AG REILLY TO APPEAL MICROSOFT ANTITRUST DECISION

BOSTON -- Attorney General Tom Reilly announced today that he is appealing a recent federal court decision in the Microsoft antitrust case that allows the hi-tech giant to continue to effectively control the computer and software industry into the new millennium.

Citing the harm the outcome of the Microsoft antitrust case will impose on consumers, competition and the future direction of our economy, AG Reilly's Office today filed an appeal challenging a federal district court decree issued on November 1. The appeal will allow higher courts to review the case and determine the final remedies for Microsoft's predatory practices.

"The Microsoft case is the most important antitrust action of our time and will determine the future direction of our economy into the 21st century," AG Reilly said. "This case has serious implications for consumers and competition. Left to its own devices and without clear restraints, Microsoft will continue to engage in predatory practices and eliminate any real chance for consumer choice or business innovation."

Massachusetts began investigating Microsoft six years ago for violations of the antitrust law. Microsoft's predatory conduct was choking innovation, destroying competition, and eliminating consumer choice in the marketplace. The investigation grew into a combined multi-state and Department of Justice effort to stop Microsoft's illegal behavior, and to protect consumers. The states filed suit in 1998, and won both the trial and the appeal in the case. Both the District Court and the Appeals Court found Microsoft was a monopolist, illegally sustaining its monopoly power by abusive practices.

One year ago, the Department of Justice negotiated a deal with Microsoft that nine states, including Massachusetts, decidedly ignored Microsoft's ill gotten gains, did nothing about safeguarding competition in new technologies, and was filled with loopholes and exceptions. Those states sought a remedy that would substantially change Microsoft's business practices. "I knew this would not be an easy path, and that this would end up having to be decided by higher Courts, one way or the other," AG Reilly said. "The final word must come from the appellate courts."

AG Reilly is filing the appeal of the district court's decree to protect consumers, to bring back competition, and to ensure corporate accountability.

• Consumers are at the center of this case. They see the continuing effects of Microsoft's monopoly every day in high prices, lack of choices and lessened innovation. When Microsoft illegally crushes a new idea, because it threatens Microsoft's monopoly, it is consumers who pay the price.

• Competition is also key to Massachusetts's appeal. Without competition, our economy has no future. It is what provides choices, spurs on new technology, and creates jobs. Consumers need to have, and are entitled to have, a
decree which allows competition to grow in our marketplace, especially in this industry that is so vital to the strength of our economy and our nation.

• Finally, this case is about accountability. In today's corporate environment, some companies seem not to feel bound by the law, or by a sense of right and wrong. Microsoft has been found to have repeatedly violated the antitrust laws. AG Reilly believes that a remedy must send a message that breaking the law does not pay. Otherwise, we can expect Microsoft, and other companies, to draw dangerous messages about acceptable behavior.

Assistant Attorney General Jesse Caplan, chief of AG Reilly's Consumer Protection and Antitrust Division, Assistant Attorneys General Glenn Kaplan, Chris Barry-Smith and Sara Hinchey are handling this case.

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