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PRESS RELEASE

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AFFECT

AFFECT REPORTS INCREASED DISSATISFACTION WITH UCITA WITHIN NCCUSL

(Washington, D. C) - Americans For Fair Electronic Commerce Transactions (AFFECT) announced today that it was pleased at the growing recognition within the National Conference of Commissioners on Uniform State Laws (NCCUSL) that the Uniform Computer Information Transactions Act (UCITA) is troubled and may have to be scrapped in favor of a different approach. UCITA is a proposed uniform state law governing transactions involving "computer information" such as the licensing of computer software or databases. NCCUSL is the body that promulgated UCITA in the summer of 1999 and has since promoted its adoption by state legislatures. UCITA has been enacted in only two states, while three others have enacted "bomb shelter" legislation to fend off application of UCITA to their residents. AFFECT is a broad-based national coalition of retail and manufacturing businesses, consumers, financial services institutions, technology professionals and librarians. AFFECT representatives attended NCCUSL's annual meeting in Tucson, Arizona, last week, at which NCCUSL considered and acted upon some proposed changes to UCITA. AFFECT opposes UCITA as fundamentally flawed and unfairly biased in favor of the software and information industries and against their customers. While NCCUSL finally approved a set of minor amendments to UCITA, more noteworthy activity took place behind the scenes. A number of commissioners, having initiated a petition drive urging the NCCUSL leadership to downgrade UCITA from a uniform law to a model act, planned to put forth a motion to that effect during the vote of the states. William Breetz, a commissioner from Connecticut, stated to the membership at the final business session on August 1 that after consultation with the leadership, it had been agreed that it was "premature" to vote this year on such a motion. The petition drive, however, precipitated an unusual statement during that session by NCCUSL president King Burnett, who indicated that NCCUSL recognizes that UCITA is not being widely enacted and that it faces an uphill battle to get approval from the American Bar Association (ABA). Burnett told the membership that if there is no progress in the next year on these two fronts, "a different approach to the matter will have to be taken."

Prospects for ABA approval of UCITA, normally sought by the NCCUSL for uniform acts, were not improved when the NCCUSL membership narrowly

defeated a motion to adopt the recommendation of an ABA Working Group that UCITA be amended to require pre-transaction disclosure of terms. "AFFECT is struck by the evidence that there is growing dissatisfaction within NCCUSL," said Miriam Nisbet, AFFECT president. "We expect there will be similar concerns within the ABA. Although NCCUSL adopted a number of recommended changes that were put forward by the ABA Working Group which studied UCITA, the conference rejected two crucial recommendations of the ABA group: to require disclosure of the terms of a contract before a licensee becomes obligated to pay and to exclude from UCITA software that is 'embedded in and marketed as an integral part of the goods.' Moreover, NCCUSL overlooked a critical, core recommendation by the ABA Working Group that UCITA is complex and unclear and that it should be redrafted to make it easier to understand and to use. These most recent changes by NCCUSL do not significantly improve the law and AFFECT thus remains committed to opposing further enactment of UCITA."

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