



SONY BMG maintains the integrity of customer data.
Cybertrust assessed. December 2006



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Sony BMG Privacy Assessment

December 8, 2006

Statement of Findings

On November 7, 2006, Cybertrust was engaged by SONY BMG Entertainment, Inc. to perform a reassessment and revalidation of the previous Privacy Assessment, dated March 30, 2006, performed by Cybertrust ("Privacy Assessment"). In the Privacy Assessment, Cybertrust confirmed that SONY BMG has not collected, aggregated, or retained Personal Information in a manner inconsistent with the Representation below.

SONY BMG asserts that it has not used the MediaMax or XCP Software, or any of the enhanced content on the XCP CDs or MediaMax CDs, to collect, aggregate or retain Personal Data about persons who listened to XCP CDs or MediaMax CDs on computers, without such person's express consent. SONY BMG further asserts that it only has collected information necessary to provide enhanced CD functionality. SONY BMG believes, and on that basis asserts, that such functionality requires that the album title, artist, IP address, and certain non-personally identifiable information be collected. Beginning prior to the Fairness Hearing, SONY BMG will take commercially reasonable steps to destroy the information it collects to provide enhanced CD functionality, including logs of IP addresses, within ten (10) days after the collection of such data, except as required by law, regulation, litigation discovery rule or court order. SONY BMG shall, however, be permitted to compile aggregate, non-personally identifiable data about hits to its servers from enhanced CDs.

Cybertrust, as an independent third party, was engaged to confirm the conclusions of the Privacy Assessment. For purposes of this engagement, Cybertrust examiners replicated the exact methodology utilized in the Privacy Assessment. As both MediaMax and XCP music CDs are no longer in commercial production, the software to be analyzed had not changed at all since the Privacy Assessment. Likewise, the back-end systems infrastructures that support that software were also unchanged. As such, replication of the original methodology was effectively streamlined. Cybertrust examiners utilized data packet capture and analysis tools to verify findings made in the Privacy Assessment for each of the software packages. Specific to this reassessment, Wireshark Network Protocol Analyzer Version 0.99.4 was used with WinPcap version 3.1. The base testing platform used during this revalidation exercise constituted:

IBM ThinkPad R51 1.70 GHz Pentium M w/ 1.25 GB of RAM

- **Operating System**
 - Windows XP Professional Version 2002 Service Pack 2
- **Browser**
 - Internet Explorer Version 6.0.2900.2180.xpsp.040806-1825
- **Media Player**
 - Windows Media Player Version 9.00.00.3250



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Using the Appendix in the Privacy Assessment as a test standard, Cybertrust examiners successfully replicated each of the test scenarios outlined therein. Full data packet capture and analysis was performed for each of the three software packages on the three different representative CDs, namely:

- **XCP** (Patty Loveless, *Dreamin' My Dreams*)
- **MediaMax v.3** (Dave Matthews Band, *Stand Up*)
- **MediaMax v.5** (Raheem DeVaughn, *The Love Experience*)

As commercial production of CDs containing XCP and MediaMax software had been terminated at the time of the Privacy Assessment, the CDs used in this revalidation exercise were the same as those used originally.

This data packet capture analysis was further corroborated by interviews with SONY BMG and SunnComm personnel. The interviews established that no operational changes had occurred within the relative systems infrastructures since the time of the Privacy Assessment. In addition, SONY BMG facilitated an on-site console review of its systems for the purposes of visual file system inspection of data residing within in-scope SONY BMG server.

None of the data sources showed any signs of collecting, aggregating or storing Personal Data. The only information which is exported from the client system that can be identified in any of the in-scope systems on the server side is the "uld", which is used solely to deliver banners based on content identifiers, as well as the client's IP address, which is data obtained in accordance with standard web communication protocols. No Personal Data existed within any of the data sources examined during this revalidation exercise.

In a likewise fashion, Cybertrust's review of SunnComm's in-scope software and databases confirmed that SunnComm does not aggregate or correlate information in any manner that would enable SunnComm to associate Personal Data about any user. Additionally, Cybertrust has determined that SunnComm also does not aggregate or correlate information *with any other data sources* that would enable SunnComm to associate Personal Data about any user.

The findings of the engagement are as follows:

1. Cybertrust concludes that the results of this assessment were identical to those of the Privacy Assessment, and that XCP and MediaMax software, which includes the XCP Bundled Player, and the MediaMax v.3 and MediaMax v.5 Players, only collect non-personal information tied to a particular album and its usage.
2. Cybertrust did not find any evidence that SONY BMG used the XCP Software or that SunnComm used the MediaMax Software, or that any of the enhanced content on XCP CDs or MediaMax CDs was used, to collect, aggregate, or retain information that could be identified with or tracked to an individual without such person's express consent.

At the conclusion of this engagement, Cybertrust has determined that the findings of this assessment are consistent with the findings of the Privacy Assessment. Each of the testing procedures used for the Privacy Assessment were replicated and the exact same findings resulted. Consequently, the Statement of Opinion set forth in the Privacy Assessment remains wholly accurate as well.



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Statement of Opinion

XCP

Based on Cybertrust's data privacy assessment of the XCP Software, as well as server segments that support the XCP Software, Cybertrust has determined that SONY BMG has not used the XCP Software, or any of the enhanced content on the XCP CDs, to collect, aggregate or retain personally identifiable information without user consent. Cybertrust has determined that the XCP Bundled Player transmits only certain non-personally identifiable information (album ID and IP address) to provide the Enhanced CD Functionality. Cybertrust has found that SONY BMG temporarily retains this nonpersonally identifiable information as part of standard web logging activities. Cybertrust has also determined that SONY BMG does not associate or aggregate that information with any other information to produce personally identifiable information.

MediaMax v.3

Based on Cybertrust's data privacy assessment of the MediaMax v.3 Software as well as the server segments that support the MediaMax v.3 Software, Cybertrust has determined that SONY BMG and SunnComm have not used the MediaMax v. 3 Software, or any of the enhanced content on the MediaMax v.3 CDs, to collect, aggregate or retain personally identifiable information without user consent. Cybertrust has determined that the MediaMax v.3 Player transmits certain non-personally identifiable information (album ID, track IDs, and IP address) to provide the Enhanced CD Functionality. Cybertrust has found that SunnComm retains this non-personally identifiable information as part of standard web logging activities. Cybertrust has determined that SunnComm does not associate or aggregate that information with any other information to produce personally identifiable information.

MediaMax v.5

Based on Cybertrust's data privacy assessment of the MediaMax v.5 Player, as well as server segments that support the MediaMax v.5 Software, Cybertrust has determined that SONY BMG and SunnComm have not used the MediaMax v.5 Software, or any of the enhanced content on the MediaMax v.5 CDs, to collect, aggregate or retain personally identifiable information without user consent. The MediaMax v.5 Software does not collect any information that can be used to personally identify a user without user consent. Cybertrust has determined that the MediaMax v.5 Player transmits certain non-personally identifiable information (album ID, track IDs, and IP address) to provide the Enhanced CD Functionality. Cybertrust has found that SunnComm retains this non-personally identifiable information as part of standard web logging activities. Cybertrust has determined that SunnComm does not associate or aggregate that information with any other information.

Based on Cybertrust's findings, it is Cybertrust's opinion that the SONY BMG Representations are accurate: SONY BMG has not used the MediaMax or XCP Software, or any enhanced content on XCP CDs or MediaMax CDs, to collect, aggregate, or retain Personal Data about individuals who listened to XCP CDs or MediaMax CDs on computers, without such person's express consent.