

Microsoft

Testimony

Regarding Committee Bill 5299

An Act Concerning Computer Software Purchased by State Agencies

Before the Government Administration and Elections Committee

Wednesday, February 21, 2007

Chairwoman Slossberg, Chairman Caruso, and members of the Committee, please accept the following written testimony from Microsoft in opposition to Committee Bill 5299, an act concerning software purchased by state agencies.

Normally, Microsoft is called upon by policymakers to comment on efforts to make the Internet safer and computing more secure or to provide our ideas for accomplishing this goal. It is well known that our goal as a company is to help create an environment in which adults, children, businesses and organizations can enjoy the full benefits of the Internet without concerns about their safety, privacy, or security.

In fact, the last time Microsoft presented testimony in Connecticut was in 2006 on a bill that specifically outlawed phishing attacks and put in place a mechanism to bring action against those who continued with such attacks. With Microsoft's support and yours, this bill became law. Thank you for working collaboratively with us to help make the Internet safer for your constituents and our customers.

In this testimony, however, Microsoft is opposing Bill 5299 which, if enacted, would create a preference in state law for open source software.

Before explaining our opposition to this bill, it is important to answer two questions.

What Is Open Source Software?

In general, open source software has two important characteristics:

- The development of open source software is typically done by a number of companies and/or individuals that collaborate to create and maintain a piece of software, as opposed to the more common method of relying on a single company or developer to accomplish this.
- Open source software licenses typically allow people to freely copy, modify, and redistribute source code (the basic computer instructions that form the basis of a software program). Some open source software licenses are permissive and place few restrictions on licensees while others are more restrictive.

What Motivates People to Create Open Source Software?

The producers of open source software tend to fall into two broad groups: those that create open source software as a way to make money and those that create open source software purely for non-commercial reasons. Many people are not interested in open source software for commercial reasons but choose instead to develop and use open source software for other purposes. Academic researchers and computer hobbyists largely fall into this non-commercial category and are very often important to the creation of open source software.

Some companies create and market open source software for competitive commercial reasons. In many cases, these companies give away open source software for free or at very low cost in the hopes of making money on other products and services. The three most common ways these companies make money from open source software include:

- **Proprietary Software Sales:** Companies may build proprietary software that works with open source software.
- **Service Contracts:** Open source software tends to be updated frequently and may require significant customization to run on specific computer hardware or to interoperate with other applications. Service companies can earn significant revenues by providing organizations service support for these custom-software packages.

- **Hardware Sales:** To attract buyers, computer makers may bundle no-cost open source software on their hardware as an additional purchase incentive.

Microsoft, a developer of commercial or proprietary software, strongly opposes this proposal to create a preference for open source software.

While the preference created by this bill is implicit, we have witnessed efforts by the open source software community to change government procurement laws to either outlaw the purchase of commercial software or create barriers for the purchase of commercial software. This bill is merely a big first step in that direction and the “slippery slope” created by this measure will only serve as a window of opportunity for the open source community to promote such draconian measures.

Customers, whether governments, businesses, other organizations, or individuals should choose software based on their needs and the merits of the technology, not by creating preferences based on licensing or development models in law that only serve to limit choice, competition, and innovation.

Though the bill mentions quality and cost, it links those factors to the development model, which in this case is the open source model. The software development model should not be a factor in these decisions.

The State of Connecticut has adopted principles that guide state agencies when they make investments in information technology. These principles, in general, direct the agencies to make such investments based on the merits of the technologies. Issues such as quality, security, interoperability, and total cost of ownership are examples of such principles.

Therefore, this legislation is not only objectionable for the reasons articulated above, it is totally unnecessary from a process perspective. State agencies already have the ability to evaluate software purchases based on their needs and are required to evaluate such software on a comparison of costs and quality, among other standards. Nothing precludes state agencies from evaluating and considering the purchase of open source software today.

In conclusion, overt or implicit procurement preferences for specific technology solutions or software licensing/business models are bad public

policy and do not reflect the realities of the current information technology marketplace in Connecticut or elsewhere. Such preferences arbitrarily force product uniformity and vendor lock-in, thereby significantly impeding the benefits of choice, competition, and innovation that flow from technical solutions based on multiple interoperable sources. As a result, governments that choose this path are prevented from the best technical solution available. This approach is especially imprudent given the convergence of technologies that allow customers to choose and combine the best proprietary and best open source software products to create the ideal solution.

For these reasons, Microsoft respectfully requests that the Committee reject this bill.

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