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THE Record Exchange

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FEDERAL TRADE COMMISSION
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Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580 5/24/00

Re: Restraining Competition in CD Music Market File No. 971-0070

Dear Chairman Pitofsky and Commissioners,
I am writing you this note to ask you to reconsider your decision regarding elimination of "MAP Pricing." I own a chain of music stores in North Carolina and Virginia called The Record Exchange. On May 21st we celebrated our 22nd year in business. We employ about 80 people in retail, warehousing, and administrative positions.

Several years ago my company took the lead in the successful battle for the rights of retailers to sell used CDs. At that time, I learned a lot about antitrust laws, specifically fair trade practices. That is why I was surprised to see your opposition to MAP pricing. MAP was implemented not to allow for price-fixing, but rather as a solution to end the vicious price wars that were ravaging the music industry and forcing many small retailers out of business. Mass merchandisers had gotten into the music business and were selling CDs at, and sometimes even below, wholesale cost. Many retailers objected to this, considering it predatory pricing. I know of several retailers who were considering class action lawsuits to challenge this practice.

The music distributors' response was to say that they didn't want to support this kind of predatory pricing by paying for ads that sold product at cost – thereby helping to put their own customers out of business. Cooperative advertising is a VOLUNTARY contribution by the record labels to support ads for different retailers. It is not a RIGHT enjoyed by everyone buying music.

I know it is popular to "fight for the interest of consumers" and oppose "the greed" of big corporations, but the prices below show the margins retailers are faced with. Surely making $1.18 to $1.84 is a fair price to charge customers. Eliminating MAP will have NO effect on wholesale pricing, only on the profits at the retail end. This will favor large companies who use music as a "loss leader" to draw traffic into their stores.

Suggested List Price	Cost	MAP	Gross Profit	Gross Margin
$16.98	$10.70	$11.88	$1.18	9.93%
$17.98	$11.41	$12.88	$1.47	11.41%
$18.98	$12.04	$13.88	$1.84	13.26%

That may be seen as a good thing by the average consumer, and I'm sure they love to see low prices at their nearest WalMart, but professionals whose job it is to safeguard the interests of the general public should be able to see beyond a simple low price. I am surprised that reasonable rules on pricing and advertising support are acceptable in so many other industries, but for some reason aren't OK in the music industry. The inevitable conclusion to any price war is the elimination of free competition, usually in favor of larger companies. The result is always lower service, smaller selection, and often, once the smaller retailers have been driven out, higher prices. This was totally clear in the movie rental business and has happened in scores of other industries over the last ten to fifteen years.

I urge you to reconsider your position. I think it is likely that you don't have all the facts to make a fair decision that will TRULY benefit consumers. Please postpone the final decision until a more thorough study can be done. If that is not possible please build in some sort of review process after one year, so, if there is an unexpected negative result, you will be able to rethink your position at that time. I think it is important to point out the negative impact your choice will have on hundreds of retailers, thousands of employees, and millions of music buyers.

Sincerely,

Don Rosenberg

Don Rosenberg, President
The Record Exchange of Roanoke, Inc.
Corporate Office: 916 Bridlepath Lane, Charlotte, NC 28211
Phone: 704-364-1784 Fax: 704-364-9925

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