

**Peer-to-Peer File-Sharing Technology: Consumer Protection and
Competition Issues**

P2P File-Sharing Workshop – Comment, P034517

Comments of
The Recording Industry Association of America (RIAA)
November 15, 2004

providers promote and distribute their file-sharing products as “free,” there is, in fact, a high and undisclosed price to consumers, as detailed below.

While illegal file-sharing has had a severely damaging and much-publicized effect on the music and other entertainment industries, computer users, as well as entire companies and businesses, are increasingly harmed by the actions of illicit P2P networks. The unaccountability of the providers of these applications ensures the continued proliferation of dangers such as viruses, spyware, and the unknowing disclosure of sensitive personal material.

A. Personal Information

P2P services, by their very nature, are dependent upon users not only downloading, but providing material on their computers for others to access. To facilitate this two-way sharing, P2P services often configure their software to share content by default. What users often do not know is that they may be sharing their tax returns, financial records, health records, business records, email, and other personal and private material. The availability of such information threatens security and facilitates identity theft.

As an initial matter, P2P software may, upon installation, automatically search a user’s *entire* hard drive for content. Files that users have no intention of sharing may end up being offered to the entire P2P network.¹⁰ Continued sharing of personal information is hard to avoid and is facilitated by confusing and complicated instructions for

¹⁰ “Music Downloading, File-Sharing and Copyright,” Pew Internet & American Life Project, July 2003; *see* “File-sharing: A Fair Share? Maybe Not,” FTC Consumer Alert, July 2003. (“If you don’t check the proper settings when you install the software, you could open access not just to the files you intend to share, but all other information on your hard drive.”)

designating shared items.¹¹ A study by Nathaniel S. Good and Aaron Krekelberg at HP Laboratories showed that “the majority of the users...were unable to tell what files they were sharing, and sometimes incorrectly assumed they were not sharing any files when in fact they were sharing all files on their hard drive.”¹² Distributors of file-sharing software are clearly aware of the likelihood of such inadvertent sharing. Greg Bildson, COO of LimeWire, said that “more can be done to warn users when they are about to share large numbers of files.... For users that don’t know what they are doing, file-sharing applications need to be a little more bulletproof.”¹³

As one news site has pointed out, available information goes beyond the relatively benign home shopping list or personal résumé. “Military members take their personal computers into a theater of operations and then return from those areas without removing sensitive information from their hard drives.”¹⁴ This unintended sharing affects not only individual consumers, but also potentially our national security.

B. Pornography

In addition to the dissemination of personal information, users also run the risk of being inadvertently exposed to pornography on these systems. In an August 5, 2004 letter to file-sharing association P2P United, 47 U.S. Attorneys General noted that a “substantial and ever-growing use of P2P software is as a method of disseminating pornography, including child pornography.”¹⁵ In fact, a 2003 study by Palisade Systems

¹¹ See Letter to FTC from Senators Leahy, Hatch, Boxer, Stevens, and Smith, 5/4/04 (“Senator Letter 5/4/04”).

¹² “Usability and privacy: a study of Kazaa P2P file-sharing,” Good and Krekelberg, 6/5/02.

¹³ “What’s in Your Shared Folder?” Slyck.com, 7/30/04.

¹⁴ *Id.* (quoting commentator from www.SeeWhatYouShare.com)

¹⁵ Letter to P2P United from 47 U.S. Attorneys General, 8/5/04 (“AG Letter 8/5/04”).