

MusicMatch Inc.
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Summary of Testimony
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MusicMatch has created products and services that utilize the Internet and other technologies to enhance consumer's enjoyment and discovery of music. 11 million consumers have aggregated their music onto their PC's with MusicMatch Jukebox and have significantly increased their consumption and purchase of music. Several million consumers have opted into MusicMatch personalized music services that enhance consumer benefit even further.

Products like MusicMatch Jukebox and MusicMatch Radio promise to provide consumers with a personalized, effortless and efficient way to fill their lives with music. The ability of a consumer to virtual-access and enjoy their music collection and personalized music services from anywhere in their home, car or office will delight consumers and expand the market for pre-recorded music. Accessing new or forgotten music will be as easy as changing channels on your television.

This consumer music ecosystem depends on further household penetration of broadband internet access, cost reductions in bandwidth and reasonable/equitable copyright law which facilitates technical and business model innovation as well as consumer access to their music.

The rights in play within Section 104 of the DMCA are pivotal issues for the creation of such music services:

- Payment for copyright holders should be equitable across various channels of distribution, and business models. Once a consumer has compensated the copyright holder by purchasing the music or purchasing access to the music, additional restrictions or costs for the transmission (including buffering) of that music to another location where that consumer listens to it are not reasonable.
- Consumers must also be free to make archival copies as well as copies that they can take to devices unable to play the digital music in its electronic format. (i.e. the CD player in their car)

MusicMatch spends a relatively large portion of our research and development budget in developing technologies that protect copyrighted works from being pirated while in transit to the consumer. Such safeguards, like locks on CD delivery trucks or anti-theft devices in retail, should be deployed to prevent the piracy feared by the copyright holders. Adding additional licensing burdens and unwarranted royalty costs will not increase piracy safeguards.