

Copyright laws are limits to free speech established in the constitution. Article 1 Section 8 states that "The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries". Peer to Peer file sharing is a powerful tool used by the creators of art (music, video, photos etc) and technology (software, designs etc) to distribute their works. Peer to Peer file sharing allows the creator of a work to economically distribute their work without being forced into a relationship with a mediator. Peer to Peer is the only economical way for many creators to reach their audience and reap the rewards for the work they do. Media companies rarely compensate creators fairly (see <http://web.northnet.org/minstrel/indie.1.htm> for a few examples). The media companies are using copyright pirating as a smoke screen. The real goal in shutting down peer to peer file sharing is to retain corporate control over creative works. The media companies do not want to compete with those creators who can establish an un-mediated relationship with consumers. The economic damage caused by trading of copyrighted materials on peer to peer networks is greatly exaggerated by media companies. A typical teenager who downloads a thousand music files from a peer to peer network would not be able (and would not want) to purchase \$1000 worth of music if file sharing were not possible. In some cases file sharing even promotes the sale of music through traditional channels. File sharing is a great way for consumers to discover new music and new artists. Some percentage of downloads result in new sales through traditional channels. Just as some percentage of downloads cut into sales through traditional channels. But saying that every 1000 downloads is a loss of 1000 sales is a complete exaggeration. File sharing promotes economic activity in other ways. New and established artists are able to reach an audience who will support them through attending live performances, purchasing merchandise, purchasing traditional media (CD's, DVD's etc) directly, purchasing items promoted by the artist and even making donations to support the artist. Support by donation is especially popular in the technology arena, software in particular (Shareware, Freeware, GNU software etc). But support by donation can also work in the artistic arena (see http://www.janisian.com/mp3_downloads.html for an example). If copyright is to "promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries" then peer to peer file sharing is an essential tool for those creators who choose to have a direct, un-mediated, relationship between themselves and the consumer. The battle over Peer to Peer is a battle for control over the relationship between the consumer and the creator. Media corporations want an exclusive right to that relationship. Peer to Peer challenges their position in the food chain. Protecting Peer to Peer is about protecting creators, protecting consumers and providing competition for the traditional media channels who, historically, have not served consumers or creators well. The risks cited by the FTC (adware, viruses, exposure to undesirable material, impairments of computer function, and liability to charges of copyright infringement) are present in a wide range of software. That software includes nearly all of Microsofts products and the hidden software that many media companies automatically install (without the users permission) on computers when a user inserts a music CD into the PC's CD drive. If the FTC wants to protect computer users from these threats then that protection should apply across the board. Do not single out Peer to Peer software. Many other applications install undesirable applications on users systems. All users should be given a choice as to what parts of an application they would like to install and what they would like to keep off of their system. No application should be allowed to "Phone Home" and do software installation/updates without the users permission on a case by case basis. This permission should not be a pre-condition for the use of the software. Nearly all software that has the ability to communicate over the Internet has the potential to be used to infringe on copyright. E-mail, web browsers, client-server file sharing etc. The potential potential to infringe on copyright is not unique to peer to peer software. The FTC should take a "hands off" approach to peer to peer file sharing. Let the market make the decision. If media companies can bring value to the distribution process they will thrive, in spite of peer to peer file sharing. Competition is good. Let artists and consumers decide how they wish to distribute and consume product. Peer to Peer technology is new, Peer to Peer technology is disruptive, and there will be winners and losers. It is too early for the FTC to intervene in the evolution of this new mode of distribution.

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Let the market decide who the winners and losers will be. Now is not the time for the government make this decision for us.