

December 6, 2004

To: U.S. Chamber Board of Directors

From: Tom Donohue

**SUBJECT: President's Update – November 2004**

At the Chamber in November, we spent about a day and a half enjoying positive election results before going back to work to advance our priorities in a brief lame duck session of the 108<sup>th</sup> Congress, while formulating an ambitious agenda to present to the second Bush administration and the 109<sup>th</sup> Congress in January.

In addition, our annual mission to the APEC summit (which was held this year in Santiago, Chile) gave us the opportunity to put the issues of intellectual property theft, counterfeiting and piracy directly before numerous heads of state as well as senior ministers from the Chinese government.

### **What the Elections Mean for Business**

During the Chamber board meeting on November 10, I reported that the elections of 2004 represented a landmark achievement for the Chamber's political program and the voter education efforts of our Institute for Legal Reform (ILR).

To briefly recap, the Chamber put 215 people on the ground in 31 states; sent 3.7 million pieces of mail and more than 30 million e-mails; made 5.6 million phone calls; and enlisted hundreds of associations and companies in our web-based "VoteForBusiness.com" program to educate and mobilize voters.

Combining these activities with ILR's voter education efforts in 16 state Supreme Court and Attorney General contests, as well as our targeted campaign to

make legal reform a factor in the presidential race, the Chamber invested up to \$30 million in the November 2<sup>nd</sup> elections.

What was the return on this investment?

In House and Senate races, the Chamber endorsed 269 candidates and 249 of them won. But the real story is what happened in the select number of close, very tough races that we targeted. In the House, we targeted 28 races and were successful in 20. We targeted nine Senate contests and were successful in seven – including John Thune’s win over Tom Daschle.

While not generating the same headlines as the elections for President and Congress, we also made major strides in improving the legal environment in the states – where some of the worst lawsuit abuses occur. The ILR participated in voter education efforts in 16 important races across the country. Pro-legal reform candidates prevailed in 15. In California, the ILR supported and helped fund Proposition 64, whose successful passage eliminated a legal loophole under which lawsuits could be brought against companies by law firms where there wasn’t even a plaintiff.

As for the presidential race, the Chamber did not endorse in the election, but executed a voter education and get-out-the-vote effort, as well as provided significant support to the November Fund because we believed that the prospect of having a trial lawyer a heartbeat away from the presidency would influence our legal, judicial, and regulatory environment for years to come.

The November Fund targeted four states in particular – West Virginia, Iowa, New Mexico and yes, Ohio. Obviously many factors influence the outcome of a presidential election. I would only note that all four states targeted by the November Fund ended up in the Bush column.

The Chamber also ran an education and get-out-the-vote campaign in eight states – Wisconsin, West Virginia, New Hampshire, New Mexico, Florida, Iowa, Nevada, and Ohio – that targeted independent women ages 18 to 49 with children. The message attempted to tie John Edwards to the trial bar and focused on their collective opposition to solving the national medical malpractice crisis. We placed full-page ads in the major newspapers in the targeted states, sent nearly one million pieces of mail, made two million phone calls, and sent over 3.4 million e-mails to these women voters stressing the importance of the medical malpractice issue as an election issue. Of these eight states, only New Hampshire and Wisconsin went for the Kerry-Edwards ticket.

What do the election results mean for business and the Chamber? The expanded numbers of pro-business votes in the Senate and the House – along with a team of reasonable regulators and appointees in the executive branch – will mean a more favorable hearing for some of our key priorities, including legal reform, comprehensive energy legislation, permanent tax relief, market-based healthcare and pension reform, and balanced workplace, environmental and corporate governance rules.

Yet several notes of caution are also in order. While picking up four seats in the Senate, come January Republicans will still be five votes short of the 60 needed to invoke cloture and end Senate filibusters. Moreover, we can expect extraordinary conflicts between the parties and within the parties on issues ranging from immigration to trade to deficit reduction.

We could also see Congress getting bogged down with administration and Supreme Court appointments, as well as battles over Social Security and tax reform, while other issues are pushed aside. The Chamber will urge the White House to keep up the momentum on the business agenda, and signal that progress on our issues will be a motivating factor in whether or how strongly we get behind the administration's priorities.

Finally, on the critical matters of corporate governance, accounting, and financial reporting – and the role that the SEC, state attorneys general, institutional investors and the trial lawyers are playing in these issues – you have repeatedly heard me say that the pendulum has swung too far towards overregulation. Many companies have lost the protection of due process. This has occurred during a Republican administration, and we cannot automatically count on an expanded Republican majority to protect honest companies by restoring the integrity of the judicial system.

On these and other contentious issues, the Chamber and the business community must be prepared to earn policy victories the old fashioned way – by building coalitions, educating opinion-leaders and decision-makers, mobilizing grassroots support, pursuing legal action, participating in politics at the federal and state level, and by aggressively courting lawmakers on both sides of the aisle.

