

September 26, 2002

The Honorable Howard Coble  
Chairman  
House Committee on the Judiciary  
Subcommittee on Courts, the Internet, and Intellectual Property  
B351A Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Coble:

As the Co-Chairs of USACM, the U.S. Public Policy Committee of the Association for Computing Machinery, we are writing to express the strong concerns of the computing community regarding H.R. 5211, the P2P Piracy Prevention Act. Please include this letter in the official record of the subcommittee's September 26 hearing entitled "Piracy Of Intellectual Property On Peer-to-Peer Networks."

As a professional association that promotes both technical and ethical excellence in computing, we are concerned that H.R. 5211 would legitimize a variety of questionable acts that violate professional and ethical standards. An essential aim of computing professionals is to minimize negative consequences of computing systems. Sanctioning the use of computing technology in the intentional destruction or modification of files and programs sets a dangerous precedent that conflicts with the responsibilities and expectations of professional conduct. This contradiction is especially troubling for professionals involved in computing education.

Of particular concern to the computing community, H.R. 5211 makes a number of flawed technical assumptions and includes a set of ambiguous definitions that would result in a variety of unintended consequences harmful to the use and continued development of the Internet. The following are just a small sampling of our concerns with the legislation:

\*The definition of a "peer-to-peer public network" seems to include all computers connected to the Internet as well as fundamental software applications such as email and WWW service.

\* Legally encouraged interdiction, spoofing, redirection, and denial-of-service attacks would create new volumes of network traffic resulting in Internet service disruptions and degradation of service for innocent Internet users, many of whom may not be using P2P networks. Such uses include electronic commerce transactions and a variety of research, education, free speech, health care, and other noncommercial activities.

\*The legislation underestimates the technical challenge in targeting an attack at a specific copyrighted work without causing collateral damage to others through a shared connection, server, or repository of personal and business files.

\*Legally sanctioned attacks would involve defeating legitimate security mechanisms and firewalls. This approach conflicts with efforts to enhance cybersecurity and seems to violate the anticircumvention provisions of the Digital Millennium Copyright Act and prohibitions in the USA Patriot Act.

\*The legislation does not recognize that P2P networking protocols are used for a variety of purposes. Research and development conducted using P2P shows great promise for inexpensive yet powerful distributed computation.

As an international association with members in over 100 countries, we are also concerned with the international implications of H.R. 5211. As we have learned through the complicated negotiations over the Council of Europe Cybercrime Convention and the Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters, countries have diverse cultural expectations of the Internet. Clearly, H.R. 5211 would affect many people who are not under the jurisdiction of U.S. laws. It would be unfortunate if other countries were to use this legislation to sanction attacks on U.S. based content that they find to be objectionable.

The scientists, educators, artists, publishers, and other computing professionals of ACM have major interests in copyright. We are concerned about the protection of our property, but we are addressing this challenge through the investigation of new business models and methods better suited to a "wired" world. The small segment of U.S. industry that would benefit from H.R. 5211 - namely entertainment companies - will continue to face challenges in a rapidly changing global market place until they adopt similar changes. Legislative efforts that encourage vigilante attacks on P2P networks are not the answer, but only serve as an invitation for additional problems at the expense of society at-large.

USACM is pleased to offer our technical expertise to assist policymakers in the development of legislation of concern to the computing community. Please contact the ACM Office of Public Policy at (202) 478-6312 if we can provide additional information.

Sincerely,

Barbara Simons, Ph.D.  
Eugene H. Spafford, Ph.D  
Co-Chairs  
U.S. ACM Public Policy Committee  
Association for Computing Machinery

About USACM:

USACM is the U.S. Public Policy Committee of the Association for Computing Machinery (ACM). ACM is the leading nonprofit membership organization of computer scientists and information technology professionals dedicated to advancing the art, science, engineering and application of information technology. Since 1947, ACM has

been a pioneering force in fostering the open interchange of information and promoting both technical and ethical excellence in computing. Over 70,000 computer scientists and information technology professionals from around the world are members of ACM.