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CONSUMER RIGHTS V. STUDIO GREED

Legislation Summary

In October 1981 a California Court found videotaping in the home off of television to be illegal. In response to this decision, Senators DeConcini and D'Amato and Congressmen Paris and Foley introduced legislation (S.1758, H.R. 5250 and H.R. 4808, respectively) which would allow taping off of television for non-commercial purposes. These bills have nine co-sponsors in the Senate and over 60 co-sponsors in the House.

However, Senator Mathias and Congressman Don Edwards introduced legislation (Am. 1242 and H.R. 5488, respectively) which would impose a royalty tax on videocassette recorders and video tapes. This legislation would require manufacturers and importers to report to and pay the Copyright Office and Copyright Royalty Tribunal for the "privilege" of selling videocassette recorders and video tapes. The legislation would also eliminate the right of a video retailer to rent video tapes without prior consent of the studios.

Support Consumer Rights--Oppose Royalty Tax

We urge you to support S. 1758, H.R. 5250 or H.R. 4808. In contrast to the MPAA (Mathias-Edwards) legislation, these bills are pro-consumer and pro-business.

The Miraculous Videocassette Recorder

The videocassette recorder (VCR) allows consumers to watch what they would have otherwise missed because they were not home. VCRs are primarily used for this time shift viewing. They are also used to record and play home movies (a two-hour video tape costs about $15, while a three-minute super eight tape costs more!) VCRs are also used to view any of the over 37,000 pre-recorded programs available on videotape.

Why Support Home Taping Legislation?

1. Over Ten Million Reasons.

Over 10,000,000 American citizens now use a VCR. Under current case law they are acting illegally. Both the District Court and the Ninth Circuit Court of Appeals in the "Betamax" case said that it was the role of Congress to decide the issue. Congress must act now. By leaving the issue to the courts, consumers may in the future be prevented from purchasing this new and useful technology.

2. Privacy Protected.

H.R. 5250 and H.R. 4808 prevent unwarranted government intrusion into the home. MCA, the plaintiff in the "Betamax" case, has indicated that it intends to find out the identity of every owner of a VCR. While this legislation may not prevent that, it may prevent a court from halting the sales of videocassette recorders.

3. Political Hot Potato Avoided.

Any vote for a video royalty tax is bound to be controversial. In addition, the sound recording industry is now also seeking to look into a royalty tax. An audio and video royalty tax would be a political hot potato. But immediate passage of a "clean" S.1758 or H.R. 5250 or H.R. 4808 would allow Congress to avoid the royalty tax issue.

Why Oppose the MPAA Legislation?

1. 10,000,000 Consumers Oppose It.

The video magazines condemn the royalty tax. We believe their readers agree.

2. It is Unnecessary.

By allowing time shifting, VCRs expand audience size. Time shifting clearly benefits the studios. Also, the VCR has opened up a new market for pre-recorded programming for the studios. The studios with their enormous profits seek a royalty tax solely because of pure greed.

3. It Would Hurt Small Businessmen.

Today there are thousands of newly formed small businesses which sell and rent video products. The royalty tax would cut into sales, and undue restrictions on rentals would eliminate the largest portion of the retailers' market.

4. It Would Avoid Creating a Bureaucracy.

The MPAA bill would impose additional government reporting requirements and would involve the government in one more area where it has not gone before. The government would be required to hold hearings, study the masses of evidence, determine a royalty tax, collect the royalty tax, and somehow distribute a royalty tax among the numerous clamoring claimants. Now is not the time for additional government regulations.

This issue will not go away. Support home taping legislation. It is pro-consumer and pro-business.

Bill Barr

See me

THE WARNER COMMUNICATIONS RECORD GROUP

POSITION PAPER ON HOME TAPING OF RECORDS

POSITION PAPER OF THE WCI RECORD GROUP ON HOME TAPING OF RECORDS

The Warner Communications Inc. Record Group (WCI), along with other creators of recorded music, is alarmed by the widespread growth of home audio taping. Home audio taping has had a destructive impact on American music, which is supported in large part by the market for records and pre-recorded tapes.

The market value of unauthorized home-taped copies of records and pre-recorded tapes amounted to more than $2.85 billion in 1980. In contrast, legitimate consumer purchases of records and pre-recorded tapes were in the range of only $3.3 to $3.68 billion. In other words, unauthorized home taping amounts to between 75% and 85% of legitimate sales.

