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COMPACT Disc WORLD

CORPORATE HEADQUARTERS

To: Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Attn: Chairman Robert Pitofsky
Commissioners Sheila F. Anthony
Mozelle W. Tompson
Orson Swindle
Thomas B. Leary
Re: MAP Programs

Dear Chairman Pitofsky & Commissioners,

I am writing this letter to you in response to the matter involving Time-Warner Inc, Sony Music, Capitol Records, UMVD, & BMG Music, File # 971-0070. I would like to comment on the settlement that you have reached with the above companies concerning their "minimum advertised price" (MAP) programs.

First, allow me to introduce myself. I am the president & owner of Compact Disc World Inc., an eleven-store music retail chain, doing business in NJ. Compact Disc World is generally recognized as one of the leading small or mid-size music retailers in the country. We have won the prestigious National Association of Retail Merchants' (NARM) retailer of the year award three times in the past eight years. I recently retired from the NARM Board of Directors after completing my second term. Compact Disc World has established a reputation of carrying a great selection, top-notch service & across the board low prices. During your two-year investigation into MAP policies, I was not contacted by your agency.

Your press release states the opinion that MAP policies were adopted to squelch discounted pricing. This opinion is not entirely accurate. MAP policies were adopted to end the practice of "predatory pricing schemes" that were prevalent in the early 1990s. You are correct when you state that major electronic stores & others started to sell CDs as low as $9.99. What you failed to state in your press release is that the wholesale price averaged between $10.30 & $10.50 at that time. Since music retailers realize the vast majority of revenues from the sale of music, they could not compete in an environment where they lose money on every hit CD they sell.

Compact Disc World is a discount music retailer. When the MAP policies were first introduced, I was one of the most vocal opponents of MAP and ardently argued against the new policies. However, I can truthfully say that these policies never prevented me from selling product at below the minimum pricing schedules. Compact Disc World was the originator of the "guaranteed low price" or "guaranteed lowest price" concept. Whenever we wished to sell CDs at lower than minimum pricing we did without fear of retribution. Furthermore, our customers know darn well what "guaranteed low prices" means. Compact Disc World never lost one dollar in Coop Ad funds charging a lower price than minimum. We did however, lose Co-op Advertising funds when we decided to advertise lower than minimum prices. This was our choice and we were fine by it.

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In this environment, the major distributors individually decided that they did not wish to fund a "Price War" that would severely weaken their account base and have a long term detrimental effect on the music consumer. Most non-music retailers who are engaging in the "Price War" carry a much smaller selection than the typical music retailer. Therefore, the number of individual music titles available to the consumer began to shrink.

The FTC allegations that the Price War ended shortly after the MAP policies were introduced is partly true. Retailers sold CDs with sale prices advertised at a little more than a dollar above cost. Do the math! Are these margins so unrealistic as to do irreparable harm to the consumer? How many businesses do you know of that sell a product that is the most sought after by their customers (platinum records) and is at the same time the most discounted. Discounted so low that the retailer loses money on each unit sold on the new product. Under this scenario, the immutable laws of supply and demand have been repealed.

So why did the overall price of CD's rise from the early 1990's to now? Well, it wasn't because of MAP. It was because, to put it simply, the manufacturers could. Why could they do it? Because through the use of United States copyright laws they are the sole providers of those hit recordings to the world. If you want to buy today's new Brittany Spears release, you must go to BMG for the lowest price. There is no competition from any other vendor, if you want to buy this release. This monopoly on individual artistic works creates a climate where the manufacturer can charge anything that it thinks the market can bear. Obviously, if the wholesale price goes up, the retail price must eventually go up.

The manufacturers raised the prices in three ways. First, they steadily increase the wholesale price for superstar product, secondly they moved many of the top selling catalogue releases from midline to front line pricing, essentially increasing the wholesale price up to 50% on these items. Finally, they increased the wholesale price on suggested list prices, thereby squeezing the margins at retail .

MAP did not create a climate in which the sole provider of music product could raise prices. That climate already existed and will still exist without MAP. It is easy to allege statements in a press release, but saying something does not necessarily make it true.

The elimination of MAP will cause many music retailers to close their doors over the next few years. This will happen because you are forcing the manufacturers to fund a Price War that will ultimately hurt their business and limit the consumers choices in the real world.

In the commission statement you noted "that no music retailer can realistically choose not to carry the music of any of the five major distributors." While this is true, no retailer was ever forced to make such a choice. The choice was whether to accept Co-op advertising funds or not to accept these funds. As I have previously stated, Compact Disc World was never forced to charge a higher price than it desired during the entire time that the five major distribution's MAP policies were in effect.

I hope that after reading this letter, you will reconsider your decision to eliminate minimum advertising pricing policies and allow such policies to continue. I would be happy to discuss with you, modifications to the existing policy that would satisfy your objections and at the same time, not provide funding to those who would wish to

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negatively impact the health of retail through predatory pricing strategies. Remember, a weakened music retail environment ultimately hurts the music consumer.

Should you have any questions about this letter please feel free to contact me. Thank you for allowing me the opportunity to comment on the commission's ruling.

David C. Lang

DAVID C. LANG
President of Compact Disc World

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