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February 25, 2005

Active Publishing
P.O. Box 4324
Burbank, CA 91503
support@mp3downloadhq.com
702-977-9185 (Fax)

Dear Active Publishing,

We are writing regarding the Mp3DownloadHQ.com membership music service.

As part of our ongoing effort to inform consumers about their rights and responsibilities online, we are investigating troubling claims made by some online merchants regarding their music and video download services. Based on our findings, we are contemplating a range of actions, which may including filing a complaint detailing deceptive trade practices with the Federal Trade Commission.

We came across your service during our survey, and are concerned by some of the representations made to consumers in your promotion of that service. The sign-up page of your website claims to be offering unlimited music downloads that are "100% legal." Your email to new members says that using the software you provide is "legal & safe." You instruct your members to download peer-to-peer file sharing software as a means of downloading "all the music, videos and software you want." We believe your "100% legal" assurance is misleading to consumers, who are likely to believe that their membership fees grant them a license to download music from these services, when in fact they will likely be engaging in copyright infringement. The disclaimers provided on subsequent linked pages are not prominent or clear enough to dispel the misconceptions fostered by the claims on the Mp3DownloadHQ.com sign-up page. We believe that the these practices may constitute deception under Section 5 of the FTC Act.

Consumers are concerned about the legality of music and movie downloads, and are seeking to participate in the growing market for legitimate online music and video distribution. However, we are concerned that misleading statements about the legality of infringing uses of peer-to-peer services are likely to confuse consumers and frustrate the

development of such a marketplace.

We are moving forward quickly on this matter. However, before we take further action, we would like to hear from you. We request that you contact us within the next week (i.e. by March 4th) at 202-637-9800, or by email at downloads@cdt.org.

Sincerely,

Alan Davidson,
Associate Director