Warner therefore joins the rest of the American music community in strongly supporting the pending legislative proposals* to enact a fair and reasonable royalty on the importers and manufacturers (primarily Japanese) of blank audio tapes and taping equipment. This legislation would afford compensation to the creators of music and records; at the same time, it would relieve tapers from personal copyright liability for tapes made at home for private use.

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* Amendment No. 1331 to S. 1758, 97th Cong., 2d Sess., Cong. Rec. pp. S1287-90 (Mar. 1, 1982); H.R. 5705, 97th Cong., 2d Sess. (Mar. 3, 1982).

In this position paper, we shall demonstrate (1) the magnitude of home taping, (2) its damaging impact on the music and record communities (and the many thousands of artists and employees therein) as well as on our cultural life and international balance of trade, (3) the demographics of tapers (upper socio-economic strata), (4) the fallacious nature of the arguments against such legislation by foreign tape interests, and (5) the fairness and equity of the pending bills for reasonable royalties.

The Magnitude of Home Taping

WCI's recently-released consumer survey* demonstrates that home tapers made unauthorized copies of prerecorded music with a market value of more than $2.85 billion in 1980.**

Approximately 39 million people spent over $600 million to buy blank tapes used to copy music in 1980.***

Tapers copied approximately 250 million albums

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* M. Kapp, S. Middlestadt and M. Fishbein, Home Taping: A Consumer Survey, WCI, 1982 (hereafter "WCI Survey"). This comprehensive study, involving more than 2300 face-to-face interviews, was based on recognized survey techniques and a scientifically designed sample. WCI Survey, pp. 3, 47-51.

** WCI Survey, p. 2. The survey data are for the twelve months ended June 1980. WCI Survey, p. 6.

*** WCI Survey, pp. 10, 12.

and 2 billion individual selections.* Such individual selections -- often ignored in prior home taping studies -- involve a particular excerpt from either an album or a single. If the 2 billion individual selections are converted into the equivalent of so-called "selection" albums (assuming 10 selections per album), then tapers duplicated the equivalent of approximately 455 million albums (251 million complete albums and 204 million selection albums). The market value of these 455 million albums is more than $2.85 billion.** This figure compares with legitimate consumer purchases of records and pre-recorded tapes of $3.3 to $3.68 billion in 1980.***

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* WCI Survey, p. 20.

** WCI Survey, pp. 20, 24. This computation is based on the actual median price of $6.27 paid for albums by consumers in 1980, according to WCI's research. WCI Survey, p. 24.

*** The $3.3 billion figure is based on actual consumer purchases at actual median retail sales prices, as determined by WCI's 1980 nationwide consumer research survey. Since the WCI Survey only summarizes consumer taping habits (<u>see</u> WCI Survey, p. 2), data concerning consumer purchases of recorded music is not reported therein. <u>The Wall Street Journal</u>, Feb. 18, 1982, p. 31, reports 1980 shipments of records and pre-recorded tapes of $3.68 billion. That figure is based on (i) suggested list prices (rather than actual median retail sales prices) and (ii) manufacturer's net shipments, <u>i.e.</u>, shipments minus returns (rather than actual consumer purchases).

Record companies, music publishers, songwriters, musicians and all the other talent involved in creating records received no compensation at all even though their intellectual property -- worth more than $2.85 billion -- was appropriated.

Taping's Negative Impact on the U.S. Music and Record Communities

Beyond this massive appropriation of property rights in creative works, widespread home taping has caused serious injury to the U.S. music communities. There has been a significant loss of sales. The main motivation for taping is to avoid buying records.* And tapers make most of their copies from records and pre-recorded tapes that they do not own (i.e., from borrowed records or prerecorded tapes or from broadcast performances).** Studies by many well-known groups here and abroad, including a survey commissioned by the Copyright Royalty Tribunal, have demonstrated the enormous amount of sales siphoned off by home taping.*** A

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* WCI Survey, pp. 16-17.

