

KAMAL DHILLON'S WINNING ESSAY, FALL 2009

FILE SHARING IN PROGRESS

Millions of people, mostly but not all young, engage in file sharing. That is, they buy a movie or game or music DVD and then put it online so that others, people they don't know, can download it without paying. Forty billion music files were shared online in 2008 alone. Add to this figure the movies and games which are being shared and the total number is staggering.

The multi-national corporations who make and sell DVDs are not happy with this development. Their profits are threatened and they, in turn, are threatening to sue, for huge amounts of money, individuals who engage in file sharing.

I support the act of file sharing and argue that the free sharing of these forms of intellectual property would likely produce, overall, more good than harm for society.

In many areas of the world, e.g. the United States, the action of uploading and downloading copyrighted material is illegal. Everyone knows that it's illegal to download movies, games and music without paying. Why then do so many people simply ignore copyright laws?

Part of the reason is that people question whether the law that forbids sharing of such material online is morally justified. The fact that something is illegal doesn't mean that it's necessarily immoral. Around the world, young people are questioning the merit of the laws that forbid them to share their DVDs. They break copyright laws in part because they believe that these laws are unjust.

Not only do we think that the copyright laws are unjust, we also know that it's easy to get away with breaking these laws – and for youth and students with limited, or

sometimes nonexistent funds, the allure of free media with minimal chances of being caught is too good to pass up.

From a practical point of view, trying to regulate the distribution of these materials over the internet is an unachievable goal. No matter what laws are put in place, technological advances by ingenious young computer geeks mean that youth will always be one step ahead of the authorities. Industry may successfully prosecute and punish a few people but their success will be short lived. Almost no one will be deterred by legal prosecutions because the chances of being caught are tiny.

Just as important, however, most young people believe that it's morally acceptable to share their music, movies and games with others. Claims by industry that they are faced with ruin ignore the fact that the file sharing presents them with new opportunities (if they were smart enough to see them). Remember how the movie industry opposed the introduction of video recorders? They were short-sighted. It turns out that the VCR was one of the best things to happen to the film.

Remember, too, that a downloaded copy does not necessarily equate to a lost sale. Much of the material is downloaded to sample, and subsequently deleted. This hardly suggests that downloaders would have been willing to pay for the material if it hadn't been available for free online.

The young file sharing audience is being threatened for taking advantage of innovative technology that allows us to sample and enjoy media free of charge; but we are also contributing to the sales of all media via alternative methods. A recently published 3 year study on online music sharing concluded that 95% of all downloads were illegal, yet the worldwide digital music business grew by 25 per-cent in 2008 - the

sixth year in a row that it has increased. File sharing, far from destroying the industry, could save it. And largely unknown artists now have at least some chance of being listened to, and the same goes for those who create movies and games.

In Canada, downloading copyrighted material for personal use through sharing, aka peer-to-peer networks, is legal, however uploading the material is not. Canadian law thus presents a catch-22 situation. You are allowed to download as much copyrighted material available as you'd like, but the person who makes it possible, by uploading the material in the first place, has broken the law. This doesn't make much sense.

A more realistic approach, taken by Canada and at least 25 other countries, allows for consumers to be taxed on recording mediums, such as iPods, MP3 players and blank audio recording media like CD-Rs, in an effort to compensate artists for revenue lost due to consumers' personal copying. In this way, Canada has taken a step towards finding a reasonable balance between protecting copyright holders' rights and providing consumers with more liberal rights to copyrighted works.

As a society, we need to think again about copyright laws. If I buy a book, and lend it to a friend, should I be charged because they haven't paid for the book themselves? No, because it is considered fair use. What if instead of having to walk over and lend the book, I allow my friend to make a copy of it to keep? This is now considered copyright infringement, although the consequences of both situations are virtually the same. If I decided then to make copies of the book, and sell them – that would be a blatant violation and considered theft. No P2P user is making money from file sharing. Whether it's one degree of separation or a thousand, if sharing is morally justifiable in one case why isn't it also justifiable in another similar case? What about

lending a CD or a DVD, or using PVR? As soon as something is released into the public realm, it is considered “shared”, and if I am able to share with one friend, what makes it wrong for me to share with many?

A critic might argue that borrowing is different from keeping – yet this claim rests on a mere technicality. If I can access the material whenever I want it for free, what difference does it make whether it’s in my possession, or with a friend? Perhaps the critic would reply by arguing that sharing a physical possession with a close friend is completely different from putting it online for an unknown number of strangers to access. But is file sharing really the only way this is possible? YouTube allows users to post movies in fragments and entire songs, for an audience of strangers – entirely free of charge.

Society has benefited overall from file sharing. People without much money are now able to enjoy music and movies. Unknown artists have found an audience. Famous artists still make lots of money from touring. And if industry would adapt then they would benefit, too.

So, the legal ban on file sharing won’t work and it’s also unfair, inconsistent and irrational.