

Pirates Sail the High Fidelities: How File Sharing Affects the Music Industry

The Institute for Policy Innovation 2007 report found that the annual cost of music piracy amounts to a loss of \$12.5 billion to the U.S. economy, 70,000 jobs, and \$2 billion wages (Siweck 1). Since the digitization of music, the controversy surrounding the effects of piracy and file sharing on the recording industry has continued to evolve along with the technologies that allow people to share and download music. The widely held opinion of those in the music industry is that piracy and illegal downloads are costing both the U.S. economy and thousands of musicians, engineers, and other individuals their jobs. While breaking the law is not something to be encouraged, arguments suggest that the piracy can actually be a great benefit to members of the industry, despite claims to the contrary. If the music industry can embrace this trend rather than advocate legislation against it, the profits, and I don't mean just in the monetary sense, would increase for everyone involved.

Piracy is defined as “the unauthorized use of another’s production, invention, or conception especially in infringement of a copyright” (“Piracy”). According to the Recording Industry Association of America, or RIAA, when applied to music, piracy can include uploading music to or downloading music from a peer-to-peer file sharing website, as well as burning copies of discs and giving them to friends (RIAA). Deciding to do any of these things runs the risk of criminal prosecution or being sued for damages in a civil suit. The RIAA says, “Criminal penalties for first-time offenders can be as high as five years in prison and \$250,000 in fines ... Civil penalties can run into many thousands of dollars in damages and legal fees. The minimum penalty is \$750 per song” (RIAA). It's fairly safe to say that the majority of us are guilty, at least in some part of this. For my own part, I know that I have traded burned albums with friends in order to share and discover wonderful, new songs and musicians. Similarly, I've had several

significant others over the years piece together the “perfect mixed disc” in an attempt to represent their undying love, as I have done for them in return. This common adolescent mating ritual may appear harmless, but when millions of people continue to do this, record companies claim that their damages quickly build to substantial losses. Columbia University’s American Assembly’s 2013 study “Copy Culture in the US and Germany” found that more than half of adults and seventy percent of young adults participate in piracy of music, movies, TV shows, and other digital media (Karaganis and Renkema 3). As for the other half of adults who don’t have music files, they are predominantly older and non-internet users (Karaganis and Renkema 38). This widespread theft leaves an impact that the RIAA calls “noticeable and devastating,” responsible for the loss of monetary profits and jobs for a broad range of workers across the industry (RIAA).

Without a doubt, the impact is noticeable, but I’m not convinced about the so-called devastation. Robert Hammond’s 2014 study “Profit Leak? Pre-Release File Sharing and the Music Industry” conducted research on file sharing websites to determine what effect file sharing of specific albums had on their respective sales. Hammond found that the effect is actually close to zero (15). Interestingly, he found that when it comes to well-established artists, the “leak” of their albums on file sharing websites prior to the release date actually improved album sales (Hammond 19). It can be argued that this increase in sales is due to the excitement generated by the ability to preview an album. As more people download and share these yet-to-be-released albums, more interest is generated and compels more people to buy the albums when it is officially released.

Robin Pecknold, a member of the band Fleet Foxes, confirms this excitement for discovery when he says, “That was how I was exposed to almost all of the music that I love to

this day, and still that's the easiest way to find really obscure stuff ... I've discovered so much music through that medium. That will be true of any artist my age" (Youngs). I can certainly attest to that experience. Pecknold then emphasizes the fact that without the access to the wide variety of music available due to file sharing sites, such as the now defunct Napster, his band's sound and success would have been vastly different (Youngs). It is important to take this educational and inspirational opportunity into account when considering the benefits of piracy.

I agree with Pecknold because my own experience as a musician confirms that given greater exposure to a wide breadth of genres, bands, and songs, those influences will ultimately produce a better-rounded musician. They will have more sources of inspiration to draw upon, creating nuanced and engaging music. This is absolutely something to be applauded and encourages musicians of all levels to enrich their libraries and repertoires.