** WCI Survey, pp. 22-23.

*** See, e.g., William R. Hamilton & Staff, A Survey of Households with Tape Playback Equipment -- Prepared for Copyright Royalty Tribunal (September 1979); The Roper Organization Inc., A Study on Tape Recording Practices

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recent Wall Street Journal story estimated lost sales from home taping at $1 billion per year in the United States.*

At a time when demographics and market analyses indicate that there should be continued growth in the number of buyers of pre-recorded music, there has actually been a decline in the percentage of the population that is making such purchases.** In contrast, home taping is increasing at a dramatic rate. For example, from 1977 to 1980, there were significant increases in the percentage of the population which had access to audio tape recording equipment, bought blank audio tapes and made tapes of music.***

The accelerating home taping problem will be

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Among the General Public -- Conducted for the National Music Publishers Association and The Recording Industry Association of America (June 1979); and CBS Records Market Research, Blank Tape Buyers: Their Attitudes and Impact on Pre-Recorded Music Sales (Fall 1980). The CBS Records Study, for example, demonstrates annual losses of $700-800 million from home taping. (CBS Records Study, p. 15) The evidence of the huge loss caused by home taping on an international scale is shown by surveys in Austria, Belgium, Canada, France, Germany, Great Britain, Japan, the Netherlands, New Zealand and other countries. See, e.g., British Phonographic Industry Ltd., A Levy on Blank Video and Audio Tapes and Associated Hardware, ¶ 12.1 (July 1981).

* February 18, 1982, p. 31.

** WCI Survey, p. 2.

*** WCI Survey, p. 4-6.

aggravated by a new phenomenon here and abroad -- namely, the advent of stores that rent records overnight for home taping. For example, approximately 1,000 such stores have recently sprung up in Japan; record sales in the localities where such rental stores are located have reportedly dropped by more than 30%.*

Taping's corrosive effect on creative forces in the record and music fields is also demonstrated by other statistics. Only about 16% of record albums typically reach the "break even" point. This small percentage of commercially successful recordings underwrites the wide diversity of recorded music that is made available to the American public each year. Yet it is precisely these financially successful recordings that are being copied the most today. When a record company is deprived of fair compensation, particularly for its hits, it loses much of its ability to risk failures; there are fewer funds available to experiment with new artists, new songwriters and new musical formats and to produce classical, jazz, ethnic, folk and other recordings that appeal to special audiences.

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* E.g., Variety, "Disk Artists Called Upon to Join the War Against Piracy with Funds for IFPI Campaigns," Jan. 27, 1982, pp. 73, 81; Billboard, "IFPI Seeking to Control Disk Rental Proliferation," Feb. 27, 1982, pp. 3, 52; Billboard, "Japanese Disk Production Off: Rental Blamed," Feb. 27, 1982, pp. 1, 52.

If allowed to continue without a fair royalty system, home taping threatens to dry up the source of new creative talent that has made American music and records such vital and enduring cultural forces throughout the world. If creators are denied fair compensation, the public will be deprived of the widest possible diversity of musical works.

In addition to its negative cultural impact, widespread taping, without a fair royalty system, threatens to wipe out thousands of jobs at every level in the music and record industries in the United States. Massive copying -- amounting to 75-85% of legitimate sales -- will erode the economic vitality of the music and record industries.

Negative Impact on Balance of Trade

Aside from eroding the economic and creative base of our music and record industries, home taping has a negative impact on our balance of international trade.

Most facilities for manufacturing blank audio tapes and taping equipment are owned or controlled by foreign interests (principally Japanese).* These foreign interests

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* See, e.g., New York Times, March 1, 1982, pp. D-1, D-4. For example, approximately two-thirds of the blank tapes shipped for sale in the U.S. in 1980 were imported. See Merchandising Magazine, March 1981, p. 32; International Trade Commission, 1980 Imports Bulletin IM 146, p. 2721.

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profit by making tapes and equipment which appropriate huge amounts of pre-recorded music (thereby displacing American-produced records and pre-recorded tapes), without any compensation to the creative talent involved in producing that music.

Moreover, American records set the standard for the entire world. They are sold on a fair and legal basis in virtually every corner of the globe. Records continue to make a unique American contribution to international commerce and culture. If creators of records and music are not fairly compensated, there will be fewer recordings made for sale abroad. That will further undermine our contribution to world culture and our trade balances.

The Demographics of Tapers: High Income, Educated Adults

Those persons who appropriate the intellectual property of the record and music industries without compensation are primarily young adults from the higher income and educational strata of our society.

