system for spectrum allocation that is condemned by virtually all players. In general, less power and dominance should be given to entrenched spectrum rights holders, more spectrum should be made available for common use, and the proper balance must be reached between commercial rights holders and common rights uses where new technologies may be researched, tested, and developed. <b>Status:</b> Ongoing <b>Positive factor(s):</b> 2, 3, 5
FCC Triennial review - proposal to de-regulate DSL investment by RBOCs	Decided	100%	3.00	3.00	<b>Background:</b> The Telecommunications Act of 1996, in an effort to boost competition in the telecom sector, mandated that regional Bell companies share their networks with competitors. Although the Act made no mention of the term "Internet" as initially constituted, this provision was extended to high-speed data services as well. The Bells immediately voiced opposition, citing how this regulation would hinder expansion of networks and capital investment as sharing with competitors was mandatory. <b>Analysis:</b> Maintaining "forced access" provisions in the current regulatory schema disincentivizes rural broadband deployment by the RBOCs if they must share networks they finance and construct with competitors. This regulatory change of heart by the FCC should help spur the near-term expansion of broadband networks by the RBOCs and speed broadband service delivery to rural areas. <b>Status:</b> The Federal Communications Commission (FCC) voted in February 2003 to preserve regulations that govern local telephone competition but swept away similar rules for high-speed Internet connections. <b>Positive factor(s):</b> 2, 4, 9

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S 159 - Jumpstart Broadband Act (Boxer-Allen) [HR 363] (Honda)	Referred	0%	3.00	-	<p><b>Background:</b> To require the Federal Communications Commission to allocate additional spectrum for unlicensed use by wireless broadband devices.</p> <p><b>Analysis:</b> Expands available spectrum for wireless broadband devices and should aid device manufacturers, consumers, and content providers the most.</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation. No activity on Senate bill since 01/14/2003. As such, downward adjustment made to probability of 2 percentage points for each month (14) of inactivity. 25% (companion measure) - 28% = 0%</p> <p><b>Adjusted probability of outcome:</b> 25% (companion measure) - 28% = effectively 0%</p> <p><b>Positive factor(s):</b> 2, 7, 9</p>
S 160 Untitled (Burns) [HR 769 (English)]	Referred	0%	3.00	-	<p><b>Background:</b> This bill would amend the Internal Revenue Code to: (1) permit any qualified broadband expenditure which is paid or incurred by the taxpayer to be treated as an expense and (2) any expenditure so treated to be allowed as a deduction. Defines terms and sets forth rules</p> <p><b>Analysis:</b> This bill would spur both short and long term broadband deployment. The bill provides for 50% expensing of expenditures in "current generation" (1.0 mb down, 128 kb up) broadband technology, and 100% expensing of expenditures for "next-generation" (22 mb down, 5 mb up) broadband technologies.</p> <p><b>Status:</b> Read twice and referred to the Committee on Finance. No action since 1/14/2003. As such, downward adjustment made to probability of 2 percentage points for each month (15) of inactivity. 25% (companion measure) - 30% = effectively 0%</p> <p><b>Adjusted probability of outcome:</b> 25% (companion measure) - 30% = effectively 0%</p> <p><b>Positive factor(s):</b> 2, 7, 9</p>
HR 138 - Rural America Digital Accessibility Act (McHugh)	Referred	0%	3.00	-	<p><b>Background:</b> Rural America Digital Accessibility Act - Authorizes the Secretary of Commerce to make grants or guarantee loans in order to facilitate the deployment by the private sector of broadband telecommunications networks and capabilities (including wireless and satellite services) to underserved rural areas. Limits to \$100 million the total amount of such grants and loan guarantees. Requires the Director of the National Science Foundation to research the enhancement or facilitation of broadband telecommunications services in rural and other remote areas, as well as Internet access through such services. Amends the Internal Revenue Code to provide a tax credit to holders of qualified technology bonds (bonds representing an investment in projects to expand such telecommunications services). Sets a national technology bond limitation of \$100 million for each of FY 2003 through 2007, and zero thereafter (with an exception) to be allocated by the Secretary among the qualified projects designated each year. Directs the Secretary to provide financial assistance for the establishment and support of regional centers for the commercial use of advanced technologies by small and medium-sized businesses.</p> <p><b>Analysis:</b> Measures like this bill that spur private sector investment in broadband, especially in underserved rural areas clearly helps the Tech Environment. More consumers may go online to purchase goods, new forms of content are more consumable, and small firms have expanded market opportunities and greater ability to manage a small office or enable telecommuting. Also encourages office park interconnectivity and incubators for small firms, also big wins for small tech firms.</p> <p><b>Status:</b> Referred to House Ways and Means and House Science Committees. No action since 2/20/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 2, 3, 6</p>
HR 1396 - Spectrum Commons and Digital Dividends Act (Markey)	Referred	0%	1.00	-	<p><b>Background:</b> This bill would amend the Communications Act of 1934 to establish in the Treasury the Digital Dividends Trust Fund to be used for: (1) human capital telecommunications investments; and (2) broadband infrastructure investments for public access and rural technological development. Amends the National Telecommunications and Information Administration Organization Act to make funds from such Fund available to the Secretary of Commerce to carry out a: (1) Human Capital Telecommunications Investment Program; and (2) Public Broadband Infrastructure Investments Program. Earmarks a specified amount of funds for the latter program for converting public broadcasting facilities to digital technology. Directs the Secretary to prepare, make publicly available, and submit to the President, Congress, and the Federal Communications Commission (FCC) a report that: (1) designates two specified bands of frequencies for reallocation to the public for unlicensed use; (2) designates bands of frequencies for reallocation for the provision of advanced wireless services; and (3) establishes a plan for the relocation or modification of Federal stations currently occupying frequencies located at 1710-1850 megahertz. Requires the FCC to allocate some of the 1710-1850 megahertz frequencies for wireless services. Authorizes the relocation of the operations of Federal entities from the frequencies reallocated to wireless services. Establishes a Spectrum Relocation Trust Fund for relocation costs. Requires a division of the proceeds from spectrum auctions for wireless services between the Relocated Federal Entities Trust Fund and the Digital Dividends Trust Fund.</p> <p><b>Analysis:</b> This legislation would free more available spectrum from under or misutilized from government and be granted to the public domain where small, entrepreneurial companies can test and deploy new wireless technologies and wireless services. Other positive provisions include the creation of a trust fund for rural broadband deployment, education, and R&amp;D grants. The creation of such an environment where there is appropriate government assistance to spur private sector development is the most efficient and effective way to innovation and invention.</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce (Subcommittee on Telecommunications and the Internet). No action since 4/10/2003. As such, downward adjustment made to probability of 2 percentage points for each month (11) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 22% = effectively 0%</p> <p><b>Positive factor(s):</b> 2</p>

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S 52 - Internet Tax Nondiscrimination Act (Wyden) [HR 49, (Cox)] & S 150 - Internet Tax Nondiscrimination Act (Allen)	Reported	35%	2.00	0.70	<p><b>Background:</b> Amends the Internet Tax Freedom Act to: (1) permanently ban taxes on Internet access and on multiple or discriminatory taxes on electronic commerce; and (2) repeal the ban exception for a tax (grandfathered tax) on the sale or use of Internet services that was generally imposed and actually enforced prior to October 1, 1998.</p> <p><b>Analysis:</b> This bill, that would forever bar any form of Internet access tax, would prevent new taxes for consumers and thereby spur greater use of the Internet benefiting ISPs, hardware manufacturers, and eCommerce merchants.</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation. HR 49: May 22, 2003, forwarded by Subcommittee to full Committee (amended) by voice vote. Passed by committees in both chambers in July 2003, passed by House in September 2003. Placed on Senate calendar 11/11/2003.</p> <p><b>Positive factor(s):</b> 1, 2</p>
S 2084 Internet Tax Ban Extension and Improvement Act (Alexander)	Referred	13%	1.00	0.13	<p><b>Background:</b> Amends the Internet Tax Freedom Act to extend the ban on State taxation of Internet access and on multiple or discriminatory taxes on electronic commerce until November 1, 2005. Makes such tax ban inapplicable to a tax on Internet access that was generally imposed and enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either: (1) a provider of Internet access services had a reasonable opportunity to know that an agency has interpreted and applied such tax to Internet access services; or (2) a State or political subdivision generally collected such tax on charges for Internet access. Applies the same rule for a tax on Internet access that was generally imposed and enforced as of November 1, 2003. Changes the definition of "Internet access service" to exclude telecommunications services (current law), except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider. Changes the definition of "tax on Internet access": (1) mean a tax on Internet access regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used.</p> <p><b>Analysis:</b> This bill would extend the Internet tax moratorium yet would preclude a more favorable permanent tax ban. This temporary ban on Internet taxes would allow Internet access taxes, and this bill would carve out a new exemption to the tax ban for states to tax DSL (digital subscriber line). The DSL exemption could create a new "telephone-like" tax and cost some consumers up to \$150 a year, according to Senator George Allen (R-VA).</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 2% for a three month period of inactivity = 13%</p> <p><b>Positive factor(s):</b> 2</p>
Expiration of the Internet access tax moratorium and the state bundling of data services for the purpose of access & telecommunications taxation	Ongoing	50%	(4.00)	(2.00)	<p><b>Background:</b> With no congressional action, the most recent 3 year Internet tax moratorium expired in November. At the same time, 18 states have found a way to collect taxes on Internet access, despite pending federal legislation (S. 150) that bans the practice. State tax administrators, faced with receding tax revenues, have recently favored the practice of categorizing DSL as a "bundled telecommunications service" and thereby for subject for state taxation.</p> <p><b>Analysis:</b> This discriminatory taxation raises costs for consumers, and thereby slows the adoption of broadband technologies. The ambiguity surrounding the status of this tax harms consumers and businesses and slows Internet use by both broadband and dial-up means.</p> <p><b>Status:</b> Ongoing. Most recently, the state of Florida has may tax all forms of home technology and networking equipment, everything from wireless routers, two-way-radios, and even fax machines.</p> <p><b>Negative factor(s):</b> 1, 2, 3, 8</p>
S 563 - Computer Owners' Bill of Rights (Dayton)	Referred	0%	(3.00)	-	<p><b>Background:</b> The measure offers consumers a set of basic principles to act as a "computer bill of rights." Specifically, the legislation would mandate a study on technical-support services that includes recommendations for a structure to protect consumers. The bill also would instruct the FTC to establish basic industry standards for technical support and to provide an anti-spam registry.</p> <p><b>Analysis:</b> This amounts to an unnecessary government mandate on business, seeking to alleviate consumers from poor customer service. Ideally, these service shortcomings by hardware vendors can be solved by market forces, not government regulation. If enacted, larger firms could probably manage these regulations, but smaller firms would find themselves locked out of the regulatory process and left to navigate regulation crafted by and suited to larger, more agile firms.</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation. No action since 4/10/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 1, 3, 5</p>
S 660 - Economic Opportunity Protection Act of 2003 (Johnson)	Referred	0%	2.00	-	<p><b>Background:</b> This bill would extend the federal preemption provisions of the Fair Credit Reporting Act (FCRA). The FCRA prohibits states until 2004 from enacting stricter privacy legislation to restrict the sharing of information among corporate affiliates.</p> <p><b>Analysis:</b> The extension of limitations on certain provisions of state law under the Fair Credit Reporting Act (FCRA) works to preclude a patchwork of state law that would only serve to confuse firms and raise the cost of doing business. All the while, potentially limiting market opportunities for firms and limiting consumer access to financial products as firms offering these services would find it more difficult to offer consistent products across state lines.</p> <p><b>Status:</b> Referred to the Committee on Banking, Housing, and Urban Affairs. No action since 3/19/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 2</p>

