

**NAM** National Association  
of Manufacturers

*Jerry J. Jasinowski*

*President*

July 10, 1998

The Honorable Joel I. Klein  
Assistant Attorney General  
Antitrust Division  
Room 3109  
Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Mr. Klein:

The National Association of Manufacturers (the NAM) hereby requests the issuance of a business review letter pursuant to the Department of Justice's business review procedure, 28 C.F.R. §50.6 (1997). We would very much appreciate a statement of the Department's current antitrust enforcement intentions regarding the following proposed information exchanges that the NAM will design and facilitate to help resolve the Year 2000 computer transition problems that many manufacturers and other businesses expect to experience in the near future. We request that the Department's business review be conducted on an expedited basis due to the time-sensitive nature of the proposed activity.

The NAM is the nation's oldest and largest broad-based industrial trade association. Its nearly 14,000 member companies and subsidiaries, including 10,000 small manufacturers, employ approximately 85 percent of all manufacturing workers and produce over 80 percent of the nation's manufactured goods. More than 158,000 additional businesses are affiliated with the NAM through its Associations Council and National Industrial Council.

Membership in the association is open to three classes of members: manufacturing, manufacturing associations and cooperating. Foreign-owned manufacturing members must be engaged in manufacturing in the United States. Manufacturing is interpreted to include any entity which produces or assembles tangible goods, is a utility, is engaged primarily in transporting tangible goods, or furnishes services which are directly or indirectly incorporated into the operation of any of the above, but shall not include any business ventures specifically mentioned under cooperating membership. Manufacturing associations are those groups that represent entities engaged in manufacturing in the United States. Cooperating members include individuals, firms, associations or corporations who are non-manufacturing, such as banking institutions, insurance companies, consulting, advertising, architectural, legal or accounting firms, who specialize in servicing those legal entities defined as eligible for membership.

The NAM is currently involved with several activities dealing with the Year 2000 problem. These activities will be conducted to a large extent through use of the Internet, to facilitate the communication and exchange of information from computer hardware and software vendors and users. But individual companies will also undertake their own efforts to collect and disseminate information about Year 2000 problems and solutions.

***Manufacturing Makes America Strong***

**The NAM's Directory.** The NAM is in the process of building an Internet web site with a directory of companies and their Year 2000 information. End-users will be able to search the directory by a variety of criteria, including company name, contact name, city state and product/service category (e.g., "machinery," "software," etc.). The resulting detail screen will include at least three URLs (Uniform Resource Locators) – for the company's home page, Year 2000 information page, and product-specific Year 2000 information pages, as well as other company information to be determined. All information relating to Year 2000 problems and solutions will be maintained on the web sites of participating companies and organizations, and will be linked through the NAM's central directory and search engine.

Companies will update their own company records with the appropriate company information. They will register with the directory, assign their own username, and maintain their own company information in a secure environment. Once registered, companies will be given their own password to access and change their company-specific information. Such information will include the name of the company, some brief descriptive information, and the URL links to their own web pages.

The information on the company or organizational web sites linked to the NAM directory will consist of a variety of possible materials. Some will identify hardware, software or other products that are believed to be "Year 2000 compliant." Some will identify items in various stages of readiness for Year 2000. Some will identify items that clearly are not compliant, or that are undergoing remediation efforts that will not be ready by January 1, 2000. Some will identify items that it is believed will produce varying levels of failure in Year 2000.

End users will be able to access this information individually, or exchange it with other end-users, on an unrestricted basis. No special membership requirements will apply in order to access the Year 2000 information. End users may be either members or non-members of the NAM. The NAM will have no control over the extent to which information placed on its Year 2000 web site will be shared by and among companies, organizations or members of the public.

Under this program, companies in a wide variety of industries will be able to review the Year 2000 information of their competitors. In addition, the customers of those companies will be able to review the same information. Thus, the Year 2000 information will be disclosed and exchanged in both vertical and horizontal markets. Information made available to interested persons through the NAM directory will be available for downloading or printing, and we expect that such information will be distributed individually from company to company and through group or association distributions by e-mail, mail, fax or other methods of communication.

The NAM will solicit input into the Year 2000 directory from among its members, including associations and cooperating members, as well as from other groups that might be interested in notifying their members of the availability of the directory. It is our intention to keep the directory as open as possible to allow an unrestrained population of the data base with web site information from companies of all kinds relating to Year 2000 compliance.