Income: There is a high correlation between income levels and taping activity. Even though persons with

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Imports are increasing. Thus, for example, imports of tape recorder/player units increased by 132% in the decade 1971-1980, and the dollar value of those imports increased almost 300%. EIA Marketing Services Dep't, Consumer Electronics Annual Review: 1981 Edition, p. 26.

family incomes over $20,000 constitute only 32% of the population, they account for 38% and 49% of all taped album and individual selections. In contrast, persons with family incomes under $10,000, although comprising 39% of the population, account for only 11% and 28% of taped albums and selections. Home taping is thus least likely to occur in low income families.*

Age: Taping is not basically a teenage phenomenon, as commonly believed. On the contrary, even though persons between 20 and 34 years of age comprise 30% of the population, they account for more than two-thirds of all copying of albums and over half of all selections. Those young adults and persons over 35, taken together, account for the vast bulk of copying, whether measured in terms of albums (88%) or selections (78%).**

Education: Educational levels and taping are also strongly linked. In essence, the more schooling a person has, the more likely he or she is to be a taper. Persons who have received more than high school education constitute 26% of the population (excluding those who are currently students), yet account for 39% of all taped albums and 28% of

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* WCI Survey, p. 30.

** WCI Survey, p. 26.

all taped selections.*

In summary, tapers tend to be adults from the higher socio-economic segments of our society. That is the group which is receiving most of the free benefits by appropriating records and pre-recorded tapes with a market value of more than $2.85 billion.

The Fallacious Arguments of Foreign Tape Interests

In opposing the payment of any compensation to copyright owners of music and records, foreign tape interests advance a series of false arguments:

(1) They claim that taping stimulates retail sales of records instead of replacing purchases. While tapers tend to be heavy record buyers, that is basically a reflection of their special interests and demographics. Tapers come from the demographic groups of high income, highly educated adults who spend the most for all forms of entertainment and recreation. Moreover, taping is largely a result of the tapers' overall strong interest in music in all forms, including live concerts and publications about music.** In the absence of taping, this group of affluent music fans would buy more records and pre-recorded tapes.

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* WCI Survey, p. 29.

** WCI Survey, pp. 31-40.

In short, taping does not increase sales; on the contrary, it siphons off legitimate sales. As noted above, the main reason for taping is to avoid purchasing; and tapers make the majority of copies from records and pre-recorded tapes that they do not own (i.e., from borrowed records or pre-recorded tapes or from broadcast performances).*

(2) Foreign tape manufacturers also claim that American creative talent and record companies seek to retard new technological developments in the record field. That is false. The pending bills in Congress merely propose that a fair royalty be paid by manufacturers and importers of blank audio tapes and taping equipment.

(3) Foreign tape manufacturers also claim that the enforcement of the United States copyright laws will entail invasions of the privacy of the home. That is false. The pending bills, as noted, would only place a royalty on the manufacturer and importer of the blank tapes and taping equipment. There would be no intrusions into the home.

(4) Finally, foreign tape manufacturers claim that a royalty system would be unfair because a large amount of taping does not involve music. That is false. WCI's research shows that 75% of all blank audio tapes were used to

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* WCI Survey, pp. 16-17, 22-23.

copy music in 1980.* To the extent that some tapes are not used for infringing purposes, the Copyright Royalty Tribunal can take that into account in establishing an equitable royalty system under the pending bills.

In short, the foreign manufacturers of blank tapes and taping equipment cannot advance any justification whatsoever for blocking enactment of the pending bills for a fair and reasonable royalty.

The Pending Bills Strike a Fair Balance Under the Copyright Act

The 1976 Copyright Act -- passed after many years of study of new technologies -- grants record companies and music publishers the exclusive right to reproduce their works. Although the Act contains various exemptions to such exclusive rights, not a single one permits private copying of records or musical works. As David Ladd, United States Register of Copyrights, recently declared: "The structure of the statute is central to the home taping issue because of one obvious fact -- none of the twelve sections [the exemptions to the exclusive right] expressly recognizes home taping as permissible."**

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* WCI Survey, p. 9.

