



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

FTC P2P File-Sharing Workshop Opening Remarks

Wednesday, December 15, 2004

Chairman Majoras

9:00 – 9:15 am

Good morning and welcome to the Federal Trade Commission's workshop on consumer protection and competition issues relating to peer-to-peer file-sharing technology. Thank you all for joining us. I would especially like to thank our distinguished panelists for coming from all over the country – and, in one case, from overseas – to share their insights and expertise.

This workshop represents the latest example of Federal Trade Commission policy “R&D” – the hosting of workshops, hearings, and symposia that increase learning and advance public policy on competition and consumer protection issues. Competition and consumer protection are complementary disciplines designed to increase consumer welfare, and because they comprise the twin missions of the FTC, we are able to comprehensively examine areas in which competition and consumer protection issues are intertwined. Today's workshop continues the Commission's long-standing efforts to assess the impact of significant new technological issues, such as spam, spyware, and RFID, on consumers and businesses.

Innovation. Ease of communication. Privacy. Efficiency. Choice. Protection of property. Obedience to the law. It is inarguable that in this nation we value all of these concepts. Equally inarguably, however, new technologies spurred by creativity in innovation, while perhaps increasing communication, efficiency, and choice, also present new legal challenges, as we strive to protect privacy, property rights, and the competitive process.

P2P file-sharing is one of the latest technologies to raise important issues. The P2P file-sharing architecture offers consumers the low-cost or free ability to connect to each other and to

share different kinds of content, including music, video, or software, with other users. Because P2P file-sharing technology eliminates the need for a central storage point for files, it can increase the speed of file transfers and conserve bandwidth. While the sharing and downloading of music files is what has landed P2P on the front pages, we are told that there are many other current and potential business and consumer applications for P2P file-sharing technology. Indeed, some believe that this technology is expanding in ways that could allow an almost limitless ability to obtain, manipulate, and redistribute electronic content.

Although P2P file-sharing technology may itself be neutral, consumers have used the technology in ways that create legal and technological risks. Users may distribute or receive files that may subject them to civil or criminal liability under copyright infringement and pornography laws. Users, including children, may be exposed to unwanted and disturbing pornographic images. In addition, when users download P2P file-sharing software programs, they may also download spyware that may monitor consumers' computer use without their consent, create security risks by exposing communication channels to hackers, and adversely affect the operation of personal computers, including slowing processing time and causing crashes. Some users may not understand how to properly configure the file-sharing software program's "shared folder" and may inadvertently share sensitive personal files. Shared files also may contain viruses and other programs that could impair the operation of users' computers.

The Commission already has been actively involved in exploring some of the issues stemming from P2P technology. For example, the FTC has issued a consumer alert, warning consumers that P2P file-sharing software may be used to exchange inappropriate or illegal material and alerting them of the security risks of improperly configuring P2P software. And just last week, the Commission notified Congress of our efforts to work with P2P file-sharing

program distributors' efforts to improve their disclosure of the risks associated with their programs, taken in response to concerns raised by the Commission and Congress about the inadequacy of existing disclosures. The Commission stated that industry members have developed proposed risk disclosures that we believe would be a substantial improvement over current practices. The FTC also intends to monitor and report to Congress on the extent to which distributors implement these proposed risk disclosures.

Through this workshop, we continue our efforts to address P2P issues. Over the next day and a half, we will bring together government officials, business leaders, researchers, and consumer advocacy groups to discuss the development and use of this emerging technology. The workshop will begin with the basics: a description of the architecture of P2P file-sharing technology and an explanation of how some popular file-sharing programs operate. We also will hear about the trends relating to P2P file-sharing – how this technology is being used, who is using it, and what types of files are being shared.

We then will discuss the nature and prevalence of risks to consumers and the new consumer risk disclosures, which I just mentioned.

Later panels will examine what can be done to reduce risks to consumers from using P2P file-sharing programs. We will discuss whether blocking, filtering, or other technologies can lessen these risks and whether better consumer education can reduce the risks or create market pressure for more user-friendly applications. We also will discuss what the government should do to protect consumers from the risks associated with P2P programs, if technological improvements and consumer education are not sufficient to alleviate those risks.

Our workshop also addresses competition issues. As P2P file-sharing technology develops, and allows for faster and more efficient transmissions of data, it holds promise for

many prospective commercial and business applications spanning a variety of industries. The last group of panelists today will tell us about possible future uses of this technology and their likely effect on competition.

Tomorrow's sessions will open with remarks by my colleague Commissioner Pamela Jones Harbor, who has been particularly interested in P2P issues. She will discuss issues related to P2P file-sharing's impact on copyright holders and music distribution. As you know, these issues have been at the forefront of the P2P debate and will continue to hold prominence, particularly given the Supreme Court's recent decision to review the Ninth Circuit's decision affirming the dismissal of copyright infringement claims in *MGM Studios v. Grokster*. The *Grokster* case squarely presents the question of whether secondary copyright infringement liability should be imposed upon the creators and distributors of computer software that enables individual users to copy computer files provided by other individuals over the Internet.

Picking up on those important issues, the first panel tomorrow will focus on the impact of P2P file-sharing on copyright holders. On the one hand, P2P file-sharing technology provides consumers with a fast and efficient way to obtain and exchange content. On the other hand, the technology can be used to infringe copyrights, thus decreasing the incentive to create copyrighted materials. This panel also will discuss the costs and benefits to consumers and businesses of possible industry-wide standards for the protection of copyrighted materials and consumer disclosures.

The final panel of the workshop will present a "case study," using the P2P sharing of music files as the subject. This panel will discuss the models for distributing music and the impact of file-sharing on these distribution models, copyright holders, and parties. Panelists will share their empirical research on these issues and will debate the lessons that can be learned from

this experience.

I trust that the discussions over the next two days will help us all to better understand the complicated issues that stem from P2P file-sharing and will constructively inform the public debate about the use and development of this technology.

Again, I would like to thank the panelists for their participation. We have over 40 panelists here today and tomorrow, and they reflect a tremendous amount of experience and expertise. We look forward to hearing their perspectives on these important issues.