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S 745 - Privacy Act of 2003 (Feinstein)	Referred	3%	(2.00)	(0.06)	<p><b>Background:</b> This bill would require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information</p> <p><b>Analysis:</b> Although a national federal framework for privacy protection and safeguarding of PII is positive in that it would preclude a patchwork of privacy law and the state level that presents extremely harmful compliance issues to small business. Most troublesome, however, is the provision for an individual private right of action by individuals for alleged misuse of personal data. This type and will spur frivolous lawsuits, foster costly litigation costs for all players, and likely harm good actors or large firms with greater resources most while those smaller, fly-by-night firms who usually disregard the integrity of PII, will go substantially unpunished.</p> <p><b>Status:</b> Referred to the Committee on the Judiciary. No action since 3/31/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b></p>
S 877 Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act of 2003 (Burns)	Passed	100%	2.00	2.00	<p><b>Background:</b> This bill sets forth the determination of Congress that: (1) there is a substantial government interest in regulation of unsolicited commercial electronic mail ("spam"); (2) senders of spam should not mislead recipients as to the source or content of such mail; and (3) recipients of spam have a right to decline to receive additional spam from the same source. (Sec 4) Amends Federal criminal law to subject to a fine or imprisonment any person who initiates the transmission to a protected computer of a spam message with knowledge and intent that it contains header information that is materially false or misleading. (Sec. 5) Sets forth protections against spam that include: (1) a prohibition of false or misleading transmission information; (2) a prohibition of deceptive subject headings; (3) mandatory inclusion of return address or comparable mechanism in unsolicited commercial electronic mail; (4) a prohibition of transmission of spam after objection; (5) mandatory inclusion of identifier, opt-out, and physical address in spam; and (6) a prohibition against initiating transmission to a protected computer of an unlawful, unsolicited commercial electron mail message, or to assist in the origination of such message through the provision of addresses, with knowledge or reckless disregard as to whether the recipient's address was obtained from an Internet website or proprietary online service or from a proprietary online service that included a notice that the operator will not provide addresses for initiating unsolicited messages. (Sec. 6) Confers enforcement powers for violations of this Act upon the Federal Trade Commission, designated Federal agencies, and States. Permits a provider of Internet access service adversely affected by a violation of this Act to bring a civil action. Sets forth a maximum civil penalty of \$1.5 million for knowing and willful violations of this Act.</p> <p><b>Analysis:</b> The flood of spam clogging user and corporate mail systems needs to be addressed as it is annoying to consumers and costly to American business. This bill takes positive steps in prohibiting a patchwork of state-level spam law and seeks to more thoroughly define and make accountable the sender of unsolicited commercial e-mail. Lawmakers should be cautious and diligent, however, as the term seller can be more complex and, heretofore, is ambiguously understood.</p> <p><b>Status:</b> The first lawsuits were brought under the CAN SPAM Act in early March 2004 by AOL, Earthlink, Microsoft and Yahoo!. In June 2004, the FTC issued a report concluding that a "Do-Not-Spam" registry would be ineffective and potential tool for spammers to collect addresses.</p> <p><b>Positive factor(s):</b> 1, 2,</p>
S 1183 Global Internet Freedom Act of 2003 (Kyl-Wyden) [HR 48 (Cox)]	Referred	7%	1.00	0.07	<p><b>Background:</b> Establishes in the International Broadcasting Bureau the Office of Global Internet Freedom to develop and implement a comprehensive global strategy to combat state-sponsored and state-directed Internet jamming and persecution of those who use the Internet. Requires an annual report from the Office to Congress on the status of state interference with Internet use and of U.S. efforts to counter such interference.</p> <p>Expresses the sense of Congress that the United States should: (1) denounce governments that restrict, censor, ban, and block access to information on the Internet; (2) direct the U.S. Representative to the United Nations to submit a resolution condemning such actions; and (3) deploy technologies aimed at defeating state-directed Internet censorship and the persecution of those who use the Internet.</p> <p><b>Analysis:</b> Initiatives that ease the flow of Internet traffic and information aid commerce and marketing as much as the easy transmission of speech and other communication. Policies that seek to eradicate barriers to this information transfer benefit eCommerce, help to open international markets to US firms, and benefit the global IT services industry.</p> <p><b>Status:</b> Referred to the Senate Committee on Foreign Relations; Referred to the House Committee on International Relations. No action since 6/04/2003. As such, downward adjustment made to probability of 2 percentage points for each month (9) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 25% (companion bill) - 18% = 7%</p> <p><b>Positive factor(s):</b> 2</p>