** Speech to Internationale Gesellschaft fur Urheberrecht (INTERGU), September 23, 1981, p. 7.

The recent Betamax opinion -- Universal City Studios, Inc. v. Sony Corp. of America, 659 F.2d 963 (9th Cir. 1981) -- correctly held that the Copyright Act does not authorize the private videotaping of audio-visual materials (television programs and motion pictures) off the air. By the same token, the Act does not authorize the private copying of audio materials (records and pre-recorded tapes). Like the Court in the Betamax case, the leading copyright authorities here and abroad agree that private copying of records and pre-recorded tapes infringes the rights of copyright proprietors of records and music.*

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* That view, for example, has been expressed by Melville Nimmer, author of the preeminent treatise on copyright law in the United States. 2 Nimmer on Copyright § 8.05[c] (1981). Similarly, David Ladd, the United States Register of Copyrights, recently declared before INTERGU in September 1981 that: "As I see it, in the United States we should move on the legislative front on home taping." A month later, in October 1981, Mr. Ladd noted that legislation to permit home taping, without any compensation to copyright proprietors, "would, in fact, run counter to the principles of the comprehensive revision of our copyright laws in 1976." He added: "the public is served quite as much by a respect for property -- and copyright is the highest form of property -- as by expropriating it from its creators for mass, free use." See Cong. Rec. E5148-49 (Nov. 4, 1981).

The international copyright community agrees that private copying of records and pre-recorded tapes constitutes copyright infringement. That conclusion was stressed by the Joint Working Group of the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union, and the Intergovernmental Committees on the Universal Copyright Convention and the Rome Convention. See, e.g., Report of the Working Group on the Legal Problems Arising From the Use of Videocassettes and Audiovisual Discs, Copyright Magazine, April 1977, pp. 87, 90-91.

Ignoring the clear language of the 1976 Copyright Act and the unanimous views of all experts that home taping infringes rights of creators of intellectual property, foreign tape interests point to a single sentence in the report of a House Committee concerning the 1971 Sound Recording ("Anti-Piracy") Amendment to the 1909 Copyright Act,* which they claim indicates that Congress intended to permit home taping under the 1909 Act. That argument is without merit.

First, the 1971 Amendment was aimed solely at commercial piracy; it did not deal with home taping. Second, the 1971 Amendment and 1909 Copyright Act have been superseded by the 1976 Copyright Act; and the 1976 Act clearly bans private copying of records. Third, the 1971 comment in the House Report was not repeated in the House or Senate reports accompanying the comprehensive new 1976 Copyright Act, although other portions of the old Report were repeated. Finally, even if reference to legislative history were appropriate despite the new Act's unambiguous language, a casual remark eleven years ago is not relevant in seeking Congress' intent in 1976, when it completely revised the Act.**

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* H.R. Rep. No. 92-487, 92d Cong., 1st Sess. 7, reprinted in [1971] U.S. Code Cong. & Ad. News 1566, 1572.

** See 2 Nimmer on Copyright § 8.05(c) (1981).

In 1976, Congress did not express any sympathy for home taping. It specifically limited its solicitude to taping for certain educational uses, and even then it imposed strict limitations on those uses. Indeed, the House Report on the new Act states "it is not intended to give [taping] any special status under the fair use provision or to sanction any reproduction beyond the normal and reasonable limits of fair use."* And the Senate Report stresses: "The Committee does not intend to suggest, however, that off-the-air recording for convenience would under any circumstances be considered 'fair use'".**

CONCLUSION

For all of the foregoing reasons, the WCI Record Group joins the broad-based music coalition that supports the pending bills for a fair and reasonable royalty on blank audio tapes and taping equipment. Such a royalty system would strike an equitable balance under the Copyright Act. It would afford compensation to the creators of records and music whose intellectual property is being appropriated. At the same time, it would relieve tapers from copyright liability for tapes made at home for private use.

March 22, 1982

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* H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. 66, reprinted in [1975] U.S. Code Cong. & Ad. News 5659, 5679.

** S. Rep. No. 94-473, 94th Cong., 1st Sess. 57 at 66 (1975).

1981 ESTIMATE OF LOSS DUE TO HOME TAPING: TAPERS' REPORTS OF REPLACEMENT

EXECUTIVE SUMMARY

A recent Warner Communications Inc. (WCI) report on home taping showed that in 1980 the market value of home taped music and other professional entertainment exceeded $2.85 billion. Further, the report concluded that, were home taping not possible, tapers would have spent at least an additional $600 million on prerecorded product. The present report uses the tapers' own perspective to develop an additional measure of the extent to which home taping replaces the purchase of prerecorded product.