Fleet Foxes is not the only band unconcerned with the illegal download of their music (Youngs). When questioned on her thoughts regarding illegal downloads after her hugely successful Kickstarter campaign to fund her latest album, Amanda Palmer replied:

i [sic] think music should be shared. all the time. by everybody. i think it's pure insanity to make music filesharing illegal. and with that said, i have, for years, encouraged my fans to burn, download and share all of my music with each other and with strangers. and i will never stop doing that. all that sharing eventually comes back to me in all forms of income and goodwill. (Palmer)

In making this comment, Palmer urges us to share her music however we may choose. She realizes that it is not a malicious slight, but rather an impetus for growth and positive exposure.

The recent study “Copyright and Creation: A Case for Promoting Inclusive Online Sharing” by the London School of Economics offers this insight on the subject of growth and change:

As business models change, there are new sources of revenue from areas such as streaming and subscriptions. They are bringing in increased income for the industry. This suggests that had the music industry started to adapt to the digital environment earlier, rather than trying initially to fit the new digital culture into their old business model, the record companies could have witnessed growth much earlier. (Cammaerts, Mansell, and Meng 8)

Basically they are saying because of the industry’s stubbornness and reluctance towards change, the industry itself is to blame for their loss of profits. The authors even go on to state, “Insisting that people will only produce creative works when they can claim exclusive ownership rights ignores the spread of practices that depend on sharing and co-creation and easy access to creative works” (Cammaerts, Mansell, and Meng 10). In other words, the authors believe that legal measures against individuals will hamper innovation and growth as artists. Based on this study, it would appear that both Robin Pecknold’s and Amanda Palmer’s ideas are not unfounded.

There are those who will challenge this notion by asking why people would pay for music when it is available for free. While it may seem illogical, it does not necessarily follow that consumers are unwilling to pay for the music they’ve accessed for free originally. As a young adult with little to no income, I voraciously downloaded music using peer-to-peer sites. Then, especially as a young mother literally nickel-and-dimeing it to buy groceries and keep the bills paid, I would have lost my mind without access to new music, the majority of it illegally

downloaded. However when my finances started to loosen up and I finally had funds available for spending on entertainment, I have gladly bought albums that I'd previously downloaded. I'm grateful for the music and the musicians who created it, and I am more than happy to support them now that I am able to do so.

That isn't necessarily to say that *all* music should be free, but rather the option to pay is what ultimately provides greater flexibility and exposure. There are those who are embracing the new reality of digital downloads and are attempting to change with it. In 2007, Radiohead released their album *In Rainbows*, allowing consumers to choose their own price (Von Nordheim). And while the average price was about half what albums normally sell for, the total sales of *In Rainbows* exceeded the sales of their previous album (Von Nordheim). This scenario demonstrated the willingness of consumers to pay for music, despite the opportunity to take it for free. More importantly, it shows how the ability to adapt in a rapidly changing market is more beneficial than bucking against what has become the norm.

While album sales are a huge component of what kind of impact file sharing makes, Richard Tamplenizza, a spokesman for the hip-hop label Elefant Traks, makes the important distinction that "it's not just about sales ... it's about getting a profile, especially online and on radio, then getting the opportunity to start doing tour supports and building up that way" (Vincent). Music producer Steve Albini expands on this line of thought, stating:

Free distribution of music has created a huge growth in the audience for live music performance, where most bands spend most of their time and energy anyway. Ticket prices have risen to the point that even club-level touring bands can earn a middle-class income if they keep their shit together, and every band now has access to a world-wide audience at no cost of acquisition. That's fantastic. (Masnick)

The essence of Albin's argument is that it seems myopic to focus solely on record sales as the result of illegal downloads; there are many more factors to consider, and they are on the rise.

Despite all this evidence, the RIAA and their followers would undoubtedly reiterate at this point that downloading music without paying for it is illegal, and there is no getting around that fact. Though I concede breaking the law is something to be frowned upon, despite my own admission that I've taken part in such activities, it was with a bit of a guilty conscience.

However, I still insist that file sharing should be embraced rather than outlawed.

