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SPA Cites Flaws in Clinton Administration Crypto Policy

Expresses Continued Disappointment with Key Escrow Scheme

February 4, 1994 (*Washington, DC*) The Software Publishers Association (SPA) reacted with disappointment to the Clinton Administration's announcement today that it will go ahead with the cryptography proposal that it announced last April.

In its announcement, the Administration said that it would proceed with the Escrowed Encryption Standard, which offers what the administration claims is strong encryption in the Skipjack algorithm embedded on the so-called Clipper and Capstone chips. The keys to unlock the codes on the chips will be held in escrow by the Department of the Treasury and the National Institute of Standards and Technology. The announcement also detailed the long-awaited procedures for law enforcement to follow to obtain the keys from the escrow agents to execute wiretaps.

"We are very disappointed that the administration is going ahead with this scheme," said SPA Executive Director Ken Wasch. "We have said from the outset that the key escrow system is inherently and tragically flawed, it won't work, and it creates more problems than it hopes to solve."

SPA Cites Flaws In Crypto Plan

SPA has argued that use of the key escrow devices must be voluntary, as the Administration has stated they would be. The tragic flaw of the key escrow scheme is that if use is voluntary, no thinking criminal will use a system to which the U.S. government holds the keys. Despite the worthy goal of reconciling the needs of law enforcement with the privacy rights of corporations and businesses, it is hard to see how the system could even minimally meet law enforcement's needs.

The administration also announced that the Clipper Chip would be exportable with a license. SPA has argued all along that users prefer software encryption because it is cheaper and easier to use, and has advocated liberalization of export controls on mass market software with encryption capabilities. Moreover, the scheme is unworkable because it is unlikely that any foreign entity would use encryption to which the U.S. government holds the keys.

The administration announced streamlined procedures for some encryption products, but made no change to the policy of restricting exports of products employing the Data Encryption Standard (DES) algorithm.

"Now, more than ever, we need to relax the export controls on software with encryption capabilities," said SPA Government Affairs Representative Douglas Miller. "Our research has shown that foreign competitors are racing to meet the growing demand for encryption with strong DES-based products, and are seizing markets that U.S. firms can't get into because of export controls. Allowing the exportability of the Clipper and Capstone chips will not help. The Key Escrow chips will fall flat in foreign markets."

Miller said that the SPA will continue to support legislation introduced by Rep. Maria Cantwell (D-WA) that would make exports of software with encryption capabilities controlled by the Secretary of Commerce as commercial items and thus exportable.

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SPA is the principal trade association for the PC software industry. Since 1984 it has grown to over 1,000 members representing the leading developers in the business, consumer, and education markets.