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S 2145 - Software Principles Yielding Better Levels of Consumer Knowledge (SPY BLOCK) Act (Burns)	Committee hearing	20%	1.00	0.20	<p><b>Background:</b> This bill would prohibit installing software on somebody else's computer without notice and consent, and requires reasonable "uninstall" procedures for all downloadable software. Spyware, adware and other hidden programs often secretly piggyback on downloaded Internet software without the user's knowledge, transmitting information about computer usage and generating pop-up advertisements. Frequently such software is designed to be virtually impossible to uninstall.</p> <p><b>Analysis:</b> The conduct of unscrupulous software vendors that hijack users machines to monitor surfing activity, gobble up computing resources, and collect PII must be addressed, to the benefit of consumers and businesses alike. Definitions must be clear and unambiguous, as other software products like product update tools, media players, anti-virus, and even anti-spyware tools might be unduly affected by anti-spyware legislation. This bill lacks two serious features: a pre-emption of state level regulatory activity and a prohibition on private right of action. These two features are crucial for any successful legislation to be effective in rooting out bad actors while not harming legitimate software firms. Generally, however, this is a good first step to addressing the worst of spyware as consumers that their PCs are under their control.</p> <p><b>Status:</b> Committee on Commerce, Science, and Transportation Subcommittee on Communications. hearings held on 3/23/2004</p> <p><b>Positive factor(s):</b> 8</p>
HR 2929 - Safeguard Against Privacy Invasions Act (Bono/Towns) [HR 4255 - Computer Software Privacy and Control Act (Inlee)]	Referred	15%	-	-	<p><b>Background:</b> This bill directs the Federal Trade Commission (FTC) to prohibit the transmission of a spyware program to a covered computer (one used by a financial institution or the Federal Government) by means of the Internet, unless the user of the computer expressly consents to such transmission in response to a clear and conspicuous request or through an affirmative request for such transmission. Requires the FTC to establish requirements for such a transmission that requires affirmative action on the part of the user of the covered computer to agree to a license, contract, or other agreement, including setting forth on a World Wide Web page license or contract terms, the mechanism for agreeing to them, and the name and valid physical street address of the person or entity transmitting the spyware program. Directs the FTC to prohibit the use of any spyware program for collecting any personally identifiable information from the covered computer unless notice of such use is provided.</p> <p><b>Analysis:</b> This bill would work to give consumers greater control over what ad-serving software is placed on their machines and diminish the devious redirecting of some of this software. Consumers would be given greater choice and notice when such products were placed on their machines and uninstall would be obvious and easy. The biggest negative of this bill would be an onerous notice and choice regime that very well could frustrate consumers and drive up the cost of writing as currently written, does little to clarify the issue. The bill provides that "The term "spyware program" means any computer program or software that can be used to transmit from a computer, or that has the capability of so transmitting, by means of the Internet and without any action on the part of the user of the computer to initiate such transmission, information regarding the user of the computer, regarding the use of the computer, or that is stored on the computer." The bill would leave it to the FTC to write rules that identify what spyware is.</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce; Referred to the Subcommittee on Commerce, Trade and Consumer Protection. New draft language circulated in January 2004. Forwarded by Subcommittee to Full Committee (amended) by voice vote in June 2004. The Committee amended and approved the bill on a roll call vote of 45-4 on June 24, 2004.</p> <p><b>Positive factor(s):</b> 6 (pre-emption)</p> <p><b>Negative factor(s):</b> 2 (notice and choice provisions)</p>
HR 4661 - Internet Spyware (I-SPY) Prevention Act (Goodlatte)	Referred	15%	1.00	0.15	<p><b>Background:</b> This bill creates criminal penalties for accessing a protected computer without authorization, or exceeding authorization, by causing software to be copied onto a computer and 1) using that code for another Federal criminal offense, 2) intentionally obtaining or transmitting personal information with intent to defraud, injure, or cause damage, 3) intentionally impair computer security.</p> <p><b>Analysis:</b> This is a positive bill in that it would give jailtime to people if they use spyware to defraud consumers by stealing and misusing their credit card and Social Security numbers as well as other personal data. The bill would not restrict or outlaw any kind of software, and would not require companies to get consumer consent before uploading software to their computers. This bill isn't entirely positive and it lacks pre-emption of state-level spyware law.</p> <p><b>Status:</b> Referred to House Judiciary Committee</p> <p><b>Positive factor(s):</b> 8</p>
FTC seeking to prosecute spyware vendors and is soliciting public input	Ongoing	20%	1.00	0.20	<p><b>Background:</b> In November of 2003, the FTC sought to prosecute a California-based spyware company, D Squared, for serving ads using an exploited holes in the Windows Messenger software. Ads were served to unsuspecting users for, ironically, anti-spyware, anti-ad software. The FTC argues that this amounts to a "classic scam" and "high-tech extortion." The FTC is also convening a workshop bringing industry interests, academics, and consumer advocates together to discuss the issue and possible solutions.</p> <p><b>Analysis:</b> Its commendable that the FTC has taken affirmative steps to punish unscrupulous spyware vendors that engage in sneaky delivery of their products, engage in the secret collection of information, and peddle in difficult to uninstall products. This sets the precedent of punishing bad behavior using existing regulation while not unduly affecting other, legitimate small tech firms. Also, the Workshop should prove valuable in assembling input from many different sources before further regulation is considered.</p> <p><b>Status:</b> An injunction was issued against D Squared, but was later overturned by a US District Court Judge. The trial is set for September 2004. The FTC Workshop is set for April 19, 2004.</p> <p><b>Positive factor(s):</b> 8</p>

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Anti-spyware legislation pending or passing in the states ongoing in others	Passed in Utah,	50%	(2.00)	(1.00)	<p><b>Background:</b> In response to consumer complaints about sneaky delivery, unauthorized monitoring, and no way to easily uninstall, state legislatures and even the US Congress are considering bills to crack down on software firms peddling in adware and spyware.</p> <p><b>Analysis:</b> Bills currently under consideration are overly broad, may include sectors of software that are legitimate and desired by users, and have sweeping implications for both the software users and firms. Definitions of what exactly spyware is with ambiguous definitions will unduly harm other software products, potentially instant messaging, media players, anti-virus software, and product updating tools.</p> <p><b>Status:</b> An overly broad anti-spyware bill was recently passed in Utah and there is pending anti-spyware under consideration in California.</p> <p><b>Negative factor(s):</b> 2, 8</p>
HR 4673 - Opt Out of ID Chips Act (Klecicka)	Referred	15%		-	<p><b>Background:</b> This bill pertains to the use of radio frequency identification (RFID) tags used on products that are sold at retail. The bill does not prohibit the use of RFID tags. It provides that products sold at retail with RFID tags must contain warning labels, and that the purchasers have the right to have the RFID tags removed or disabled at the time of purchase.</p> <p><b>Analysis:</b> While the customer notice is laudable and would seek to reassure consumers when purchasing goods with RFID tags and thereby encourage use of the technology, legislating standards for technology at this stage is premature. RFID technologies are set to go into wider use by the Department of Defense and Walmart early in 2005. But this use will be constrained to the palette or bulk-level and won't effect the end-customer at all. Legislation at this stage prior to end-customer use might have unintended consequences and stifle innovation in and use of RFID tags.</p> <p><b>Status:</b> The bill has been referred to the House Commerce Committee.</p> <p><b>Positive factor(s):</b> 8</p> <p><b>Negative factor(s):</b> 7</p>
HR 69 - Online Privacy Protection Act (Frelinghuysen)	Referred	0%	(3.00)	-	<p><b>Background:</b> Makes it unlawful for an operator of a Web site or online service to collect, use, or disclose personal information concerning an individual (age 13 and above) in a manner that violates regulations to be prescribed by the Federal Trade Commission (FTC) requiring such operators to protect the confidentiality, security, and integrity of personal information it collects from such individuals. Requires such regulations to require such operators to provide a process for such individuals to consent to or limit the disclosure of such information. Directs the FTC to provide incentives for efforts of self-regulation by operators to implement appropriate protections for such information. Authorizes the States to enforce such regulations by bringing actions on behalf of residents, requiring the State attorney general to first notify the FTC of such action. Authorizes the FTC to intervene in any such action. Provides for enforcement of this Act through the Federal Trade Commission Act.</p> <p><b>Analysis:</b> Broad privacy regulations, as opposed to more targeted approaches, designed to be a "catch-all" are generally ineffective and will have unintended consequences by punishing good actors, not stemming the scourge of "spam" and limiting consumer choice. There exists many significant privacy regulations on the books that already protect financial, medical and personal information. Examples include the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Gramm-Leach-Bliley Act (GLB), and Fair Credit Reporting Act (FCRA), which already cover more than 70% of Fortune 100 firms currently. (Source: Forrester Research, Inc.)</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce; Referred to the Subcommittee on Commerce, Trade and Consumer Protection. No action since 2/03/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 1, 3, 5</p>
HR 70 - Social Security Online Privacy Protection Act (Frelinghuysen)	Referred	0%	1.00	-	<p><b>Background:</b> This bill would prohibits an interactive computer service from disclosing to a third party an individual's social security number or related personally identifiable information without the individual's prior informed written consent. Requires such service to permit an individual to revoke any consent at any time.</p> <p><b>Analysis:</b> This bill is generally positive as it is targeted and seeks to protect individuals social security numbers, the "master-key" to a wealth of personal, medical and financial information.</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce. No action since 2/14/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 2, 8</p>
HR 71 - Wireless Privacy Protection Act (Frelinghuysen)	Referred	0%	(1.00)	-	<p><b>Background:</b> This bill would amend the Communications Act of 1934 to require informed customer prior written consent to the provision of wireless call location and crash information.</p> <p><b>Analysis:</b> The "opt-in" nature of this bill would unduly limit market opportunities by reducing the amount of available customers.</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce. No action since 2/14/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 2</p>

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HR 122 - Wireless Telephone Spam Protection Act (Holt)	Referred	0%	(1.00)	-	<p><b>Background:</b> Amends the Communications Act of 1934 to make it unlawful for any person to use any covered mobile telephone messaging system to transmit an unsolicited advertisement. Prohibits the Federal Communications Commission from exempting from certain telephone regulatory requirements any call that violates such prohibition.</p> <p><b>Analysis:</b> The strict opt-in provisions of this bill would unduly limit consumer choice, access, and convenience. Although wireless privacy is an issue worthy of study and consideration, the outright prohibition would harm consumers and marketers alike. A workable opt-out system would serve to strike the proper balance between privacy protection, consumer choice</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce, referred to the Subcommittee on Telecommunications and the Internet. No action since 2/03/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 2</p>
HR 945 - The Jurisdictional Certainty Over Digital Commerce Act (Stearns)	Referred	0%	2.00	-	<p><b>Background:</b> The bill provides that "No State or political subdivision thereof may enact or enforce any law, rule, regulation, standard, or other provision having the force or effect of law that regulates, or has the effect of regulating, digital commercial transactions." It also provides that "Any responsibility or authority to regulate digital commercial transactions that, pursuant to subsection (a), is retained by the Federal government may not be delegated, by any Federal agency or officer, to any State or political subdivision thereof."</p> <p><b>Analysis:</b> A patchwork of state and even local law would present a compliance nightmare for firms seeking to conduct interstate commerce. This bill would seek to eliminate the potential for such a hodgepodge of inconsistent state regulation.</p> <p><b>Status:</b> Referred to the Committee on Energy and Commerce (March 10, 2003; Referred to the Subcommittee on Telecommunications and the Internet) and the Committee on the Judiciary (March 6, 2003; Referred to the Subcommittee on Commercial and Administrative Law). No action since 3/06/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 3</p>
HR 1481 - Internet Growth and Freedom Act of 2003 (Lofgren)	Referred	0%	2.00	-	<p><b>Background:</b> This bill would extend the internet access tax moratorium to 2008.</p> <p><b>Analysis:</b> By extending the moratorium for five additional years, this bill would relieve some of the short-term uncertainty surrounding the issue for eCommerce players and allow more time for study of and negotiation towards a fair and equitable online taxation scheme.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary (April 1, 2003; Referred to the Subcommittee on Commercial and Administrative Law). No action since 4/01/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 15% = 0%</p> <p><b>Positive factor(s):</b> 1, 3</p>
HR 1636 - Consumer Privacy Protection Act of 2003 (Stearns)	Referred	0%	2.00	-	<p><b>Background:</b> This bill provides for notice to consumers regarding collection and use, limiting the sale and disclosure of data and PII to third parties. This bill would also expand enforcement of the FTC, preempt state law, and bar private rights of action.</p> <p><b>Analysis:</b> This legislation would strike the proper balance between protecting consumer information while protecting businesses from paralyzing and costly private litigation. This bill also takes the through and sensible approach of precluding the greatly feared patchwork of state level privacy law, that would present significant compliance issues for businesses</p> <p><b>Status:</b> Referred to House Energy and Commerce; Referred to the Subcommittee on Commerce, Trade and Consumer Protection; Referred to House International Relations. No action since 4/03/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 3</p>

