

September 4, 2003

The Honorable Ernest Fritz Hollings  
Ranking Member  
Senate Commerce, Science and Transportation Committee  
United States Senate  
125 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Hollings:

The undersigned organizations commend you for announcing a hearing of the Commerce Committee to examine the issue of the Digital Millennium Copyright Act's subpoena process. We would also like to express our growing concern about the need to ensure that basic due process protections are followed, and a respect for privacy ensured, in the digital age.

Our concern arises out of a broad interpretation of the Digital Millennium Copyright Act by a Federal District Court that allows any copyright holder or delegate of a copyright holder to demand from any Internet service provider the name, address, telephone number and all other identifying information about a customer based on an uncorroborated allegation that the customer had infringed a copyright. The case was brought by the Recording Industry Association of America against Verizon Online, an Internet service provider. In practice, this means that anyone can submit a one-page form to a court and have it issue an enforceable subpoena demanding the identity of any other person. No judge is involved to evaluate the allegation, even at a minimal level, and no lawsuit need ever be filed. The process contains no obligation to inform the customer whose identity will be told that his or her privacy is threatened, or has been compromised, much less provide for a reasonable opportunity for the customer to intervene to protect his or her privacy.

Clearly, the process sanctioned by Federal court raises very serious concerns about the privacy rights, safety, and security of Internet users. Because of this, a broad, bipartisan coalition of 44 organizations and ISPs have joined forces to oppose the ruling, including groups as diverse as the Competitive Enterprise Institute, the American Civil Liberties Union and the Grange, and also including leading domestic violence and child protective organizations, along with nearly every major ISP in the country. While copyright infringement is an important problem, the need to ensure basic fairness to customers and to respect their reasonable expectation of privacy in their relationship with their ISP is no less important in this context than in any other.

Since the appellate court has denied a stay of its order to divulge the customer information, the RIAA has used this process to seek the identity of nearly one thousand Internet users, and the RIAA has said that a large number of lawsuits will follow. Therefore, we believe it is critical for swift action to clarify Section 512(h), to make clear that it only applies once a lawsuit has been filed and then according to the usual processes for subpoenas under federal law, which already provide for important safeguards for consumers.

We appreciate the tremendous work that you have dedicated to this and other related issues. Please let us know if we can be of further assistance.

Sincerely,

Alliance for Public Technology  
American Association of Law Libraries  
American Civil Liberties Union  
American Legislative Exchange Council  
American Library Association  
ASPIRA Association, Inc.  
Association of Research Libraries  
@tanta Broadband  
BellSouth Corporation  
Broadband Institute of California  
Chisp.net  
Citizens for a Sound Economy  
CoaXmedia  
Colorado Internet Cooperative Association  
Competitive Enterprise Institute  
Computer & Communication Industry Association  
Computer Professionals for Social Responsibility  
Consumer Action  
Consumer Federation of America  
CyberStarz  
Digital Future Coalition  
DIMISI Internet  
EDUCAUSE  
Electronic Frontier Foundation  
Electronic Frontiers Georgia  
The Electronic Privacy Information Center  
EMC Limited  
Hispanic Technology and Telecommunications Partnership  
Alianza Dominicana  
American GI Forum  
ASPIRA  
Association for the Advancement of Mexican Americans  
Cuban American National Council  
Dialogue on Diversity  
Greater Washington Ibero American Chamber of Commerce

Hispanic Federation of New York  
Hispanics in Information Technology  
Interamerican College of Physicians and Surgeons  
Labor Council for Latin American Advancement  
MANA, A National Latina Organization  
National Association of Hispanic Publications  
National Conference of Puerto Rican Women  
National Hispanic Council on Aging  
National Hispanic Medical Association  
National Latina/o Lesbian, Gay, Bisexual and Transgender Organization  
National Puerto Rican Coalition  
New York State Federation of Hispanic Chambers of Commerce  
TAMACC  
U.S. Hispanic Chamber of Commerce  
U.S. Mexico Chamber of Commerce  
Veterans in Community Service  
Illinois Coalition Against Domestic Violence  
Illinois MDU Communications  
Independent MultiFamily Communications Council  
Infinisys  
InKeeper Co  
Interquest  
League of United Latin American Citizens  
MANA, A National Latina Organization  
Media Access Project  
Media Works  
Mercury Network Corporation  
National Association of Consumer Agency Administrators  
National Black Chamber of Commerce  
National Coalition Against Domestic Violence  
National Consumers League  
National Grange of the Order of Patrons of Husbandry  
National Network to End Domestic Violence  
National Puerto Rican Coalition  
New York State Telecom Association  
Noment  
North Dakota Council on Abused Women's Services  
NTC Communications  
Odessay Communications  
Pace Electronics  
PCO Broadstar  
Privacy Activism  
Privacy Rights Clearinghouse  
Progressive Internet Action  
Public Knowledge  
Rover Communications  
SBC Telecommunications  
SE Broadband

SeniorNet  
Southern Star  
STIC.NET. LP  
Surfnet Corporation  
Technology Committee of the National Taskforce to End Sexual and Domestic  
Violence Against Women  
Telecommunications Research and Action Center  
Texas Internet Service Providers Association  
United States Internet Industry Association  
United States Telecom Association  
U.S. PIRG  
Washington Association of Internet Service Providers  
ZZAPP Internet Services  
Zcorum

cc: Members and Staff, Senate Commerce, Science and Transportation Committee