<u>Sample</u> - As part of its ongoing panel research, WCI conducts an annual "Home Entertainment Survey." This survey was included in the November 1981 diary, which was mailed to a select panel of U.S. households. The panel is maintained by Mail Diary Panel, Cranford, New Jersey. The survey was completed by 3,264 respondents age 10 and older.

<u>Replacement Questions</u> - All respondents were asked whether they had taped any music or professional entertainment in the past 12 months. Those responding "yes" then indicated whether they would have purchased the last album and/or selection they taped if they could not have made a taped copy.

<u>Key Findings</u> - 40% of those taping complete albums report they would have bought the album had they been unable to tape it. 35% of those taping selections report they would have purchased the selection or the album containing it had they been unable to tape it.

<u>Other Findings</u> - There is not one replacement value; tapers' reports of their likelihood of buying had they been unable to tape vary greatly depending upon their demographic characteristics and various aspects of their taping behavior. Thus, the overall replacement values given above represent weighted averages across all possible sources (<u>e.g.</u>, broadcast performances, own or borrowed records), reasons for taping, and types of music taped.

<u>Note</u> - The above replacement values are based on mail panel respondents' answers to hypothetical questions. The report not only considers the limitations of using a mail panel and the difficulties involved in asking respondents to make hypothetical judgments, but it also describes how we have attempted to resolve these problems.

<u>Conclusion</u> - Despite the above limitations, we believe that the data obtained in the present study provide reasonable and reliable estimates of replacement from the tapers' own perspectives. More specifically, the tapers themselves report that 4 out of every 10 taped albums and 3.5 out of every 10 taped selections replace purchases of prerecorded product.

1981 ESTIMATE OF LOSS DUE TO HOME TAPING: TAPERS' REPORTS OF REPLACEMENT

The recent WCI report on home taping (see M. Fishbein, S. Middlestadt and M. Kapp, "A Consumer Survey: Home Taping" WCI, March 1982) provided evidence that in 1980 the market value of home taped music and other professional entertainment exceeded $2.85 billion. Although the report recognized that every album or selection that is copied is not a "lost sale," it took the position that "[a]ll copying infringes upon the lawful and legitimate rights of the copyright owners." More specifically, the report pointed out that, "[e]very time a complete album or selection is taped, the taper is reproducing a copywritten work in its entirety without providing fair and equitable compensation to the copyright owners." Moreover, the report clearly indicated that taping replaces sales of prerecorded product. For example, when asked to give their reasons for taping, 45% of the current music tapers reported they had made at least one recording so they "didn't have to buy" the prerecorded product. Not only was this the most frequent reason given, but 25% said this was the reason they taped most often.

The report further pointed out that consumers spent over $600 million on blank tapes to bring this $2.85 billion worth of music into their homes. It was argued that this $600 million represents the minimal additional amount that would have been spent on prerecorded product had home taping not been possible. This argument is based on the finding that the more people feel music is important to them, the more they value "hearing what they want, when they want, without commercial interruption." That is, the more one views music as important, the more one is motivated to personally own copies of recorded music. It seems reasonable to assume that people set aside a certain proportion of their discretionary income in order to bring these personal copies into their homes. At the present time some of this discretionary income is used to purchase prerecorded music and some is used to purchase blank tape to record music. Were home taping not possible, all of this discretionary income would be spent on prerecorded product.

Despite these findings demonstrating enormous loss to the industry, WCI felt it important to obtain an additional estimate, based on the tapers' own perspectives, of the extent to which taping replaces purchases of prerecorded product. More specifically, they requested that a measure be obtained by asking tapers what they would have done had they been unable to tape.

Although it would appear to be relatively simple to ask tapers how their purchasing of prerecorded product would be affected were home taping not possible, this unfortunately is not the case. First, while respondents can give quite accurate descriptions of their own behavior, they often have difficulty in making inferences about how they would behave in hypothetical situations. It was primarily for this reason that the WCI Home Taping Report was based entirely on behavioral data. Second, psychological research has clearly demonstrated that there are systematic biases in the ways that people attribute causes to their own behavior. Thus, it is not surprising that even slight variations in the wording of hypothetical causal questions produce enormous variations in the responses one obtains.