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HR 3140 - Fairness to Contact Lens Consumers Act (Burr)	Signed into law	100%	2.00	2.00	<p><b>Background:</b> This bill would require a "prescriber" (a person permitted under State law to issue prescriptions for contact lenses) to provide to the patient a copy of the patient's contact lens prescription free of charge. It also would declare that a contact lens prescription shall expire: (1) on the date specified by the law of the State involved, if that date is one year or more after the issue date of the prescription; or (2) not less than one year after the issue date of the prescription, if such State law specifies no date or a date that is less than one year after the date of the prescription. Permits an exception in either instance for a patient's ocular health. Prohibits advertising that lenses for which a prescription is required may be obtained without a prescription and prohibits a prescriber from issuing certain waivers. Lastly, states that any violation of this Act shall be treated as a violation of the Federal Trade Commission Act regarding unfair or deceptive acts or practices.</p> <p><b>Analysis:</b> This is a laudable step in the destruction of artificial and legacy barriers to eCommerce. Laws that prohibit release of prescriptions are based in the outmoded practice of custom fit, hard lenses. At that time, lenses were ground on a patient-by-patient basis and were highly specialized. These rigid laws were appropriate at the time in that they protected consumers from getting cut rate lenses, shoddy lenses from presumably disreputable firms, thereby ensuring consumer health and safety. These rules are outmoded in that lenses are now commodity, off-the-shelf products, mass-produced with little to no custom fitting. In this new environment, consumers should be allowed to acquire their lenses online, via catalog, and over the phone for lower costs, and greater choice, access and convenience. This legislation would aid consumers and lens retailers alike by breaking the stranglehold opticians and ophthalmologists have on the prescription.</p> <p><b>Status:</b> Replacing HR 2221, this bill was introduced in September 2003 and became Public Law in December of 2003.</p> <p><b>Positive factor(s):</b> 2, 8</p>
HR 3184 - The Streamlined Sales and Use Tax Act (Istook/Delahunt)(S.1736 (Enzi))	Referred	15%	(3.00)	(0.45)	<p><b>Background:</b> This bill would allow states the authority to collect sales and use tax on all remote purchases. The bill will grant authority to a national compact of states which have agreed to a single sales tax system. Thirty-four states have signed an agreement to enter the compact, and 20 states have already passed legislation to that effect. Under the bill, the states would force sales tax laws on merchants who ship goods into their state, and who have over \$5-million in annual gross national sales. The legislation also requires states to compensate retailers for their costs in collecting sales taxes, yet no one is certain how to calculate these costs. Senator Byron Dorgan (D-ND) is also considering sales tax legislation. Dorgan's bill will likely mimic S. 512, the Internet Tax Moratorium and Equity Act introduced in the 107th Congress, it would extend the Internet Freedom Act moratorium on multiple and discriminatory taxes for 4 years and provides that states that sufficiently simplify their sales/use tax systems will be allowed to collect sales/use tax from remote vendors. It would also provide criteria for a simplified sales tax system. The bill would call upon the States to take the lead in developing and implementing a simplified, non-discriminatory sales tax system. In addition, the legislation would call for a "joint, comprehensive study ... by State and local governments and the business community to determine the cost to all sellers of collecting and remitting State and local sales and use taxes on sales made by sellers under the law as in effect on the date of enactment under the [streamlined sales and use tax system called for in S. 512] to assist in determining what constitutes reasonable compensation." Finally, the legislation would call for a single uniform statewide use tax rate on all remote sales.</p> <p><b>Analysis:</b> This bill is negative in that the costs of compliance are unknown, "reasonable compensation" for compliance is poorly defined, and this bill may shift the burden of collection unduly to intermediaries that facilitate trade and commerce. In short, it is highly uncertain whether this bill would provide the uniformity, ease, and simplicity in tax collection and remittance it promises and might prove very harmful to small remote sellers in particular.</p> <p><b>Status:</b> Referred to the Committee on the Judiciary. On 10/22/2003, this bill was referred to the Subcommittee on Commercial and Administrative Law. No activity since 10/22/2003, therefore a downward adjustment to probability of 2% is made for each month of inactivity (5).</p> <p><b>Adjusted probability of outcome:</b> 25% (companion measure) - 10% = 15%</p> <p><b>Negative factor(s):</b> 1, 2, 3</p>
HR 3220 - Business Activity Tax Simplification Act of 2003 (Goodlatte)	Referred	20%	2.00	0.40	<p><b>Background:</b> This bill would amend Federal law concerning the taxation of interstate commerce to expand the scope of the protections prohibiting taxation by jurisdictions of the income of out-of-state corporations whose in-state presence is nominal from just tangible personal property to include intangible property and services. It would require an out-of-state company to have a physical presence in a State before the State can impose franchise taxes, business license taxes, and other business activity taxes.</p> <p><b>Analysis:</b> This bill would provide some clarity and reduce uncertainty regarding the powers of states to collect taxes from out of state firms. As the sales tax debate continues, some states have championed, and business has worried, that they might be subject to business activity taxes as well as sales tax if and when sales tax legislation passes. This bill would separate the issue and keep firms free from potentially crippling taxes.</p> <p><b>Status:</b> Referred to the House Committee on the Judiciary; referred to the Subcommittee on Commercial and Administrative Law. Subcommittee hearings held, May 2004.</p> <p><b>Positive factor(s):</b> 1, 2</p>

