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VIA E-MAIL & DHL

David B. Armon
Chief Operating Officer

October 13, 2006

Arnold Golub
Associate General Counsel
NASDAQ Stock Market
9600 Blackwell Road
Rockville, MD 20850

Re: File No. SR-NASDAQ-2006-040 and the Bundling of Services

Dear Mr. Golub:

We are writing to object to the above-captioned proposed rule, SR-NASDAQ-2006-040 (the "Proposed Rule"). The stated purpose of the Proposed Rule filing is to modify annual listing fees and provide a "suite of products and services" for assisting issuers with "compliance functions, shareholder communications, and other corporate objectives." Though the specific services included in the suite are not identified in the Proposed Rule, it is our understanding that the services NASDAQ intends to provide will include, among others, the newswire services of NASDAQ's wholly owned subsidiary, PrimeZone Media Network ("PrimeZone").

By bundling newswire reporting into a "suite of services" for which NASDAQ will charge one fee, NASDAQ: (1) is providing an unfair advantage to its wholly owned news dissemination subsidiary, jeopardizing the free flow of material information to investors who currently enjoy an open, competitive market for such services, (2) will place itself in a conflict of interest between its role as a regulator and its commercial interests in its own information service provider, and (3) cannot comply with the statutory requirement that the fees it charges be "reasonable" and "equitably allocated." As a result, the Proposed Rule, if approved, will operate to the detriment of issuers in need of robust information dissemination services and investors - particularly individual investors - seeking immediate issuer information. We strongly suggest that the Proposed Rule be withdrawn, or substantially revised to address these concerns, as we discuss in detail herein.

I. Background and Introduction

As a pioneer and leader in corporate news dissemination, PR Newswire provides newswire services to public company issuers, including many of those listed on a

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NASDAQ market. PR Newswire has been active in the newswire business for more than 50 years, with an ever-expanding and evolving distribution network resulting from its robust and enhanced service offerings. PR Newswire strongly objects to the Proposed Rule in its current form and to NASDAQ's attempt to compel the use of its captive news dissemination subsidiary by including it in the bundled suite of services tied to NASDAQ's listing fee increase.

II. Objections to the Proposed Rule Change

- **NASDAQ's proposed rule change is anticompetitive.**

Competition in the newswire industry is necessary to ensure issuers, large and small, are receiving the best products and services and that such issuers have a choice about the service provider they use for a given product or service. By bundling its subsidiary newswire service into the "suite of products" provided to issuers with the increased listing fees, NASDAQ is effectively foreclosing competing newswire service providers, such as PR Newswire, from selling their services to NASDAQ-listed companies.[1] The bundled services force issuers to pre-pay for and use NASDAQ's captive newswire service provider – or pay *an additional fee* to use an independent service provider such as PR Newswire. Many issuers cannot be expected to pay the additional fee – especially in light of the fee increase NASDAQ intends to impose. Smaller issuers will be especially vulnerable in light of their limited resources, while larger issuers will feel the financial impact of paying for an outside source in addition to the increased listing fee imposed by NASDAQ.

The proposed rule change will effectively stifle competition and remove a NASDAQ issuer's independence to select its preferred newswire service provider based upon relative merits of the competing providers in the marketplace. NASDAQ issuers – because they need the exchange as a vehicle to market their securities – will be coerced into surrendering their freedom to choose their own newswire service, accepting the absence of competition, and utilizing PrimeZone.

A substantial amount of innovation and investment is needed to stay on the cutting edge of the technology necessary to expand the distribution of news dissemination services and

[1] In addition, as the predominant source of disclosure for its listed companies, NASDAQ would become the sole provider of its listed companies' material news to the major market disclosure points (*e.g.*, Bloomberg, Reuters). As a result, NASDAQ will be in a unique position to charge for access to material news - holding key financial services and media hostage for the data.

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keep pace with the evolving channels of investor information delivery. Being insulated from competition, NASDAQ and PrimeZone will have little incentive to improve the news dissemination services being offered or respond to the demands of the issuers relying on those services – ultimately threatening the integrity of the information available to investors. In addition, in the absence of competition, one can expect that a fee increase would soon follow – leaving NASDAQ issuers to suffer the consequences.

