



## Future of Music Coalition

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February 15, 2012

Mr. Richard Feinstein, Esq., Director  
Mr. Norman Armstrong, Esq., Deputy Director  
Office of Policy and Coordination  
Bureau of Competition, H-374  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Mr. Feinstein and Mr. Armstrong:

The Future of Music Coalition (FMC) is a national nonprofit organization that works to ensure a diverse musical culture where artists flourish, are compensated fairly for their work, and where fans can find the music they want. For more than a decade, FMC has helped musicians and independent labels navigate a complex and evolving marketplace. We write today out of concerns over the negative impacts of a proposed acquisition of EMI Music by Universal Music Group (UMG).

Chiefly, we are concerned with how a more powerful UMG could affect the playing field for creators online. Since its inception, the internet has represented a powerful tool for the exchange of information and ideas. In recent years, it has also contributed greatly to the emergence of novel platforms for the dissemination of creative content. New digital music services, for example, offer consumers access to a wide range of repertoire for relatively modest costs. And for artists, it allows historically unprecedented access to audiences without the middlemen and gatekeepers common to the original industry. Should this acquisition go through, we could see this vibrant ecosystem compromised by the immense influence of UMG.

Currently, no single major record label or publisher dominates the market. The larger players hold approximately similar market shares, which help to maintain a competitive balance. This in turn furthers transparency and robust dissemination of digital content as companies respond to competition to make more of their content available through digital channels. Without sufficient competition, UMG may attempt to recreate scarcity. This in turn could fuel the pirate marketplace that so many of us seek to eliminate.

Likewise, we believe that innovation and attractive consumer offerings depend on the ability for creators to engage directly in the development of novel platforms, as well as mutually rewarding licensing terms. Our extensive documentation of the effects of consolidation in other sectors, such as commercial radio and ticketing, does not indicate an increase in artist access or leverage — in fact, our research has quantitatively shown the opposite. This leads us to conclude that, to achieve a robust and legitimate digital music marketplace, there must be active participation by

a diverse array of players as well as a high level of competition rather than market concentration.

There can be little doubt that technology has promoted variety, vibrancy and more competition in our industry. One need look no further than the traditional record labels, who are using new models to introduce artists, making them more readily accessible to the public. It is this dynamic that must be preserved.

There is still much to be done to identify and nurture business models that make sense for both creators and consumers. With greater market concentration, we may never see tomorrow's amazing music innovation. Additionally, we fear freedom of expression itself may be at risk with the proposed selloff of EMI's subsidiaries. If approved, these acquisitions would provide UMG with more than 40 percent market share in recorded music in the U.S., and would make Sony the biggest music publishing company in the world. Effectively two majors would have tremendous influence over crucial online access points, with the power and incentive to curb the very kind of innovations that are the engines of the new music economy.

For this reason, we strongly urge you to prohibit these mergers and preserve a more level playing field that maintains a vibrant musical space online and elsewhere.

In conclusion, we fear that putting too much power in the hands of massive players would marginalize competition and artistic expression. To be clear: not only would diversity in musical culture be diminished and distribution hampered, but musicians and songwriters may also end up not receiving monies owed. Even independent artists may shy away from the digital marketplace for fear of being marginalized by these behemoth companies.

Growing the legitimate digital music marketplace is in the best interests of the entire music community. These aspirations are not advanced, however, by further concentration in the recorded music industry. We urge you to prevent this detrimental concentration on behalf of musicians and fans everywhere.

We would, of course, be happy to discuss this issue further at your convenience.

Sincerely,



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Cc: Mr. Robert Tovsky, Esq., Mergers II Division  
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