# The Association for Competitive Technology (ACT)

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2nd Quarter 2004

July 2004

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HR 3880 - Internet Pharmacy Consumer Protection Act (T. Davis) [HR 4612 - Safe Online Drug Act of 2004 (Walden)]	Referred	13%	3.00	0.39	<p><b>Background:</b> This bill would curb the growing sale of prescription drugs over the Internet without a valid prescription. This legislation amends the Federal Food, Drug, and Cosmetic Act to address this problem in three steps. First, it requires Internet pharmacy websites to display information identifying the business, physician and pharmacist associated with the website, and the states where the person is authorized by law to prescribe or dispense prescription drugs. Second, the bill prohibits a website from referring a customer to a doctor who then writes a prescription without ever seeing the patient. Third, the bill provides states with new enforcement authority modeled on the Federal Telemarketing Sales Act that will allow a state attorney general to shut down rogue sites across the country, rather than only in his or her state.</p> <p><b>Analysis:</b> This bill is both e-commerce and consumer friendly. It protects consumers from unsafe and unethical prescription distribution without proper medical evaluation and should limit the defrauding of consumers by unscrupulous Web pharmacies.</p> <p><b>Status:</b> Referred to the House Committee on Energy and Commerce; referred to the Subcommittee on Health. No action since March 2004. As such, a downward adjustment of 2% has been made for the period of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to Committee) - 2% = 13%</p> <p><b>Positive factor(s):</b> 2, 7, 8</p>
State taxation of digital goods/services	Pending	15%	(4.00)	(0.60)	<p><b>Background:</b> Lawmakers and tax officials from more than 30 states met in January of 2003 to lay the groundwork for taxing digital services sold on the Internet, such as downloadable music, movies and software. Convened by the Streamlined Sales Tax Project (SSTP), that is also working concurrently on simplification of sales tax nationwide to allow for the taxing of all eCommerce transactions.</p> <p><b>Analysis:</b> Although tax parity is a laudable goal, the undue taxation of these goods and the firms that produce them could have stifling implications. Digital delivery of goods and services is minimal at the current time, and doesn't burden local jurisdictions the same way as the distribution and stocking of conventional goods. What's more, too many small firms and emerging technologies would be jeopardized to make this proposal feasible. This also may diminish consumers and businesses uptake and volume in which they might potentially buy.</p> <p><b>Status:</b> Pending</p> <p><b>Negative factor(s):</b> 1, 3, 8, 9</p>
Illinois Attorney General suing online retailers for back payment of sales tax	Ongoing	10%	(2.00)	(0.20)	<p><b>Background:</b> In January 2003, the Illinois Attorney General agreed to join several whistleblower lawsuits against some of the country's biggest retailers, including Wal-Mart Stores Inc. and Target Corp., claiming the companies owe the state back-taxes from online sales.</p> <p><b>Analysis:</b> Just as big-box retailers begin the voluntary collection of sales tax on online sales, they find themselves penalized. This action dis-incent greater voluntary collection by other retailers big and small and represents a bad faith effort on the part of the states. This also has the potential to deter the opening by online sellers of locations in states for fear of tax repercussions.</p> <p><b>Status:</b> Ongoing</p> <p><b>Negative factor(s):</b> 1, 9</p>
Regulatory discrimination of Voice-over IP (VoIP)	Ongoing	5%	(5.00)	(0.25)	<p><b>Background:</b> The National Association of Regulatory Utility Commissioners (NARUC) already has a strong anti-VOIP resolution set to go through their voting process. The commissioners are worried that an explosion of internet calls could threaten the Universal Service Fund.</p> <p><b>Analysis:</b> Voice-over Internet Protocol (VoIP), is a nascent but emerging industry, with great potential to offer lower costs and more telephony options for consumers. The application of onerous old-line regulations, those inherent to conventional telecom, could significantly hinder the deployment of these services or even critically damage the market for these services.</p> <p><b>Status:</b> Ongoing</p> <p><b>Negative factor(s):</b> 2, 4, 7, 8, 9</p>
State efforts to remove barriers to eCommerce	Ongoing	25%	2.00	0.50	<p><b>Background:</b></p> <p><i>Virginia:</i> The Virginia legislature recently passed a bill to help protect businesses when out-of-state tax commissioners try to impose an obligation to collect sales tax. In the case of wine sales, the House of Delegates and Senate have approved companion measures by wide margins that would permit the delivery of up to 24 bottles a month of out-of-state wine; the bills would also allow Virginia vintners to ship directly to consumers in the 13 states with similar provisions. The legislation seeks to overturn state law that requires winemakers and drinkers to deal exclusively with distributors for out-of-state brands.</p> <p><i>Washington State:</i> In March, the Washington State Senate approved a bill that would exempt certain third-party sellers on the Internet from sales, use, and business, and occupation taxes. The legislation, supported by the Washington Department of Revenue and Amazon.com., would ensure that remote third-party sellers doing business in Washington would not have to pay the taxes if the Federal Internet Tax Freedom Act expires Nov. 1, 2003, the current expiration date.</p> <p><b>Analysis:</b></p> <p><i>Virginia:</i> The tax legislation relieves the potentially large burden from Virginia e-commerce retailers of having to comply with thousands of tax jurisdictions. A great precedent for more frictionless eCommerce, allowing in-state consumers greater convenience and choice to purchase wine from other states and allowing the Virginia's 80+ wineries access to new markets, i.e. other states and consumers that allow interstate shipments.</p> <p><i>Washington State:</i> This safeguard against a federal lapse in the tax moratorium is a positive step, and at least marginally reduces uncertainty over online tax for remote sellers, at least in the near term.</p> <p><b>Status:</b> Ongoing. The Commonwealth of Virginia has proposed legislation that would protect remote seelers in state, reducing costs especially helping small business who find compliance costs the most burdensome.</p> <p><b>Positive factor(s):</b> 2, 8</p>

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State efforts to maintain existing barriers to eCommerce	Ongoing	25%	(3.00)	(0.75)	<b>Background:</b> In March, the New York State Senate unanimously passed a bill authorizing the state to collect sales taxes on Internet purchases, to be remitted by the remote seller. Senate leaders hope the effort will enable New York to join a multistate project that is trying to devise a way to allow states with varying sales tax rates to charge a single uniform sales tax for Internet purchases and fill widening budget shortfalls. In addition, a bill that would make California part of a consortium of 36 states, the Streamlined Sales Tax Project (SSTP), which is working on the issue passed through a Senate committee in March 2003 with bipartisan approval. And state tax regulators voted to begin limited participation with the consortium, effective immediately. <b>Analysis:</b> Both bills would increase firms compliance costs to raise uncertainty for firms about the future of Internet sales tax. In the interregnum, between when the states commit to the SSTP and Congress acts allowing online sales tax collection, neither of which is certain, eCommerce players must grapple with various tax schemes and the specter of national collection. <b>Status:</b> Ongoing <b>Negative factor(s):</b> 1, 2, 3
Trend towards a patchwork of state privacy laws	Ongoing	40%	(4.00)	(1.60)	<b>Background:</b> Privacy protection is of great importance in the digital era, where data exchange and sharing is so easy. As a result, state-level action to address consumer privacy and spam concerns is increasing. Although Minnesota is the only state with an online privacy law, lawmakers in 34 states have introduced at least 84 bills to address the issue of privacy and spam ( <i>Source:</i> Internet Alliance). <b>Analysis:</b> A patchwork of different, disparate, and even-contradictory privacy laws at the state-level is a significant and growing problem for eCommerce retailers. Navigating what could be potentially a 50-state regulatory scheme could prove cost prohibitive for many online retailers, limiting eCommerce growth and consumer choice. <b>Status:</b> Ongoing -- with Massachusetts Senate clearing latest anti-spam/privacy bill in September 2003. <b>Negative factor(s):</b> 1, 2, 3, 7
European Union action to collect Value Added Tax	In effect	100%	(3.00)	(3.00)	<b>Background:</b> Starting July 1 2004, any sale of digital goods (e.g. software and entertainment) to European consumers is subject to Value Added Tax (VAT) ranging from 15% to 25%. The seller is responsible to collect the tax and file remittances. Sellers can apply a single VAT rate if they establish operations in an EU nation. Otherwise, the seller has to determine rates for and remit to the consumer's own VAT authority. Also taxable are services such as auction listing fees and internet access service provided to EU consumers. <b>Analysis:</b> Collecting and filing for multiple VAT nations will increase costs of doing business, especially for smaller software companies and digital media distributors. Faced with these compliance costs, some U.S. firms may not realize their EU market opportunities. Additionally, providers of services such as online auction listings and internet access must pay the VAT without necessarily being able to pass costs through to EU consumers. <b>Status:</b> In effect July 1 2004 <b>Negative factor(s):</b> 1, 2, 3
<b>Competition policy:</b>					<b>(5.35)</b>
DOJ & state lawsuit and ongoing EU investigation of Oracle-Peoplesoft merger	Ongoing	50%	(2.00)	(1.00)	<b>Background:</b> Oracle Corp. has made a \$9.4 billion bid for competitor PeopleSoft. The European Union and the US DOJ have worked closely on examining this investigation and both argue that the market is too small to allow two competitors to merge. Specifically, the US Department of Justice sued in February 2004 asserting that there were only 3 companies (Oracle, PeopleSoft, SAP) in the vendor market offering enterprise-wide customer relationship management (CRM), enterprise resource management (ERP), HR, and related software. <b>Analysis:</b> The DOJ and EC are relying on a backward looking and limited view of the market. If the merger were allowed, the combined Oracle-PeopleSoft firm would still trail market leader SAP. In addition, there are numerous smaller firms with robust offerings in the enterprise software space. Proctor and Gamble for example uses SAP and a host of other smaller software packages. <b>Status:</b> Ongoing. As of April 2004, eight states have joined the DOJ suit against the merger, which is expected to be heard in a California court in June. The EU is set to rule in early May 2004, but may delay a ruling to allow the DOJ suit to be decided. <b>Negative factor(s):</b> 2, 4
Governments mandating open source software procurement preferences	Ongoing	35%	(6.00)	(2.10)	<b>Background:</b> Advocates of the Open Source movement are pushing governments to mandate open source software in all future procurement decisions. Over 70 foreign nations are considering mandates, and this quarter alone, bills were introduced in Virginia, Hawaii, Alabama and Oklahoma. Some states have also entered into a compact for code sharing: the Government Open Code Consortium (GOCC), a multi-state collective of state Administrators and CIOs to develop and share code between states. On the federal front, NASA applied for, and won approval for an OSI sanctioned reciprocal license for the development of software. This is the first federal government agency to develop its own GPL-style license. All of these bills and actions could conceivably preclude the sum of the proprietary software sector, favoring instead open source over commercial software. <b>Analysis:</b> Both business and government IT directors are fully capable of evaluating and selecting software that best fits their needs. A procurement mandate would cut the choices available and reduce competition among software providers. IT businesses based on proprietary software would see shrinking markets, reduced growth prospects, and diminished incentive for innovation. Worse, governments would be picking winners and losers instead of letting markets decide on the merits. <b>Status:</b> Ongoing. <b>Negative factor(s):</b> 2, 3, 4, 5, 6, 7

