

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Certification of Digital Output</b>	)	
<b>Protection Technologies and Recording</b>	)	
<b>Methods to be Used in Covered</b>	)	<b>MB Docket No. 04-65</b>
<b>Demodulator Products</b>	)	
	)	
<b>Certification of Real Networks, Inc.</b>	)	

**OPPOSITION OF THE AMERICAN ANTITRUST INSTITUTE**

The American Antitrust Institute (“AAI”) submits this opposition to the Broadcast Flag Certification Response to the Federal Communications Commission of RealNetworks, Inc. (“RealNetworks”) for Approval of Helix Digital Rights Management (“HelixDRM”) as an Approved Recording Method and Authorized Digital Output Technology for use with Covered Demodulator Products.<sup>1</sup> The AAI is an independent research, education, and advocacy organization that supports a leading role for competition, as enforced by our antitrust laws and embodied in the public interest mandate of the Commission, within the national and international economy. Background on the AAI may be found at [www.antitrustinstitute.org](http://www.antitrustinstitute.org), including participation in other matters involving the telecommunications and media industries.<sup>2</sup>

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<sup>1</sup>*Broadcast Flag Certification Response to the Federal Communications Commission of RealNetworks, Inc. for Approval of Helix Digital Rights Management as an Approved Recording Method and Authorized Digital Output Technology (“RealNetworks Certification”),* Docket No. MB 04-65 (filed Mar. 1, 2004).

<sup>2</sup>Funding comes to the AAI through contributions from a wide variety of sources, including several that may have an interest in aspects of these proceedings. More than 70 separate sources each have contributed over \$1,000. A full listing is available on request.

The AAI submits that in its current form the *RealNetworks Certification* provides insufficient information to determine whether Helix DRM is appropriate as a content protection (“CP”) technology for use with Covered Demodulator Products. The *RealNetworks Certification* suggests that the technology will be offered to the public, but fails to include the terms of the proposed license. The *RealNetworks Certification* merely directs the reader to its website (www.helixcommunity.org ). It is not clear which (if any) of the licenses posted are required to implement Helix DRM in connection with Covered Demodulator Products<sup>5</sup>. The AAI believes that if Helix DRM is to be publically offered, the Commission must be in a position to review the actual license terms.

### **Conclusion**

For the reasons stated, the AAI respectfully opposes the *RealNetworks Certification* until and sufficient information is provided to permit an evaluation of the competitive effects of its proposed licensing arrangement.

Respectfully submitted,

AMERICAN ANTITRUST INSTITUTE

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