



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Commissioner Pamela Jones Harbour
FTC P2P File-Sharing Workshop: Day 2 Opening Remarks

Thursday, December 16, 2004
9:00 – 9:15 a.m.

Good morning, and welcome to Day 2 of our P2P workshop. I am delighted to see so many of you here today. Thanks to our superb panelists, yesterday's active discussion addressed many cutting-edge issues relating to the development of P2P technology.

P2P file-sharing may substantially improve the "Internet experience" by increasing speed and access to content while decreasing the need for storage space. However, we heard yesterday that P2P file-sharing may increase vulnerability to unwanted content, spyware, and viruses. It is essential that consumers be informed about these potential risks. Yesterday, participants discussed whether advances in blocking and filtering technologies likely will make the P2P technology more secure.

It is always wise to carefully evaluate the risks of evolving technology. But, as history teaches us, the best solution is rarely to ban or blame the technology itself. Think back to the time when the automobile was first introduced. Some horse owners and sellers argued that cars might hurt horses and their riders, and that the new vehicles therefore should be banned entirely. Of course, other solutions emerged to promote safety while allowing consumers to benefit from promising new technology. As with the automobile, it is my hope that safe and responsible

solutions too will emerge in the P2P context, so that the future of this promising new technology also will flourish.

As Chairman Majoras noted yesterday, a discussion of P2P issues is both important and timely. She also explained that the Federal Trade Commission is particularly well-positioned to host this workshop, because P2P file-sharing technology implicates both consumer protection and competition matters, and new issues certainly will emerge as the technology continues to develop. As part of our consumer protection mission, the FTC must remain vigilant in protecting consumers against unfair trade practices, deception, and anticompetitive conduct. But, in order to remain true to our competition mission, we also must take care not to pursue, create, or condone policies that inadvertently impede the evolution and adoption of useful new technologies, to the long-run detriment of consumers and businesses. Our goal in sponsoring this workshop is to bring together the individuals and groups who develop and use P2P technology – as well as those whose existing business models are affected by it – to ensure that policy-makers and the public are as well-informed as possible.

Yesterday's panels set a very high bar and we expect an equally high level of discussion from this morning's panelists, who will focus on some of the intellectual property questions that arise in the P2P context. Today's panels will look at the impact of P2P file-sharing technology on several groups: industries that rely heavily on copyright protection; consumers who use the technology; businesses that redistribute copyrighted material; and artists whose work is copyrighted.

The first panel will examine the impact of P2P file-sharing technology on copyright holders. Representatives from the legal, economic, and engineering communities will explore a key question: how to protect the property rights of creative individuals, without stifling technological evolution that could benefit consumers and enhance business efficiency. Balancing these competing interests

is likely to require some new thinking about the law. For example, the panel will address whether the copyright laws might be amended to better accommodate property interests in the P2P context, as well as the possibility of using innovative licensing agreements or standard-setting processes to facilitate solutions to the balancing problem.

I expect that the panelists may have different ideas about the teachings of the Ninth Circuit's recent Grokster decision, which the Supreme Court recently agreed to hear. In addition, the panel will consider the use of evolving technologies that P2P providers could use to protect against content degradation and copyright violations. I am particularly interested in hearing the unique perspectives of panelists who own copyrights and who innovate by using works whose copyrights have expired. For example, when the copyright expires on a classic copyrighted work – such as Charles Dickens' A Christmas Carol – and a movie is then made from it, both the motion picture industry and consumers may benefit. Overall, this session should be informative and highly thought-provoking.

The second panel will focus specifically on the experiences of the music industry since the emergence of P2P file-sharing technology. However, this information also may help to foster a more general understanding of the challenges faced by other industries, such as software, gaming, television, and motion pictures. The panel includes artists, copyright holders, representatives of P2P groups, economists, and others. They will share their diverse perspectives on the impact of P2P file-sharing on pre-recorded music sales. They will discuss current business models, as well as potential new models that are likely to arise as consumers increase their use of P2P file-sharing networks. I expect a spirited exchange of ideas during this second session.

The Pew Internet and American Life Project has just released a study on “Artists, Musicians, and the Internet.” According to that study, artists have – and I quote – “...embraced the Internet as

a tool that helps them create, promote, and sell their work....” The study also found, however, that artists “are divided about the impact and importance of free file-sharing and other copyright issues.”

Take, for example, one of the public comments the Commission received in anticipation of this workshop. It came from an artist who – in order to generate interest in his work – offered all of the music on his first album, for free, to anyone who wished to remix his music. According to his comment, “remixers” used his tracks around the globe. As this example demonstrates, P2P technology may offer great rewards for artists, copyright holders, and music lovers alike.

However, it will achieve its greatest promise only if all parties can agree on a system that fairly compensates artists and copyright holders for the value of their creative works. It will be especially interesting to consider how lessons from the recording industry might be applied to the motion picture industry. Hopefully, our panelists will consider whether the motion picture and recording industries are equally likely to be able to work collaboratively with proponents of P2P technology, to achieve maximum benefits for consumers and artists alike.

Let me close by saying, once again, how pleased I am by your interest and participation in this P2P workshop. On behalf of the Commission, I offer sincere thanks to all of the panelists, and I hope you enjoy today’s program. Thank you.