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US Department of Justice (DOJ) Antitrust Division Closes Orbitz Investigation	Done	100%	1.00	1.00	<b>Background:</b> The Department of Justice's (DOJ) Antitrust Division closed its Orbitz joint venture investigation. Orbitz is owned by several airlines, and sells airline tickets and other travel services online. <b>Analysis:</b> This DOJ decision is consistent with previous government and independent examinations of Orbitz. Previously, the Department of Transportation Inspector General found no evidence of any anti-competitive behavior by Orbitz, and in fact determined that Orbitz provides a valuable service to consumers and promotes competition in the travel marketplace. <b>Status:</b> Concluded by DOJ on July 31, 2003. <b>Positive factor(s):</b> 4
Inactivity of Congressional Antitrust Commission	Seeking funding	25%	(1.00)	(0.25)	<b>Background:</b> Establishes the Antitrust Modernization Commission to study and report to Congress and the President on issues and problems relating to the modernization of the antitrust laws. Directs the Commission to: (1) solicit divergent views of all parties concerned with the operation of such laws; and (2) evaluate the advisability of proposals and current arrangements with respect to such issues and problems. <b>Analysis:</b> Regrettably there has been little activity relating to the constitution and progress of this body. The Republican leadership has made only two of their four appointments, the Democrats have made four, the President has made none, there was no appropriation in the omnibus budget bill. <b>Status:</b> Seeking \$4 million in funding <b>Negative factor(s):</b> 7
Recent EC ruling and the Computer & Communications Industry Association (CCIA) Complaint to the European Commission (EC)	Remedy and fine suspended during appeals process	100%	(3.00)	(3.00)	<b>Background:</b> CCIA, a trade group which counts Sun Microsystems and RealNetworks among its members, filed a 260-page complaint with the European Commission (EC) alleging that Windows XP "violates" European competition law. The Commission examined Microsoft's inclusion of media player technology with Windows XP, and the sharing of protocols to enable competing servers to interact with client computers running Microsoft Windows. Microsoft's competitors asked the EC to make Microsoft strip media player from Windows XP, and to force Microsoft to share its proprietary server protocols. <b>Analysis:</b> Users of Windows XP can already download several other media players, so removing Windows Media Player (WMP) is of no discernible benefit to Europe's computer users. Moreover, independent software developers would spend more on development, testing, and support because they could no longer rely on the default presence of media player code in Windows XP. Absent the WMP default, developers would need to select other media players to support and/or code their own middleware functions. This ruling by the EC will diminish market opportunities for Microsoft, independent software companies, and media content distributors that rely upon WMP as a default in Windows XP. The EC has set a dangerous precedent by choosing to regulate whether and how new features can be integrated into existing software. <b>Status:</b> Ruling issued March 2004, pending appeal. In June 2004, the EC agreed to suspend the remedy and fine until the appeal by Microsoft is fully heard. The president of the European Court of First Instance, Bo Vestendorf, has called on officials from Microsoft and the European Commission, as well as other interested parties, to attend an informal meeting on July 27, <b>Negative factor(s):</b> 1, 2, 7
<b>Trade policy:</b>					<b>3.90</b>
US and the EU joint statement on innovation and intellectual property protection	Announced	100%	1.00	1.00	<b>Background:</b> This announcement solidifies the US-EU joint commitment to protect intellectual property to encourage innovative uses of technologies and services. <b>Analysis:</b> This agreement in principle by the EU and US shows a necessary and positive commitment to protect copyright holders and intellectual property in today's virtually borderless world of commerce and where content and IP can be virally spread and stolen. Moves such as this promote investment, innovation, and production of new works and technologies where, if they didn't exist, there would be limited incentive to innovate and produce. <b>Status:</b> Statement made in June 2004 at a summit in Ireland. <b>Positive factor(s):</b> 2
U.S. and India sign statement of principles for tech commerce	Signed	100%	1.00	1.00	<b>Background:</b> India and the United States reached agreement on principles governing high technology commerce including trade in dual-use technology, reflecting a new relationship and common strategic interests. The two sides agreed to take steps to promote and facilitate such trade by addressing systemic barriers; generating market awareness; undertaking promotional activities; conducting industry outreach programs; reviewing policies and processes on export of dual use goods and technologies to India; and, pursuing export control cooperation. <b>Analysis:</b> In 2000, India ranked 28th among the United States' export markets, behind such substantially smaller economies as Ireland and the Dominican Republic. U.S. high-technology companies have been interested in increasing their presence in the Indian economy, although many have expressed concerns about tariff and non-tariff barriers to entry. Yet India graduates approximately 250,000 IT professionals a year. This accord will allow US firms to tap into the Indian market and labor pool while allowing India's IT industry expanded access to US markets. <b>Status:</b> Agreed to in February 2003. <b>Positive factor(s):</b> 2
United States-Chile Free Trade Agreement (FTA) Implementation Act [HR 2738]	Passed by Senate	100%	1.00	1.00	<b>Background:</b> This bill contains state-of-the-art protections and non-discriminatory treatment are provided for digital products such as U.S. software, music, text, and videos. Protections for U.S. patents, trademarks and trade secrets exceeds past trade agreements in the region. <b>Analysis:</b> Both agreements contain provisions relating to protections of intellectual property rights, electronic commerce, and telecommunications. <b>Status:</b> Passed by the United States Senate July 31, 2003 <b>Positive factor(s):</b> 2

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United States-Singapore Free Trade Agreement (FTA) Implementation Act [HR 2739]	Passed by Senate	100%	1.00	1.00	<p><b>Background:</b> With regard to eCommerce, the agreement "recognize[s] the economic growth and opportunity provided by electronic commerce and the importance of avoiding barriers to its use and development and the applicability of WTO rules to electronic commerce" and seeks to level the playing field and define digital products. Other promising components include enhanced intellectual property protections and codified access and use rules for telecom networks.</p> <p><b>Analysis:</b> Singapore already had removed tariffs on information technology products as a signatory to the WTO's Information Technology Agreement. The U.S.-Singapore Free Trade Agreement secures further market access in services, specifically telecommunications and computer-related services. The eCommerce provisions remove duties from electronically-delivered products and services. In the agreement, Singapore commits to uphold protections for U.S. investments and intellectual property rights.</p> <p><b>Status:</b> Passed by the United States Senate July 31, 2003</p> <p><b>Positive factor(s):</b> 2</p>
U.S.-Australia Free Trade Agreement	Sent to House for approval	50%	1.00	0.50	<p><b>Background:</b> The U.S.-Australia FTA is the first FTA between the United States and a developed country since the U.S.-Canada Free Trade Agreement in 1988. It is a 21st century, state-of-the-art agreement that reflects the modern globalized economy, opening markets and streamlining mutual access in intellectual property, services, government procurement, e-commerce and investment.</p> <p><b>Analysis:</b> The United States has much to gain in pursuing an FTA with Australia. Two-way trade has grown significantly in the past decade, totaling more than \$19 billion in 2001. The increased access to Australia's market that an FTA would provide would further boost trade in both goods and services, enhancing employment opportunities in both countries. An FTA also would encourage additional foreign investment between the United States and Australia, adding to the many jobs that the significant investment flows between the two countries currently support. In addition, an FTA would result in greater business integration, especially in the information technology sector, increasing efficiency and the competitiveness of U.S. industry.</p> <p><b>Status:</b> Approved by Senate Finance Committee, to be received in the House in Early July 2004.</p> <p><b>Positive factor(s):</b> 2</p>
Canadian consumer protection rules	Stated	25%	(3.00)	(0.75)	<p><b>Background:</b> Canadian competition authorities will assert jurisdiction, to the fullest extent possible, over electronic commerce activities to protect the domestic market from misleading representations and deceptive marketing practices, the Competition Bureau disclosed in February 2003.</p> <p><b>Analysis:</b> Deceptive marketing or business practices should not be condoned or overlooked either offline or online. But more strict Canadian rules around marketing, would present a barrier to eCommerce and raise compliance costs and considerations for US firms by fear of prosecution or fines.</p> <p><b>Status:</b> Stated</p> <p><b>Negative factor(s):</b> 1, 2, 3</p>
US Department of Commerce (DOC) Digital Freedom Initiative (DFI)	Piloting	15%	1.00	0.15	<p><b>Background:</b> This initiative would place volunteers in small businesses to share business knowledge and technology expertise, promote pro-growth regulatory and legal structures to enhance business competitiveness, and leverage existing technology and communications infrastructure in new ways to help entrepreneurs and small businesses better compete in both the regional and global market place. If the pilot project is successful, it could be rolled out to 20 countries in the next five years.</p> <p><b>Analysis:</b> Although only a small pilot program at this point, this should help to open new markets to US firms and aid in global economic development.</p> <p><b>Status:</b> Launched March 2003.</p> <p><b>Positive factor(s):</b> 2</p>
<b>Fiscal policy:</b>					<b>4.36</b>
President Bush's economic stimulus plan - The Jobs and Growth Tax Relief Reconciliation Act of 2003	Signed	100%	3.00	3.00	<p><b>Background:</b> The President's economic agenda has three main goals: 1) encourage consumer spending that will continue to boost the economic recovery, 2) promote investment by individuals and businesses that will lead to economic growth and job creation, 3) deliver critical help to unemployed citizens. The President's new proposal would: Speed up the 2001 tax cuts to increase the pace of the recovery and job creation. Encourage job-creating investment in America's businesses by ending the double taxation of dividends and giving small businesses incentives to grow. Provide help for unemployed Americans, including extending unemployment benefits and creating new reemployment accounts to help displaced workers get back on the job.</p> <p><b>Analysis:</b> The Plan scores well on potential impact, but it starts with a low probability at this point since no bills have been introduced. Citing the importance of small business in creating jobs, the Plan reduces costs (+1) by tripling the expensible portion of equipment purchases. That should also stimulate business spending (+1). Not many small tech firms pay dividends, so the dividend tax preference is not a major TEQI factor. The Personal Re-Employment Accounts (up to \$3000) should help grow the tech workforce. (+0.5 since it affects only 1.2 million workers) Acceleration of tax rate cuts and reduction of marriage penalty give consumers more to spend. We might say that will encourage them to finally spring for broadband or a new computer. Give this just a +0.5 since it helps provide consumer cash, but doesn't specifically encourage spending.</p> <p><b>Status:</b> Signed by the President in May 2003</p> <p><b>Positive factor(s):</b> 1, 9, 10</p>

