Chairman Smith and other distinguished members of the Subcommittee:

Thank you for the invitation to appear before you today to offer one university president’s perspective on how representatives from the higher education community are working in collaboration with our counterparts in the entertainment industry to address concerns regarding peer-to-peer (“P2P”) file sharing. As president of the University of North Carolina, I am responsible for the management of the oldest public university in America, an institution that encompasses 16 diverse campuses, 9,000 faculty, and 177,000 students.

I currently serve on the Joint Committee of the Higher Education and Entertainment Communities, which has brought representatives of our respective communities together to examine ways to reduce the inappropriate use of peer-to-peer file-sharing technologies on college and university campuses, as well as to explore prospects for narrowing our differences on existing and proposed federal intellectual-property legislation. I also serve
as co-chair—along with Jack Valenti, president and CEO of the Motion Picture Association of America—of this Joint Committee's Legislative Task Force. The charge of the task force is to discuss current and proposed legislation on which we differ to see if we can, through candid exploration of the issues, find ways to narrow our differences or develop mutually acceptable alternative proposals. The first meeting of the task force was a casualty of your recent snowstorm, but we are working to reschedule the meeting as soon as feasible.

The relevant issues surrounding P2P are complex, as you are well aware. The Academy brings a unique perspective to these discussions, since intellectual property forms the very essence of the American University. Our institutions have been built in large part on the creation of intellectual property and respect for the intellectual property of others. Within the higher education community, such creation and use must be carried out in the context of academic freedom and fair use—interests that are sometimes in conflict with those of the entertainment community. We are equally committed to addressing unauthorized trading of copyrighted materials. Our shared concerns form a common ground that is the basis for serious cooperation and dialogue.

Most American universities treat the Internet and attending network services as yet another university forum and resource. Technology leaders at these institutions therefore follow the guiding principles of academic freedom and fair use in developing policies and practices for network management and policy administration. While these core values are consistent throughout the Academy, individual institutions vary widely in their
academic missions, cultures, and processes for policy development. It is uniformly recognized, however, that effective management of campus resources must include upholding the responsible use of limited resources; protecting the privacy of students, faculty and staff; and obeying the laws of the land. Federal legislation that would force policies and practices prohibiting acceptable and legitimate usage of P2P technologies would threaten the central values of the higher education community.

I believe a multi-faceted approach is needed, a sensible one that emphasizes education and good citizenship, articulates thoughtful yet adequate policy, utilizes appropriate network-management tools, and addresses violations when they occur—but only after due process. As president of the University of North Carolina, let me briefly describe how our 16 diverse campuses are addressing these complicated issues.

For several years now, our campuses have exhibited leadership in addressing copyright infringement, with special emphasis on the issues surrounding student use of P2P applications. During this period, we have monitored the increasing utilization of bandwidth on UNC campus networks and periodically have carried out proactive evaluations and policy reviews. Specific actions taken as a result include:

- In the fall of 2000, the UNC Office of the President conducted a Wide-Area Network Traffic Analysis to assess the need for a University-wide network management strategy.
➢ All 16 UNC campuses have adopted acceptable use and copyright policies. Our campuses have been working together for the past couple of years to find appropriate ways to manage network traffic resulting from increased P2P traffic. Traffic from major sites for Napster, Morpheus, KaZaa, and others has been monitored and throttled when necessary to protect the campus networks from excessive and unacceptable usage. Several different solutions are applied to the problem, depending upon campus size, network complexity, and culture.

➢ Using a pass-through state appropriation, UNC contracts for inter-campus networking services with MCNC, a unique corporation that offers access to advanced electronic and information technologies and services for business, government agencies, and North Carolina’s education communities. Working with MCNC, UNC campuses are monitoring network traffic consistently and developing appropriate strategies to manage inter- and intra-campus networks effectively as the technologies continuously change and evolve.

➢ Network management and monitoring tools are available to assist network administrators in managing traffic types and in working within the university policy-setting process to effect policy regarding use of the network. Many UNC campuses are using such tools, and our plans for building out an upgraded inter-campus network include providing such tools to each campus.
 UNC campuses have taken responsibility for educating their students about the legal and moral implications of copyright theft, and we are willing to share our efforts with other institutions. Disciplinary measures should be a part of and consistent with campus student disciplinary procedures. Education and counseling come first, but violations of state and federal law may be prosecuted.

UNC’s two research-extensive institutions—the University of North Carolina at Chapel Hill and North Carolina State University—have taken leadership positions on the use of P2P applications by clearly articulating campus policies regarding copyright infringement and the acceptable use of their campus networks. Information sessions with students are held as appropriate to discuss the issue and to provide guidance and notification of sanctions for violations.

UNC-Chapel Hill, for example, has created a web site (http://www.unc.edu/policy/copyright_primer.html) and companion document entitled, “Copyright and Acceptable Use on the University Network—A Primer,” which provides answers to frequently asked questions, including:

- What is Fair Use?
- What kinds of activities are probable violations of copyright law?
- What is considered unacceptable use at UNC-Chapel Hill?
- Are MP3s illegal?
- What will happen if I get caught?
Looking to the future, the University of North Carolina awaits the results from the Joint Committee of the Higher Education and Entertainment Communities’ Technology Task Force. The staff of this task force will perform an assessment of the various software products that are commercially available for use by higher education institutions to protect resources and prevent infringement. Once this work is completed, our University will re-examine past approaches and consider next steps.

As university leaders, we must adapt to changes in technology and the legal landscape in very technical ways, but in doing so, we must remain grounded in the basic, fundamental values of the university and our historic commitment to openness in academic discourse and in the exchange of ideas. Fortunately, there are laws that allow this debate to continue with some very important protections intact. We should shape our IT policies around our core academic mission and values, and we pledge to work with the content community to broaden their understanding of the Academy and our need for varied, alternative approaches.

Thank you.