With these points noted, the bottom line is that by aggressively and successfully participating in the political process in 2004, we have created a tremendous opportunity for real progress in 2005. Now we must do something with that opportunity! In early January, we will issue the Chamber's annual State of American

Business report, containing a far-reaching 2005 agenda and our strategy for implementing that agenda. As usual, I will send you an advance copy in lieu of my next monthly letter.

### **Business Successes in the Lame Duck Session**

Intent on pursuing a limited number of items before adjourning, members of the outgoing 108<sup>th</sup> Congress returned briefly in November to pass a \$388 billion omnibus spending bill to fund much of the federal government in the current fiscal year. Before completing its work, Congress, at the Chamber's urging, handed the business community a number of additional victories, including:

- Dropping legislative language that would have prevented the Labor Department from implementing new rules governing overtime pay.
- Including language that anticipates \$35.5 billion for federal highways. This is an increase of \$1.9 billion over the President's request and last year's funding level.
- Exempting up to 20,000 professionals with advanced degrees from American universities from falling under the current highly-restrictive cap now in place on H1-B visas.
- Rejecting three anti-outsourcing provisions designed to stop companies and government agencies from achieving the savings and other efficiencies that could be realized from performing certain activities in offshore locations.
- Funding the Small Business Administration at \$580 million, including a record 7(a) business loan program level to help America's small businesses access capital.
- \$1.54 billion for the Patent and Trademark Office to reduce the growing backlog and increase quality of patent processing, \$322 million above last year's level.
- \$109 million for the Manufacturing Extension Partnership (MEP) program, which from 1999 to 2003 has created or retained more than 160,000 high-wage manufacturing jobs.

- Maintaining last year's funding level for the Yucca Mountain nuclear waste repository at \$577 million.

In addition, Congress has passed and the President has signed legislation extending the current tax moratorium on Internet transactions for four years. The Chamber worked hard for this extension, arguing that federal, state and local governments should not hinder Internet commerce with complex taxes that target online transactions – especially while broader, fundamental tax reform is being explored.

Finally, let me be clear that we tried very hard to get the class action bill completed, but Congressional leaders determined they could not open up a narrowly-focused lame duck agenda to include contentious matters. However, they agreed to strongly support an effort to move this legislation early in the New Year.

### **Chamber Attends APEC Summit**

On November 18-21, a Chamber delegation attended the annual meeting of the Asia Pacific Economic Cooperation (APEC) in Santiago, Chile for meetings with heads of state, U.S. government officials and business leaders.

APEC is comprised of 21 economies that together account for 47 percent of global trade and 2.5 billion consumers. We attend this summit every year because it affords us an unparalleled opportunity to put the concerns of American business and our members directly in front of presidents, prime ministers and key ministers throughout the region. In Chile, we held private talks with the heads of government from Singapore, New Zealand, Australia, Indonesia and Hong Kong.

In addition, during meetings with the Foreign Minister and Commerce Minister of China, I underscored the need for vigorous Chinese action to protect U.S. companies from intellectual property theft, counterfeiting and piracy. Around the world, these crimes cost American companies an estimated \$250 billion per year – and that's not small change!

Thanks in part to the drumbeat message we delivered throughout the summit, these IP theft, counterfeiting and piracy issues were among the topics considered at the all-important Leaders meeting – the closed-door dialogue among the region's heads of government, which included President Bush, Chinese President Hu Jintao, Russian President Putin and Japanese Prime Minister Koizumi.

Before leaving for APEC, I met with the international press in Washington to outline the Chamber's global trade priorities for 2005. In addition to our major initiative on IP theft, counterfeiting and piracy, we will work for successful completion of the Doha Development Round and a Free Trade Area of the Americas agreement.

We will ask Congress to swiftly renew presidential Trade Promotion Authority, and reject any effort to pull the United States out of the World Trade Organization.

The Chamber will participate in a major effort to secure passage of the Central American Free Trade Agreement, finalize an FTA with Thailand and after further consultation with our members, pursue additional agreements beyond those now in the pipeline. We will also help steer a bilateral trade agreement between Russia and the United States through the Congress, so that Russia can join the WTO. We support the accession of Vietnam to the WTO as well.

Our nation must continue to reject misguided protectionist responses to outsourcing at the federal, state and local levels. We must also do a better job balancing mobility and security through effective policies that are more welcoming to foreign visitors.

And, we will press our European and Japanese partners to spur growth in their economies – just as we will continue to urge China to move in an orderly fashion to a market-based currency. These are important steps in any realistic plan to cut our nation's soaring trade deficit.

Please don't hesitate to contact me at (202) 463-5300 if you ever have any questions. In my absence, feel free to call Suzanne Clark, the Chamber's COO, at (202) 463-5549.

In closing, Liz and I would like to wish you and your family a merry Christmas and a happy and safe holiday season.

Until next month...