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S. 158 - Small Business Expensing Improvement Act (Snow) [HR 179 (Herger)]	Referred	0%	2.00	-	<p><b>Background:</b> Amends the Internal Revenue Code with respect to the expensing of depreciable business assets (section 179) to increase the maximum amount which may be expensed to \$75,000 and the phase-out threshold to \$325,000.</p> <p><b>Analysis:</b> This bill specifically helps small business, technology firms included, by dramatically reducing the paperwork required to account for the capitalization of the purchased property. It also improves businesses' ability to retain and accumulate capital for growth. A number of the small business groups strongly support the bill, particularly the delegates to the White House Conference on Small Business. Increased expensing was one of the top recommendations made by the 2,000 delegates to the Conference representing the 25,000 owners who participated nationwide. And SBA Office of Advocacy studies have shown that it is the small business community that leads the nation out of recessions and creates 67 percent of net new jobs, so this is a very positive step towards improving the economic health of small firms and the economy writ large. (Source: Office of Advocacy, U.S. Small Business Administration, from data provided by the U.S. Bureau of Census. The figure is based on net new jobs for businesses with fewer than 500 employees from 1990 to 1995.)</p> <p><b>Status:</b> Referred to the Committee on Finance. No action since 1/07/2003. As such, downward adjustment made to probability of 2 percentage points for each month (14) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 25% (companion bill) - 28% = 0%</p> <p><b>Positive factor(s):</b> 1, 3</p>
S. 181 - Stock Option Accounting Review Act (Levin)	Referred	0%	(2.00)	-	<p><b>Background:</b> This bill amends the Sarbanes-Oxley Act of 2002 to direct the Financial Accounting Standards Board to: (1) review the accounting treatment of employee stock options; and (2) within one year after the enactment of this Act, adopt an appropriate generally accepted accounting principle for the treatment of such options.</p> <p><b>Analysis:</b> This bill would affirmatively direct the FASB to conduct a fresh review of the accounting for stock options and issue an appropriate rule within one-year. The release expressly indicates that such a rule would override the 1994 sense of the Senate resolution that options not be expensed. Therefore the potential for an expensing rule (rather than having companies do it on their own) exists.</p> <p><b>Status:</b> Referred to the Committee on Banking, Housing, and Urban Affairs. No action since 1/07/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 3, 10</p>
S. 182 - Ending the Double Standard for Stock Options Act (Levin) [HR 626 (Stark)]	Referred	0%	(3.00)	-	<p><b>Background:</b> This bill would amend the Internal Revenue Code to limit the amount of deductions taken for property transferred in connection with a stock option to the amount treated as an expense by taxpayer in ascertaining income, profit, or loss.</p> <p>Requires Secretary to formulate rules where the stock option is granted by a parent or subsidiary corporation.</p> <p>Excludes from the definition of "wages," for purposes of the research tax credit, the amount of property transferred in connection with a stock option and required to be included in a report or statement until such amount is so included. Limits the portion of the amount to be treated as wages to no more than the amount of the deduction taken with respect to such amount.</p> <p><b>Analysis:</b> This bill is particularly negative as it seeks to amend the IRS code and codifies stock option expensing.</p> <p><b>Status:</b> Referred to the Committee on Finance. No action since 2/14/2003. As such, downward adjustment made to probability of 2 percentage points for each month (13) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 25% (companion bill) - 26% = effectively 0%</p> <p><b>Negative factor(s):</b> 1, 3, 10</p>
S 189 - 21st-Century Nanotechnology Research and Development Act (Wyden) [HR 766 (Boehler)]	Referred	100%	1.00	1.00	<p><b>Background:</b> Both bills would provide for a National Nanotechnology Research and Development Program. Specifically, the Wyden bill would direct the President to establish a National Nanotechnology Research Program. Requires such Program, through appropriate Federal agencies, councils, and the National Coordination Office, to: (1) establish goals, priorities, grand challenges (fundamental problems in science and engineering that will require the application of nanotechnology), and metrics for evaluating Federal nanotechnology research, development, and other activities; (2) invest in Federal research and development (R&amp;D) programs in nanotechnology and related sciences to achieve those goals; and (3) provide for coordination of Federal nanotechnology activities.</p> <p><b>Analysis:</b> Positive as it would help spur research and development into the ultra-cutting edge field of nanotechnology, revolutionizing the composition, structure and capabilities of nanometric devices and elements, including that of nano-computing.</p> <p><b>Status:</b> Referred to the Committee on International Relations, and subsequently referred to the Committee on the Judiciary. Placed on Senate Legislative Calendar under General Orders. Calendar No. 280. On 12/3/2003; this measure became Public Law No: 108-153.</p> <p><b>Positive factor(s):</b> 7</p>

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Issue area Event/activity affecting the TEQI	Probability		Impact, if outcome occurs	Net effect on TEQI (Probability x Impact)	Notes  (Refer to the "Scoring Guide" tab/sheet for an explanation of probability and positive and negative factors)
	Status as of 07.01.04	Probability of outcome			
S 664 - Investment in America Act of 2003 (Hatch) [HR 463 (Johnson)]	Referred	0%	2.00	-	<p><b>Background:</b> This bill would make the research credit permanent, increase the alternative incremental research credit rates, and allow for a new elective alternative credit to extend the incentive effect of the credit to even more research businesses.</p> <p><b>Analysis:</b> The permanence of an R&amp;D tax credit will spur firms to engage in new and high-risk research endeavors that otherwise not be undertaken. Such R&amp;D and the ripple effects they have in the greater economy in terms of productivity needs to be encouraged. Studies have proven that the marginal effect of one dollar of the research credit creates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra R&amp;D spending over the long-run.</p> <p><b>Status:</b> Referred to the Senate Committee on Finance. No action since 3/19/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 25% (companion bill) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 7, 9</p>
S 842 - Affordable Small Business Stimulus and Simplification Act of 2003 (Kerry)	Referred	0%	2.00	-	<p><b>Background:</b> Among this bills most notable provisions, it amends the Internal Revenue Code to increase the annual (section 179) business expensing limitation and the related phase-out threshold for each of 2003 through 2008. Establishes a \$500 standard deduction for electing sole proprietorships. Increases the exclusion percentage when calculating the exclusion of gain on qualified small business stock. Provides 100 percent exclusion for critical technology corporation stock and specialized small business investment company stock. Makes corporations eligible for such exclusion levels. Defines "critical technology corporation." Decreases the required holding period. Increases the period in which purchased replacement stock will qualify for rollover status. Reduces the recovery period for depreciation of computers, peripheral equipment, and software. Permits a self-employed individual to deduct all health insurance costs unless he or she participates in an employer-subsidized health plan. Permits the disclosure of Federal taxpayer identity information and signatures to State entities to carry out an approved combined employment tax</p> <p><b>Analysis:</b> This type of targeted, small business legislation aids small firms and encourages spending and investment. Especially positive and technology-appropriate is the reduction in the depreciation period for software, computers, and peripherals, which always depreciate at a more rapid rate than other company assets.</p> <p><b>Status:</b> Referred to the Senate Committee on Finance. No action since 4/09/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 3</p>
S 1395 - Technology Administration Authorization Act of 2003 (McCain)	Reported	20%	1.00	0.20	<p><b>Background:</b> The bill authorizes appropriations for fiscal years 2004 through 2008 for the Department of Commerce's (DOC) Technology Administration (TA), which includes the National Institute of Standards and Technology (NIST), which accounts for the bulk of the authorization, the Office of Technology Policy (OTP), and Office of Space Commercialization (OSC). The Committee approved one amendment that increases the authorization levels for construction and maintenance of facilities of the NIST. The Committee approved a second amendment that adds to the bill an authorization for appropriations for the ATP. The Bush administration has proposed eliminating the ATP.</p> <p><b>Analysis:</b> This bill ensures an adequate degree of government involvement in stimulating private-sector research and development of new technologies. This bill would also aid small firms investing in new, high-risk, technologies.</p> <p><b>Status:</b> Referred to the Committee on Commerce, Science, and Transportation; On July 17, 2003, it was ordered to be reported with amendments favorably. On 10/30/2003; this measure was placed on the Senate Legislative Calendar under General Orders. Calendar No. 357. No action since 10/30/2003. As such, downward adjustment made to probability of 2 percentage points for each month (5) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 30% (referred to committee) - 10% = 20%</p> <p><b>Positive factor(s):</b> 7</p>

