Department of Justice

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DEPARTMENT OF JUSTICE ISSUES BUSINESS REVIEW LETTER

WASHINGTON, D.C. -- The Department of Justice announced today that it has advised the Recording Industry Association of America (RIAA) that it does not intend to challenge RIAA's proposed research and development joint venture in audio recording technology with Bolt, Beranek and Newman Systems and Technologies Corporation (BBN).

The Department's position was stated in a letter from James F. Rill, Assistant Attorney General in charge of the Antitrust Division, to Anne D. Neal, Senior Vice President of RIAA. RIAA had asked the Department for a business review letter stating the Department's enforcement intentions regarding the proposed joint venture.

RIAA is a trade association of about 50 sound recording companies, representing over 90 percent of legitimate recordings produced and sold in the United States. BNN is a research firm that has no involvement in the recording industry outside this joint venture.

The purpose of the joint venture is to develop a copyright protection and identification system that will prevent or control the unauthorized duplication of copyrighted works from analog

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sources, such as, phonograph records and prerecorded cassettes, by digital audio tape (DAT) recorders that recently were introduced into the United States market.

The letter notes that DAT equipment produces home recordings of very high quality, and that some fear that the use of DAT equipment to make unauthorized recordings could adversely affect sales of originally recorded material.

The joint-venture agreement provides that BBN will be principally responsible for the research and development. RIAA's role will be limited to reviewing BBN's progress and ultimate results. While BBN will retain title to the products of its work and all intellectual property rights, it will grant to RIAA royalty-free licenses for all developed products and related intellectual property rights.

Rill's letter states that, on the basis of currently available information, the proposed joint venture offers the possibility of benefits and efficiencies in undertaking expensive and risky new product development without any significant diminution of competition in either the market in which the venture proposes to operate or in other markets where RIAA members compete or might compete. The letter notes, however, that the Department reserves the right to sue if the actual operation of the proposed joint venture proves anticompetitive in purpose or effect.

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Under the Department's Business Review Procedure, an organization may submit a proposed course of action to the Antitrust Division and receive a statement as to whether the Division would challenge that action under the federal antitrust laws.

A file containing the business review request and the Department's response will be made available to the public immediately and may be examined in Room 3233, Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 (telephone: 202/514-2481). After a 30-day waiting period, the documents supporting the business review will be added to the file.

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