The NAM will not verify the accuracy of the information maintained by individual organizations that link to the Year 2000 directory. Nor can the NAM police the motives that might underlie erroneous or misleading descriptions of Year 2000 problems that linking organizations place on-line. These problems will continue to be subject to appropriate consumer protection, libel, antitrust or other laws that might apply to them. In addition, vendors whose products or services are discussed on linked web sites will have the opportunity to provide their own perspective on their own sites, which will also be linked. This free dissemination of information will help insure that all viewpoints are aired to the fullest extent, so that users will be able to make informed decisions on their own about handling their Year 2000 problems.

**Individual company activity.** Companies with information about Year 2000 compliance also want to share it directly between themselves, with or without using the NAM directory. This collection and exchange of information on an individual company-to-company basis is in essence a smaller, more personalized version of the NAM's directory of Year 2000 information, maintained separately rather than linked together through the Internet. Information from vendors responding to requests from users will be shared with other users. The kinds of information to be exchanged include (1) the results of Year 2000 testing on existing equipment, facilities or computer systems, (2) actual solutions to Year 2000 problems that have been identified or suggested, (3) the names of vendors who can provide information about various Year 2000 problems or solutions, and (4) problems that have been identified with purported solutions to Year 2000 problems.

This sharing of information on a company-to-company basis is more important for companies that are not linked to the Internet or that are not proficient in its use or the use of the NAM directory. It is also important for companies that do not have the technical expertise or facilities to enter their own Year 2000 information into a URL site that can be linked through the NAM directory. A substantial number of companies, particularly small and medium sized manufacturers, do not have the time or resources to be fully integrated with Internet communications, and will have to rely on other communications methods that are not as easily distributable to large groups of people.

**Benefits of these proposals.** We believe the benefits of the proposed information exchange programs can be substantial. The directory has the potential to become a unique source of detailed and useful information about the Year 2000 problem and solutions, and this information will be important in allowing companies of all kinds simply to continue business as usual. Since everyone will have equal access to the information in the directory, no one company or group of companies will have a competitive advantage over any others.

Either proposal will help insure that more information about Year 2000 solutions becomes available to those who need it. This in turn will make companies better able to withstand the potential adverse consequences that experts have warned could occur without sufficient advance preparation for Year 2000. Companies will be able to focus on their core businesses, rather than unrelated data processing problems that should have no bearing on the primary components of competition: price, quality, service and other non-price values.

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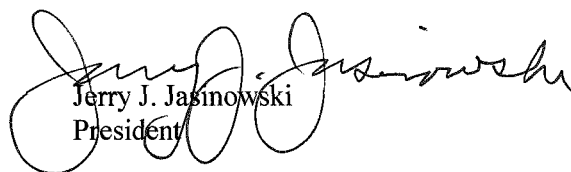
**Conclusion.** The NAM is in a unique position to bring together a wide variety of product manufacturers and users in convenient forums, both on and off the Internet, to collect and discuss the Millennium Bug. It is very important that the participants in this process are secure in knowing that the Government of the United States supports these efforts and does not intend to impose any significant constraints on the free exchange of information to eradicate the bug.

We would like to be able to assure the business community that the exchange of information regarding problems and solutions to the Year 2000 problem will generally not raise antitrust concerns. If there are particular types of information that you believe to be particularly sensitive in this context, we will work with you to do what we can to make sure our members and others are aware of them. However, in the context of this program, we cannot be absolutely certain that individual companies will be aware of or comply with specific limitations on disclosure that might be indicated. Our current proposal does not include prohibitions on the dissemination of price information, nor are we certain that disclosure of such information in the context of bringing about Year 2000 compliance will be anticompetitive. We would very much like to be assured that the dissemination of Year 2000 problems and solutions is not a subject that the antitrust laws were designed to prohibit, and we are very interested in working with you to develop a system that properly recognizes the limits of antitrust enforcement in this area.

We would be happy to provide further information to assist you in determining whether the proposals outlined above are consistent with the goals of the antitrust laws. This is an important issue for all companies, and we hope you can act favorably on our request promptly.

I appreciate your assistance in resolving this issue, and I look forward to your response.

Sincerely,

  
Jerry J. Jasinowski  
President