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	Status as of 07.01.04	Probability of outcome			
HR 4520 - American Jobs Creation Act of 2004 (Thomas) [S 1475 - Promote Growth (PRO GROW) and Jobs in the USA Act of 2003 (Hatch)]	Referred	90%	1.00	0.90	<p><b>Background:</b> This bill would amend the Internal Revenue Code to repeal the tax exclusion for extraterritorial income and reduces corporate tax rates on domestic production activities income and on certain small businesses. It would extend until 2008 provisions allowing expensing of small business assets and revises rules for the depreciation of certain leasehold improvements, restaurant property, aircraft, and bonus depreciation property. Revises tax rules for S corporations and rules relating to the foreign source income of U.S. businesses and individuals. Reduces the alternative minimum tax for certain corporations and farmers. Repeals excise tax reductions for certain alcohol fuel mixtures and allows the tax credit for alcohol products used as fuel to reduce excise tax liabilities. Adds tax reporting requirements to regulate the payment of certain fuel excise taxes. Extends certain expiring tax credits and deductions and authorities for the issuance of certain tax-exempt bonds. Permits a taxpayer election to deduct State and local general sales taxes in lieu of State and local income taxes. Sets forth rules relating to the tax treatment of expatriated individuals and corporations. Adds or increases penalties for abusive tax shelter activities.</p> <p><b>Analysis:</b> This legislation is loaded with provisions favorable to the technology industry, including a reduction in foreign revenue taxes and an extension of the research and development tax credit, and repeal of the recently enacted ETI regime. The R&amp;D tax credit has become a perennial issue in Congress. The credit was first enacted in 1981 as a temporary measure. It has been extended repeatedly since then. Under the current schedule, corporations receive a 20% tax credit for qualified research and development expenditures (QREs) in excess of a calculated base amount. This bill would repeal the Extraterritorial Income Exclusion Act of 2000 (ETI), which the Congress enacted as a replacement for the Foreign Sales Corporation (FSC) tax regime. The World Trade Organization (WTO) has ruled that both the FSC and ETI tax regimes constitute illegal export subsidies, and authorized the European Union (EU) to impose retaliatory tariffs. The U.S. unsuccessfully argued to the WTO that the U.S. has a global tax system, while European nations have territorial tax systems that this puts U.S. exporters at a competitive advantage, and that tax regimes such as ETI and FSC that exempt certain foreign source income from taxation merely level the playing field. Technology companies that sell software or equipment abroad have benefited from FSC/ETI. Also, the EU has indicated that if it takes retaliatory measures, it may target certain technology sectors.</p> <p><b>Status:</b> House bill passed June 2004. Bill currently in conference committee.</p> <p><b>Positive factor(s):</b> 7</p>
S 2176 - High-End Computing Revitalization Act of 2004 (Bingaman)	Hearings held	20%	1.00	0.20	<p><b>Background:</b> Instructs the Secretary of Energy to implement a research and development program to advance high-end computing systems, including establishment of a coordinated set of facilities for investigators to develop ultrascale scientific computing capability for: (1) scientific research and development using high-end computing systems; and (2) development of potential advancements in high-end computing system architecture and software. Lastly, the bill would require such program to include establishment of at least one High-End Software Development Center.</p> <p><b>Analysis:</b> As Japan launched its Earth Simulator super-computer recently, the US lost its competitive supremacy in the super-computing arena. This Act would set aside resources for research and development directed by the Department of Energy to focus on training and development of applications and tools that would allow the US to regain the top seat in high-end computing.</p> <p><b>Status:</b> Referred to the Committee on Energy and Natural Resources. In June 2004, the Committee on Energy and Natural Resources held hearings.</p> <p><b>Positive factor(s):</b></p>
HR 175 - Untitled (Abolishment of the Advanced Technology Program (ATP) (Royce)	Referred	0%	(1.00)	-	<p><b>Background:</b> This bill would amend the National Institute of Standards and Technology Act to abolish the Advanced Technology Program.</p> <p><b>Analysis:</b> Unlike many other, often-criticized, government R&amp;D programs, the ATP is private sector driven, co-funded, and targeted, seeking to satisfy the needs of industry, not government. The ATP fills the void created by risk-averse private-sector firms, where economic realities discourage such cutting edge innovation.</p> <p><b>Status:</b> Referred to the House Committee on Science, subsequently referred to the Subcommittee on Environment, Technology, and Standards. No action since 2/20/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Negative factor(s):</b> 7</p>
HR 223 - Business Expensing Act (J. Wilson)	Referred	0%	1.00	-	<p><b>Background:</b> This bill would amend the Internal Revenue Code to: (1) increase the first year bonus depreciation to 50 percent for property acquired after December 31, 2003, if no written binding contract was in effect before January 1, 2003; and (2) extend bonus depreciation provisions to 2007.</p> <p><b>Analysis:</b> An increased and extended bonus depreciation schedule brings tax policy more in line with the economic realities of the high-tech industry. IT and related products depreciate more quickly than other business assets. If these tax advantages can be better used by firms, they are more likely to invest more and spend more on all aspects of their business, technology products included.</p> <p><b>Status:</b> Referred to the House Committee on Ways and Means. No action since 1/07/2003. As such, downward adjustment made to probability of 2 percentage points for each month (15) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 30% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 3, 8</p>

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	Status as of 07.01.04	Probability of outcome			
HR 224 - Small Business Expensing Act (J. Wilson)	Referred	0%	2.00	-	<p><b>Background:</b> This bill would amend the Internal Revenue Code to increase the annual amount of depreciable business assets (section 179 property) which may be expensed to \$75,000.</p> <p><b>Analysis:</b> Raising this limit from the current \$17,500 limit in Sec. 179 of the IRS code is especially helpful to small business as they have the least cash on reserve for purchases and could leverage this policy to save or spend capital for research, production, hiring, etc.</p> <p><b>Status:</b> Referred to the House Committee on Ways and Means. No action since 1/07/2003. As such, downward adjustment made to probability of 2 percentage points for each month (15) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 30% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 3, 8</p>
HR 1162 - Invest in America Act of 2003 (A. Smith)	Referred	0%	3.00	-	<p><b>Background:</b> This bill would amend the Internal Revenue Service Code of 1986 to allow a deduction for certain distributions from a controlled foreign corporation to encourage companies to invest in worker hiring and training, infrastructure investments, capital investments, financial stabilization of the company, and research and development.</p> <p><b>Analysis:</b> This bill would bring billions in new investment to America and help spur our economy. The bill would encourage companies with foreign subsidiaries to return their foreign profits to the United States by offering a temporary reduction in the tax rate on foreign profits. The Joint Committee on Taxation estimates passage of the bill would result in an additional \$135 billion in investment in America.</p> <p><b>Status:</b> Referred to the House Committee on Ways and Means. No action since 3/06/2003. As such, downward adjustment made to probability of 2 percentage points for each month (13) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 26% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 7, 9</p>
HR 1232 - Technology Investment Incentive Act of 2003 (Dreier)	Referred	0%	3.00	-	<p><b>Background:</b> This bill would allow companies to write off the costs of certain technology investments in the year they are purchased, establish a three-year depreciation schedule for wireless telecommunications equipment, advanced services equipment and network or network system equipment. This legislation also would allow companies to write off the costs of software development and research and development over three years</p> <p><b>Analysis:</b> Conventional wisdom holds that the product life cycle for IT products is 18 months, generally less for software. This bill puts tax policy more in line with industry realities. In addition, financial analysts predict tax measures like this could boost capital spending anywhere from 3% to 10%. <i>Source:</i> Goldman Sachs and AG Edwards).</p> <p><b>Status:</b> Referred to the House Committee on Ways and Means. No action since 3/12/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 1, 7, 9</p>
HR 1372 - The Broad-Based Stock Option Plan Transparency Act of 2003 (Dreier/Eshoo)	Referred	3%	2.00	0.06	<p><b>Background:</b> This bill directs the Securities and Exchange Commission to improve transparency and disclosure requirements for all publicly traded companies. Puts a three year ban on any government mandate requiring the expensing of stock options.</p> <p><b>Analysis:</b> In the post dot-com era, truthful and accurate accounting are pressing issues, and rightly so. The expensing of stock options wouldn't do much to give investors an accurate picture of a company's financial health. The failure of the majority of these firms was due to dodgy business models and novice company heads, not option expensing. Options do provide value to firms in recruitment, retention, and productivity, especially for tech firms. Mandating stock option expensing would do little to give clarity to investors and would harm small tech firms. This bill takes the proper approach by simplifying and clarifying disclosure statements so investors can receive an accurate picture of a firm's economic health.</p> <p><b>Status:</b> Referred to the House Committee on Financial Services. No action since 3/31/2003. As such, downward adjustment made to probability of 2 percentage points for each month (12) of inactivity.</p> <p><b>Adjusted probability of outcome:</b> 15% (referred to committee) - 24% = effectively 0%</p> <p><b>Positive factor(s):</b> 3, 10</p>
HR 3574 - Stock Option Accounting Reform Act (R. Baker) [S 1890 (Enzi)]	Committee hearing/ companion bill	25%	(2.00)	(0.50)	<p><b>Background:</b> This legislation is designed to curtail plans to revamp accounting standards for employee stock options and to address the issue of excessive executive compensation. The bill would require companies to expense stock options for their top five executives and retain the current practice for other employees' options. The measure, introduced to counteract plans by the Financial Accounting Standards Board to require the expensing of all stock options, also would prohibit expensing until the true value of options can be estimated. And the measure would require the Labor and Commerce departments to conduct an economic impact study on the accounting change.</p> <p><b>Analysis:</b> Although this legislation would limit the ability of FASB to require the expensing of ALL stock options and require appropriate study before accounting changes are made to discern their impact, this bill disproportionately harm small tech firms who will be unable to attract investors and capital. The emphasis should instead be on simplification of disclosure statements to give a proper glimpse into a company's finances and outlook.</p> <p><b>Status:</b> Referred to the House Committee on Financial Services; referred to the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. Subcommittee Hearings held (3/3/2004). In June of 2004, this legislation received full committee consideration and two mark-up sessions were held. Also, in late June 2004, this legislation was ordered to be reported to the full House.</p> <p><b>Negative factor(s):</b> 3, 10</p>

