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Newark DE 19711
May 28 2000

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue
Washington DC 20580

Distinguished Commissioners:

I'm writing to comment on the recent findings of the Federal Trade Commission as relates to MAP or the minimum advertised price policy of the major recording companies in the US. The policy in question states that in order to obtain advertising dollars from the recording companies, retailers would have to adhere to a minimum advertised price. The effect of this policy is to offer some protection to primarily music retailers from large box retailers primarily in the hardware business like Best Buy, Inc and Circuit City who use advertising dollars provided by the music manufacturers to advertise retail prices below cost to create traffic in their stores. The FTC has found that this is a restraint of trade.

The facts show a different story. The music industry as a whole has experienced record growth throughout the period when MAP was enforced. The claim that consumers paid some millions of dollars too much for the music they've purchased is specious at best. The fact remains that the health of any industry depends on there being at least some profit involved in selling that product. Witness the era when MAP was not enforced. More than 1000 retailers went out of business; more than 11 nationwide chains filed for Chapter 11 bankruptcy; a music industry depression reduced the number of releases; the amount of back-catalog product available was reduced; the number of new artist releases (the lifeblood of the industry) was reduced. As you can see, the real restraint of trade and the anti-competitive nature of the non-map era is the culprit that should be recognized by the FTC. The sole consideration of the FTC is the retail cost of the CD. If the FTC wants to find a reason to lower CD prices, the Commissioners should look at the pricing policies of the major labels. There is a great amount of profit being made at the expense of the consumer. Artists, wholesalers, retailers and the general public pay what I would consider too much for the product delivered. The cost structure would support a much lower price. However, the majors can and do raise prices regularly to increase their profit margins.

Please understand my position. I have no complaint with the big box retailers selling their product at a loss. It's the American way. But to force the manufacturers of that product to pay for the advertising of loss leader pricing is a travesty of the free market. In the long run, the FTC will cause great harm to the industry as a whole if and when another price war breaks out. The consumer will be faced with much less choice in both content and outlet.

Thank you for listening,

Larry Fenza
President, Chesire Marketing LLC