

November 18, 2005

BY ELECTRONIC MAIL AND FACSIMILE

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**Demand Letter to Sony BMG Music Entertainment**

Dear Mr. Green:

Thank you for your letter dated November 15, 2005, enclosing a letter sent by the Electronic Frontier Foundation ("EFF") and you to Messrs. Mandil, Stringer and Thielen. Sony BMG Music Entertainment ("Sony BMG") has asked us to respond to that enclosed letter on its behalf.

As you know and as we explained to you and your colleagues at EFF, Sony BMG takes very seriously the security concerns raised with respect to XCP protected compact discs. As soon as these issues were identified, the company promptly, voluntarily and prior to the receipt of your letter decided to take several proactive steps to mitigate these concerns.

To respond more specifically to the steps identified in your letter, the following summarizes what Sony has done, and is committed to doing:

1. Sony BMG has ceased manufacturing compact discs with XCP software.
2. Sony BMG is taking steps to withdraw compact discs with XCP software from its distribution and retail chains. It has sent a letter to retailers asking them to cease sale of those discs and to return them to Sony BMG. This withdrawal program has been and is being widely publicized.
3. Sony BMG is moving as quickly as the manufacturing process will allow to replace all compact discs with XCP that are present in the chain of distribution with non-copy protected discs.

4. With respect to XCP protected compact discs in consumer hands, Sony BMG has announced an exchange program. Any consumer who has purchased an XCP protected compact disc will be able to receive replacement, non-copy protected discs in exchange. Customers will be able to return those discs to the place of purchase. In addition, consumers will be able to use UPS to mail in the discs at no charge to them. Moreover, Sony BMG will also provide free MP3 downloads of the music to consumers upon their return of XCP protected discs via the UPS mail-in exchange program. Sony BMG is committed to providing notice of the program through retailers and by electronic means (such as via email to purchasers of XCP protected compact discs, where Sony BMG has that information). Information for consumers, including a list of XCP protected titles, is available on the Sony BMG website through FAQs directly accessible from the Sony BMG home page, at <http://cp.sonybmg.com/xcp/english/faq.html>, and at <http://www.upsrow.com/sonybmg/>.

5. Any consumer who has already purchased an XCP protected compact disc and who does not want to remove the XCP software from his or her computer can download a software update from the Sony BMG website at <http://cp.sonybmg.com>. The effect of this update is to "uncloak" the XCP components on the user's hard drive, thereby allowing anti-virus software to detect it and block any viruses from exploiting it.

6. Sony BMG also will make available a software program through its website that will give consumers the option of either applying the software update or altogether uninstalling the XCP components from their computers. As we have explained to you, neither downloading the software update nor entirely removing the XCP components affects the consumer's ability to play and use any music from an XCP protected compact disc already transferred from the disc to the computer. Sony BMG is aware that further security-related concerns have been raised with respect to the means by which the previous version of the uninstaller program had been provided (i.e., the downloading of ActiveX controls). These concerns are not present with respect to the new program, which will also have the effect of removing any ActiveX controls from the user's computer.

7. Sony BMG has been working with outside consultants to test both the software update previously provided and the new program. Both have been found to work without creating any security concerns. Sony BMG encourages legitimate security research into copy protection technologies and, accordingly, Sony BMG will not assert claims under title 17 of the United States Code (or similar statutes in other countries) against legitimate security researchers who have been, are or will be working to identify security problems with copy protection technologies used on Sony BMG compact discs.

8. In addition, Microsoft and all the major anti-virus companies have been made aware of the security issues that have been raised. The anti-virus companies have issued updates to their customers to address any potential vulnerability arising from the installation of XCP software.

9. Through its website, communications with retailers and otherwise (including, where feasible, by electronic means, such as emails to consumers who had previously requested the program to uninstall XCP software), Sony BMG has been publicizing the availability of the software updates and uninstaller and it will continue to do so.

10. Separately from the security-related issues raised above, you have identified concerns with respect to the End User License Agreements ("EULAs") used on copy protected compact discs. Sony BMG is committed to reviewing the EULAs that it uses on all of its discs with copy protection software to ensure that they are clear and disclose information to the consumer.

11. Any present and future copy protection technology used by Sony BMG will be tested, verified and disclosed to consumers.

12. Sony BMG is sensitive to privacy-related concerns that have been raised. Sony BMG and its copy protection vendors remain committed to refrain from disclosing any IP addresses obtained through consumers' use of enhanced compact discs and to refrain from using that information for any purpose other than to provide the enhancements that are available on such discs. Sony BMG does not aggregate any IP addresses with any personally identifiable information. Furthermore, to the extent that Sony BMG has obtained any personally identifying information in the course of providing an uninstaller, consistent with its privacy policies, Sony BMG remains committed to not using that information for any purpose other than to contact individuals with regard to uninstallation and other matters described in this letter.

We believe that these steps go well beyond satisfying any obligation that Sony BMG has under California law. In fact, Sony BMG consumers who take advantage of the exchange program will not only be able to continue to enjoy the music for which they have paid, but also will be able to receive a brand new, non-copy protected compact disc of the same title and, in the case of those using the UPS mail-in program, a free MP3 download of the tracks on the disc. That is certainly the functional equivalent of the refund you requested, if not more.

With respect to the items in your letter not fully addressed by the foregoing, we note the following:

A. Sony BMG is unaware that compact discs with SunnComm MediaMax technology are "infected" and, therefore, does not believe that they need to be withdrawn from the market. Sony BMG, however, will be reviewing its use of copy protection on all of its compact discs. In addition, as noted above, Sony BMG will reexamine *all* of its EULAs, including the EULA associated with MediaMax.

B. Sony BMG is aware that potential security concerns have been raised publicly in the last couple of days with respect to the uninstaller that SunnComm has been providing. In response, this uninstaller has been withdrawn. SunnComm is producing and will be making available to consumers an uninstaller that will address those concerns.

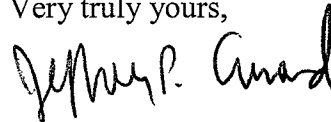
C. Although you have asked that Sony BMG "compensate consumers for any damage to their computers caused by the infected products," Sony BMG is unaware of any computer that has suffered any "damage" due to the use of an XCP protected compact disc. Should Sony BMG be contacted by a consumer claiming such damage, it will respond appropriately.

D. Although you have requested that Sony BMG "cease from engaging" in what your letter characterizes as legal violations, your request assumes a legal conclusion. Sony BMG has taken significant steps to address the concerns that have been addressed and it does not believe that its use of XCP copy protection software or its EULAs violated any laws.

Sony BMG has publicly apologized to its consumers and has moved aggressively and voluntarily to address the issues that have been raised. The company is working hard to mitigate the concerns and do what it can to repair its relationships with its customers. These efforts will continue.

Sony BMG appreciates EFF's role in raising its concerns and, in so doing, affording the company the opportunity to respond. If you have further comments or concerns, please feel free to contact Sony BMG or me at any time.

Very truly yours,



Jeffrey P. Cunard

cc: Fred von Lohmann, Esq.  
Electronic Frontier Foundation