



NATIONAL ASSOCIATION OF RECORDING MERCHANTISERS

C: GREGG, FRANK CARLISA
DOW CLARK

PAMELA HOROVITZ
President



May 26, 2000

Honorable Robert Pitofsky
Chairman
Federal Trade Commission
c/o Office of the Secretary
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairman Pitofsky:

I am President of the National Association of Recording Merchandisers (NARM) whose retailer members sell the vast majority of recorded music in the United States via thousands of stores and web-sites. I write regarding the FTC's proposed settlement agreements with the major distributors of recorded music regarding their minimum advertised price (MAP) policies. Because there have been widely differing opinions within NARM's membership as to the efficacy or appropriateness of such policies, NARM has never taken a position with respect to MAP. Accordingly, we have no comment relative to the Commission's position that these policies may have violated antitrust law.

We do, however, wish to comment regarding certain statements, including the Commission's press release, issued in conjunction with the announcement of the proposed settlement agreements, that imply that the retail music marketplace is one in which there has been little or no competition under MAP policies, and that consumers overpaid for CD's by \$480 million. This simply is not the case. You're aware of RIAA's figures on net shipments for last year of almost \$15 billion reflecting manufacturer's suggested list prices. We think you should also consider NARM's figures for this same period which show that our members sold these shipments for only \$10 billion. Even after other differences (like non-retail sales) are accounted for, we hope the FTC would agree that the difference in these numbers reflects a retail marketplace competing aggressively for the consumer.

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The FTC's statements could mislead the American public to conclude that CD's should now be sold at or below the cost of what the retailer actually pays for them. We believe the American consumer is best served by a marketplace in which financially healthy retailers compete on the basis of selection, convenience, service, and ambiance, as well as price.

We appreciate your careful consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Pamela Horovitz". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Pamela Horovitz
President