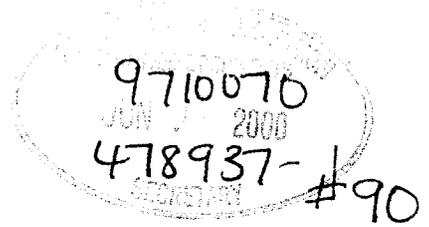




Mr. Nobody's Music

"We Ship Anywhere"
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We Stock All Music

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To the Federal Trade Commission

As a music retailer, I take exception to your pursuit of music distributors to eliminate the use of Minimum Advertised Price (MAP) policies. This policy helped revive a ailing music industry, built around established and new artist, retailers, wholesalers, and a large group of people who depend on music sales for our living. It has grown to a \$15 billion business that touches many industries inside and outside our own.

Your effort to lower prices to consumers will come with a heavy cost to the music industry and others as well. Let's look back a few short years ago to the industry before MAP. In the period between 1994 - 1996 at the height of music price wars between mass merchants and consumer electronics chains our industry lost over 1,000 independent music stores and eleven music chains were forced into Chapter 11 or went bankrupt. The major distributors during and after that time did not receive one cent more in gross profit, they continued to charge the same price per unit as before. MAP was the saving and stabilizing force within our industry. You must understand selling music at low prices or below cost prices to drive customer traffic will only lead to higher prices as competition is eliminated in a few short years.

Just think about it! Less money to provide new artist, the loss of ethnic and minority music and thousands of national chain and independent retailers and their employees out of work.

I urge you to rethink the elimination of MAP. If not, I'm sure you will look back in a few short years to discover it was a huge and costly mistake.

To the Federal Trade Commission:

As a music retailer, I deplore your pursuit of record distributors to eliminate their Minimum Advertised Price (MAP) policies. These policies have rescued the industry, which includes the new artists, the retailers like us, and the infrastructure of people who depend on music for this \$10 billion a year industry.

You want to encourage lower prices for consumers, but it will be achieved at a heavy price. I and thousands of fellow retailers depend on music for our livelihoods. Without MAP, we will be competing with mass merchants and appliance chains using music as a loss leader to get people into their stores. Their surveys, the music distributors tell us, show that people spend an average of \$50 once they get in their general-merchandise stores. So the losses on music actually helps their business.

But it will destroy ours. Before MAP, the music industry sales suffered because pervasive loss leader ads encouraged buyers to put off their purchases to get the lower price – and then never bought the product because they could not get to the advertised stores on time. This meant lost sales for everyone.

The destruction of independent retailers will profoundly discourage talent from trying the break into the music business. The limited exposure of new talent will stymie labels who sign new acts and shrink the number of releases available to buy. In the end, besides destroying my business and thousands like mine, your campaign against MAP will infringe on free speech by preventing new artists from building their reputations and sales through independent retailers like me. They will never have a chance to sell in the mass merchants and appliance chains because they will not get into an industry that builds its artists through us to mass appeal.

MAP was a policy instituted to save the music industry. Few within the industry objected to it and the revival of the industry in the past five years attests to its success. Without MAP, the deep catalog of artists from the past will lose out along with the artists of the future. The only winners will be the massive-selling albums that will crowd out all the rest and the losers will be those interested in preserving a healthy and growing market for the whole range of music that has been available on disc through the twentieth century. It looks like you are willing to sacrifice it at the outset of the twenty-first century.

Dear FTC Commissioners:

- Robert Pitofsky, Chairman
- Sheila S. Anthony
- Mozelle W. Thompson
- Orson Swindle
- Thomas B. Leary

Do you realize that by eliminating the Minimum Advertised Price (MAP) of recorded music the following will result:

Prices at the consumer level will not decrease, although the media is proclaiming great savings. The distributors will continue to charge the same amounts as they currently do to all stores and sub-distributors.

The buying public will have less stores from which to buy their favorite music as many independent local stores will be caught in a price war squeeze that will force their closing. History will be repeated as it was prior to MAP when in the mid-nineties over 1,000 record stores were forced to close and Chapter 11 in this industry was notorious.

The "loss leader" will re-appear its ugly head, but only to sell other products at mass merchandisers. The "hits" will be footballed but catalog prices will not be discounted. Products from new developing artists, ethnic and minority oriented music will not be available and the neighborhood store, which carries these recordings, will no longer be there.

My fellow independent record dealers and I applaud map and the sense of stability it brought to the music industry.

I feel strongly that the major distributors' intentions were not to "squench discounting of music" but rather to protect not only the retailing base but also the interest of the consumer.

The message is wrong! I urge you to rescind the proposed consent order.

FEDERAL TRADE COMMISSION

I quote from your press release dated May 10, 2000: "In the early 1990s many new music retailers, including major consumer electronics stores, started to sell CDs at low prices to gain customers and market share..."

The price war started with electronics stores running ads for \$15.98 list CDs (cost \$10.24) at \$9.99 and \$16.98 list CDs (cost \$10.65) at \$10.99 in order to drive traffic into stores to buy VCRs, stereos, computer, televisions, etc. This "Loss Leader" concept resulted in thousands of retail (family owned) record outlets and major music chains going out of business. Obviously they could not afford to sell at a price below their cost. Although it is not in your area of jurisdiction, can you picture how many empty store fronts there are now in neighborhoods that can least afford them!

The major distributors started MAP in 1995 and saved my business along with thousands of other record retail stores. In addition to the competition I am facing with the internet, digital down loading, and MP-3, I am confronted by a commission whose ruling will bring harm to me, my family and the record industry. I urge that you re-think your decision on MAP.

There is no doubt in my mind the price war will start soon in 2000 and my 25 years of hard work and good business will end, because you will allow electronics stores to sell below cost on music with the sole purpose of a profit built into other more expensive items.