Despite these problems, it is sometimes possible to increase the reliability of a respondent's answer to a hypothetical question by getting him or her to focus explicitly on a particular behavioral act. Thus, in the present study respondents are asked to consider the last tape recording of music or other professional entertainment that they made. They are then asked whether they would have purchased that piece of music had they been unable to tape it.

Although the above procedure has considerable merit, it still asks respondents to make a hypothetical judgment. Moreover, it is a well-known fact that consumers tend to overestimate their probability of purchase. The extent of the overestimation varies greatly depending upon the type of product being purchased. Our data with respect to records and prerecorded tapes suggest that in this product category the overestimation tends to be a relatively small percentage. As will be seen below, we have attempted to compensate for this overestimation by using a conservative estimate of replacement.

Finally, it also must be recognized that the likelihood that one would have purchased the prerecorded version had one not been able to tape will vary considerably depending upon such things as: (1) the reason for taping; (2) the source from which the recording was made (e.g., own records or tapes, borrowed records or tapes, or off the air); (3) the type of music that was recorded; and (4) whether the recording was of a complete album or was an individual selection or an excerpt from an album. However, if one assumes that the tapers interviewed are representative of all tapers, it can be argued that, with a large enough sample, the overall replacement figure obtained would essentially be equivalent to a weighted average across all possible combinations of reasons, sources and types of music. Thus, it is necessary to carefully consider the representativeness of the sample. The remainder of this report describes the methods, procedures and results of a supplemental study directed at the replacement question.

METHODS AND PROCEDURES

As part of its ongoing panel research, WCI conducts an annual "Home Entertainment Survey." This survey was included in the November, 1981 diary which was mailed to a select panel of U.S. households. The panel is maintained by Mail Diary Panel (MDP), Cranford, N.J. MDP is responsible for the sampling design and data collection as well as for coding and key punching the data. The survey was completed by 3,264 respondents age 10 and over.

THE REPLACEMENT QUESTIONS

Included within the survey were two replacement questions. More specifically, after being asked:

> "In the past 12 months did you yourself do any taping of music or other professional entertainment either from your own or borrowed records and tapes, the radio, the TV or live performances?"

current music tapers (i.e., the 429 people responding "yes" to the above question) were asked the following two questions:

> 1. "Considering the last complete album you taped would you have bought it as a record or prerecorded tape if you were not able to make your own recording?"
>
> 2. "Considering the last single selection you taped would you have bought it or the album that contained it if you couldn't make your own recording?"

RESULTS

Table 1 (page 8) shows the responses of the weighted sample of tapers to the two replacement questions. More specifically, it shows the percent of tapers giving each response as well as the repercentaged overall replacement value. It can be seen that, of those tapers who had taped a complete album, 40% said they would have purchased the last album they taped had they been unable to tape it. Similarly, of those tapers who had taped a single selection, 35% said they would have purchased the selection or the album containing it, had they been unable to tape it.

Note that in calculating these replacement values, current music tapers who gave no answer were treated as if they would not have bought if they were unable to tape rather than as respondents who did not tape a complete album or single selection. This conservative approach was taken for two reasons. First, it could be argued that for at least some respondents the lack of an answer means the subject was uncertain about his or her purchase decision. Second, and perhaps more important, as was pointed out earlier there is a tendency for subjects to slightly overestimate their likelihood of purchasing prerecorded product. The conservative estimation procedure was used to compensate for this overestimation.

To further explore the replacement question, separate analyses were run within different demographic groupings. The results of these analyses are presented in Table 2 (page 9). The figures in the table are replacement values calculated as in Table 1 for each demographic group. Thus for example, 44% of the males who taped a complete album indicated that they would have purchased the last album they taped had they been unable to tape it. In comparison, album taping among females is less likely to replace sales of prerecorded product. That is, only 35% of the females who taped a complete album said they would have purchased it had they been unable to tape it.

The table clearly shows that replacement values vary considerably depending not only on the type of taping done (complete album vs. single selection) but also upon the demographic characteristics of the taper. To illustrate, consider the effect of income on the likelihood that the taping of a complete album replaces its purchase in prerecorded form. It can be seen that low income tapers reported that they would have purchased approximately 3 out of every 10 (29%) complete albums they taped. In contrast, middle income tapers reported that they would have purchased 5 out of every 10 (52%). Note, however, that the relationship between income and replacement is not linear. That is, upper income tapers report an intermediate 38% replacement value. With respect to complete album taping, replacement values range from 29% to 52%. And with respect to selections, the range is from 22% to 44%.