- **NASDAQ's proposed rule change presents an inherent conflict of interest, potentially disruptive to the integrity of the capital markets.**

As an exchange, NASDAQ oversees the listing of its issuers and the compliance by such issuers with its rules, including those related to shareholder communications. PR Newswire believes there is an inherent conflict of interest in NASDAQ positioning itself as both the enforcer of an issuer's compliance with NASDAQ's communication requirements and the owner of the service through which such communications must be made. In this dual role, NASDAQ essentially determines the amount of business its captive subsidiary will receive, while reaping the direct benefits of these requirements as the owner of the service provider. And, having charged its issuers a flat annual fee for PrimeZone's services, NASDAQ may be moved to restrict the incremental dissemination of information through PrimeZone in order to control its costs. This will compromise the ability of the underlying investors, especially individual investors, to obtain material information immediately through ubiquitous distribution.

If the proposed rule change is approved, other exchanges can be expected to follow suit by creating captive newswire service providers and bundling their services and fees. The regulators will essentially be in the position to control the information flow from issuer to shareholder while charging the issuer for the benefit of using the captive service. Thus, investors receiving information through bundled service arrangements cannot be confident that they are receiving broad-based, timely disclosures of corporate financial information.

- **The fees charged for the bundled services are not reasonable, nor are they equitably allocated as required under the Securities Exchange Act of 1934 ("Act").**

Section 6(b)(4) of the Act requires that the NASDAQ's rules "provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities." Without knowing precisely what one is paying for, it is difficult to conclude that the standard established by the Act is being upheld. In our view, the fees being charged are not reasonable as they cover a host of services that may not provide any value to the issuer in question. In the Proposed Rule, NASDAQ should provide a breakdown of the fees being charged and how such fees are allotted among the services being provided. In addition, NASDAQ should disclose what fee arrangements will exist between NASDAQ and its captive service providers – for example, will NASDAQ pay PrimeZone a fixed annual fee for each listed issuer, or will PrimeZone receive a fee for each product or service rendered to a listed issuer? Such transparency will provide issuers with the information needed to fully understand and evaluate the Proposed Rule on the merits of the services offered and determine the impact it may have on their company's relationship with its media and investor audiences, and ultimately, their desire to obtain and pay for services from an outside provider.

PR Newswire also believes that the allocation of the proposed fees is not equitable because it forces an issuer to pre-pay for a suite of bundled services as part of the increased listing fee. The issuer is then compelled to either switch to NASDAQ's newswire provider or pay an additional fee to use an outside service provider of its choice. The structure of the fees coupled with the bundled services will cause smaller issuers to be forced into using NASDAQ's captive service provider, while causing larger issuers to consider the financial implications of remaining with their preferred newswire provider.

While the fees charged by NASDAQ apply to all issuers, the impact of those fees as they are tied to underlying services being provided creates inequities in the market. For example, smaller issuers will lose visibility with investors and the media due to the less expansive and robust distribution provided by PrimeZone.

III. Conclusion

As noted above, PR Newswire strongly objects to the Proposed Rule in its current form. Issuers should have the opportunity to choose the services for which they are paying, as well as the service providers from whom they receive those services. NASDAQ's proposal undermines this basic concept and impairs competition for newswire providers. The co-dependent relationship between NASDAQ and PrimeZone creates an inherent conflict of interest between NASDAQ and the issuers relying on NASDAQ's wholly owned subsidiary to meet NASDAQ compliance requirements. Finally, we believe the fees being charged are not reasonable, nor are they being allocated in an equitable manner due to the nature of the bundled services tied thereto. A clear understanding of how the fees are allocated among the various services, and how PrimeZone will be compensated by NASDAQ for providing the newswire service in particular, is essential in understanding completely the proposal at hand.

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As we understand the Proposed Rule has not yet been published by the Commission for comment, we remind you of your obligation under Rule 19b-4 to file this letter as an exhibit to the Proposed Rule. In addition, if information in our letter makes your Proposed Rule filing inaccurate, NASDAQ is obligated to amend the filing to address and correct the inaccuracy.[2]

If you have comments or if you would like to discuss our concerns, please contact the undersigned at 212/282-1930.

Sincerely,

David B. Armon
Chief Operating Officer
PR Newswire

Cc: Katherine England
Assistant Director
Office of Market Supervision
Division of Market Regulation
US Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

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[2] According to Exchange Act Release No. 34-50486, Proposed Rule Changes of Self-Regulatory Organizations,

> If, after the rule change is filed but before the Commission takes final action on it, the self-regulatory organization receives or prepares any correspondence or other communications reduced to writing (including comment letters) to and from such self-regulatory organization concerning the proposed rule change, the communications shall be filed as Exhibit 2. If information in the communication makes the rule change filing inaccurate, the filing shall be amended to correct the inaccuracy.