Paul Mobbs
3 Grosvenor Road,
Banbury OX16 5HN.
Tel./fax 01295 261864
Email mobbsey@gn.apc.org

29th January 2003
No restriction on circulation (forward freely)

Statement regarding the cancellation of the "Building Virtual Networks" tour

This statement may seem to be a little vague. That is because I am apparently prohibited from using the names of two organisations, let's call them 'The Company' and 'The Committee', in public or private. This is because I am the technical director of 'The Company', and as such I'm injuncted by Friends of the Earth Limited. Although this statement is being issued in a personal capacity, as a consultant and administrator of the www.fraw.org.uk web site, for safety I am not going to relay either of these names.

The background

In early 2002, Friends of the Earth Limited ejected people from its organisation that were part of its Welsh campaigning network by closing the Newtwork down. Many of those involved went to to set up a new organisation, 'The Committee'. The object of The Committee was to set up a new campaigning network in Wales, and to work to increase the networking capacity of all grassroots groups in Wales, by whatever means, to improve the common interests of all.

In mid-2002, two of the people involved with 'The Committee' decided to set up 'The Company'. The idea was that at a future date it could take on some of the more legally complicated aspects of campaigns in Wales, working together with The Committee and other grassroots organisations in Wales, as a vehicle to get things done (but not to lead campaigns).

In late September 2002, at a meeting of The Committee, it was agreed that we'd start planning a tour of Wales in late January to raise awareness of the opportunities for virtual networking. In early November 2002, as part of a report I wrote for The Committee, I outlined the possibilities for allowing people to work online across Wales if The Committee worked to develop an online system to allow this to happen.

In August 2002, The Company received notice from Friends of the Earth Limited that it was launching a legal action against it because the name of The Company infringed their trademark rights. I became a director of The Company in September 2002 in order to donate my knowledge of online organising. In November 2002, The Company received the formal legal claim from Friends of the Earth Limited. Since then, myself and the other two individuals involved with The Company have been contesting Friends of the Earth's action for trademark infringement on the basis that they have no rights to The Company's name.

At no time, since the threat of legal action in August 2002, has the issue of the name of The Committee been raised as part of the legal proceedings. In fact, certain staff in Friends of the Earth Limited, when questioned in 2002, had stated that the name of the Committee would be acceptable to them. This issue was only raised on the day the Building Virtual Networks tour was due to start.

The Injunction

What has changed is that this month the solicitors for Friends of the Earth Limited have advised Friends of the Earth Limited that the name of The Committee breaches their trademark. This is because it is 'colorably similar'. This despite the fact that Friends of the Earth Limited's trademark, company name and articles do not contain the Welsh word for Wales (I'm not saying it to be on the safe side).

When Friends of the Earth learnt of the Building Virtual Networks tour they asked their solicitors to give them advice. This resulted in a warning letter to the members of the committee organising the tour. In our view, there was no similarity between the name of Friends of the Earth Limited and The Committee. We also knew that certain FoE staff had accepted the name previously. We therefore declined to sign the undertakings from FoE's solicitors, and stated our desire to continue with the tour.

On Monday 27th January we proceeded with our Pontypridd workshop as planned. On the afternoon of Tuesday 28th we received a phone call from Friends of the Earth's lawyers stating that they were applying for an injunction at that moment (we inferred they didn't want us to set out to Narberth and so be out of communication). They later phoned to confirm that the order had been granted. At that stage we decided it was necessary to abandon the workshop in Narberth. Later that evening we received a copy of the injunction.

According to the documentation submitted by Friends of the Earth's solicitors, they state that The Committee is a new online organisation being established as part of the 'Building Virtual Networks' tour. Other parts of their evidence to the court are also factually incorrect, and do not relate to the contents of documentation they already had copies of which outlined the relationship between The Committee and The Company. In fact, from August 2002 onward, they have continually refused to meet and have a dialogue with those involved on this issue. We believe they refused these offers of meeting because they would have to address the factual inaccuracies of their case as part of such a meeting.

To continue with the tour would not only endanger those involved with The Company – to whom the injunction is addressed. It would also endanger the well-being of members of The Committee who, by implication, are considered to be bound by the injunction. Given this situation, we feel we can do nothing else but call-off the tour.

In their evidence Friends of the Earth state that they have 'no wish to stop the tour'. However the whole organisation of the tour is inextricably bound up within the name of The Committee. Everything is in The Committee's name. The people providing the main support for the tour (because they have the skills or time to make the tour happen) are involved with The Company, further complicating the application of the injunction. We feel there is no other option but to call-off the tour because the factual inaccuracies of their claim make it difficult to fully comprehend the scope of the injunction.

What's next

Those involved with the legal action launched by Friends of the Earth in November 2002 have not sought to publicise it in any way. However, this injunction is clearly prejudicial to campaigners in Wales completely un-associated with The Company. Tim Shaw and Ron Whitehead, as they are being sued as individuals, cannot do anything further. The Committee also has a problem formally calling for action because the individuals involved may be liable for using its name. Therefore, I personally am calling for support to defend the rights of the members of The Committee, and compensation from FoE for the cancellation of the tour.

Over the next week or so I hope to consult with others to produce a strategy for how we take forward a campaign to counter the actions of Friends of the Earth in Wales. In the mean time, I suggest that those offended by Friends of the Earth's actions – seeking to gag The Committee and blocking the Building Virtual Networks tour – contact Friends of the Earth personally:

Address: Sam Clarke, Chair of the Board, Friends of the Earth,
26-28 Underwood Street, London N1 7JQ. Tel. 0207 490 1555.

Email: Friends of the Earth staff involved - philm@foe.co.uk, charless@foe.co.uk, julianr@foe.co.uk

If you have any further queries please contact me by email: mobbsey@gn.apc.org. I will also post further information as issues progress at http://www.fraw.org.uk/mobbsey/