TABLE 1

RESPONSES TO REPLACEMENT QUESTIONS AND OVERALL REPLACEMENT VALUES

	Taping of Complete Albums	Taping of Selections
Percent of Tapers saying they:		
Would have bought	35%	31%
Would not have bought	45	46
Did not tape	12	12
No answer	8	11
Total	100%	100%
Overall Replacement Value*	40%	35%

* Replacement value = Would have bought/(Would have bought + Would not have bought + No answer).

TABLE 2

REPLACEMENT VALUES AS A FUNCTION OF DEMOGRAPHICS

	Taping of Complete Albums	Taping of Selections
Sex		
Male	44%	33%
Female	35	38
Age		
10-19	44	40
20-34	44	37
35+	30	26
Census Region		
Northeast	41	32
North Central	32	32
South	40	40
West	49	38
Family Income		
Under $10,000	29	34
$10-$20,000	52	44
Over $20,000	38	28
Marital Status		
Married	38	37
Never married under 20	44	40
Never married over 20	41	22
Education		
Less than high school	40	35
High school graduate	43	42
More than high school	33	28

SAMPLE AND WEIGHTING -- THE QUESTION OF REPRESENTATIVENESS

As mentioned earlier, the utility of the obtained replacement values depends heavily upon the extent to which the sample can be projected to represent the population of current U.S. music tapers. We saw above that the survey was completed by 3,264 respondents age 10 and older. Like most mail panel samples, the respondents are not fully representative of the entire U.S. population. Table 3 (page 13) compares the demographics of the respondents to those of the total U.S. population (age 10 and over). It can be seen that consistent with previous analyses of mail panel respondents, blacks, young singles and people from lower income and education groups are underrepresented, while women and married people are overrepresented. Thus, it is not surprising that in contrast to the 21% of the U.S. population who are current music tapers, only 13% of the panel sample (429 people) are current music tapers. These findings point out the importance of weighting the sample to bring it into balance with the U.S. population. Unfortunately, the small number of black respondents makes it impossible to weight them up to the population parameters and thus the decision was made to consider only the nonblack respondents and to balance the sample to the nonblack U.S. population (age 10 and older).

Table 4 (page 14) compares the nonblack balanced panel sample to the nonblack U.S. population and shows the effects of a standard weighting model based on age, sex, income and census region. First, it is important to note that the percent of current music tapers has increased to 19% in the weighted sample. Second, the weighting procedure successfully brings the sample into balance with the nonblack U.S. population for most demographic characteristics. However, it can be seen that the weighted panel sample still slightly underrepresents those with less than a high school education.

Although the weighting model was successful in attaining the expected percent of music tapers and in matching the demographics of the nonblack population, this does not guarantee that the demographic characteristics of the tapers in the panel sample will be brought into balance with those of nonblack tapers in the U.S. population. Table 5 (page 15) compares the demographics of the weighted panel of tapers to the demographics of the nonblack U.S. tapers obtained in the 1980 WCI survey. It can be seen that in general the weighting procedure was quite satisfactory. Note, however, that there is again a small problem with respect to education. In this case, high school graduates tend to be overrepresented in the panel at the expense of those with more than a high school education.

To summarize, based on the comparisons in Tables 3 to 5, the weighted sample of tapers, though not perfect, appears to provide a satisfactory representation of the population of nonblack tapers. While the use of only nonblack respondents could be problematic, it is important to note that the probability of taping is unrelated to race (WCI Home Taping Survey, p. 28). That is, blacks comprise 11% of the population and represent 11% of current music tapers (Id.). Since blacks represent such a small percent of tapers, their reports of replacement would have to differ radically from those of the nonblack respondents to produce a significant shift in the overall replacement values. Based on a consideration of the relationships between race and reasons for taping and sources of taping, there is little reason to expect such major differences in replacement values. Thus we do not expect that the obtained overall replacement values would differ if blacks were included in the sample. It is therefore reasonable to use this weighted nonblack sample as a bais for developing replacement values.