I find Stuart Green's opinion on this to be an especially compelling argument. In his article "When Stealing Isn't Stealing," he makes the important distinction between stealing digital files and stealing physical items like cars, purses, or even CD's. When one "steals" a file from a record company, they merely take a copy – the company still has one. This is a huge difference from the tangible items, and the rules/norms need to be accommodated with this in mind, rather than continuing to pretend it's the same thing (Green). As the authors of the Freakonomics blog state perfectly, "If a thief steals your car, he has it, and you don't. But if someone illegally downloads your song, he has it — but so do you" (Rausiala and Sprigman). This is a fact that is too often overlooked or even blatantly ignored. Because of this difference, the laws against file sharing should be modified to accommodate it. As it stands stand, the punishment is too harsh for the crime.

As the RIAA and its backers see it, the fines and jail time for committing piracy are a just punishment for the crime. Given the evidence, I cannot, however, justify such harsh measures. It is obvious that the benefits of file sharing outweigh the downfalls, and this needs to be taken into account. The ability to download music with the option to pay for it gives access to myriad

albums and artists, and it generates interest which ultimately leads to more sales and a greater fan base. Ultimately, it makes musicians better-rounded. The recording industry needs to stop digging their heels in, holding onto their old views and models. It's time to evolve with the rest of us, thus embracing the changes and benefiting us all.

Works Cited

- Cammaerts, Bart, Robin Mansell, and Bingchun Meng. "Copyright and Creation: A Case for Promoting Inclusive Online Sharing." *The London School of Economics and Political Science*, Sep. 2013. Web. 30 Oct. 2014.
- Green, Stuart P. "When Stealing Isn't Stealing." *The New York Times*. The New York Times Company, 28 Mar. 2012. Web. 27 Oct. 2014.
- Hammond, Robert G. "Profit Leak? Pre-Release File Sharing and the Music Industry." *Southern Economic Journal* 81.2 (2014): 387-408. *Business Source Premier*. Web. 30 Oct. 2014.
- Kereganis, Joe and Lennart Renkema. "Copy Culture in the US & Germany." *The American Assembly*. Columbia University, 2013. Web. 27 Oct. 2014.
- Masnick, Mike. "Amanda Palmer And Steve Albini On 'Piracy': It Only Helps Musicians | Techdirt." *Techdirt*. Techdirt, 25 May 2012. Web. 30 Oct. 2014.
- Palmer, Amanda. "Kickstarter, Smurf-Tits, & Scientology Oh My (The Kickstarter Q&A Part 2)." *Amanda Palmer and the Grand-Theft Orchestra*. Amanda Palmer, 23 May 2012. Web. 30 Oct. 2014.
- "Piracy." Def. 3a. *Merriam-Webster's Collegiate Dictionary*. 11th ed. Springfield: Merriam-Webster, Incorporated, 2008. Print.
- Raustiala, Kal and Chris Sprigman. "Copying Is Not Theft." *Freakonomics*. Freakonomics, LLC., 2 Apr. 2012. Web. 27 Oct. 2014.
- Recording Industry Association of America. "Piracy Online." <http://www.riaa.com>. RIAA, n.d. Web. 27 Oct. 2014.

Siweck, Stephen E. "The True Cost of Sound Recording Piracy to the U. S. Economy." *Institute for Policy Innovation: Policy Report #188*, Aug. 2007. *Institute for Policy Innovation*.

Web. 11. Nov. 2014.

Vincent, Peter. National Music Editor. "Musicians seethe over academics' approval of file-sharing." *The Sydney Morning Herald*, 11 Oct. 2013: 12. *Newspaper Source Plus*. Web.

30 Oct. 2014.

Von Nordheim, Robert. "Peace, Love, and Piracy: How Filesharing Benefits the Music Community." *The Journal*. The University of Illinois at Springfield, 20 Feb. 2013. Web.

30 Oct. 2014.

Youngs, Ian. "Bands 'Better Because of Piracy.'" *BBC News*. BBC, 06 Dec. 2009. Web. 30 Oct.

2014.