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Do the Math

The music industry says online piracy's killing the biz. A UTD prof says it ain't.

BY ROBERT WILONSKY

A press pass, reporter-turned-novelist Gregory McDonald once said, is good for one thing: It allows the journalist to ask very smart people *very* stupid questions. Certainly, that's how it feels after this 45-minute drive from downtown Dallas to the Allen home of Stan Liebowitz, professor of economics at the University of Texas at Dallas and a very smart man long regarded as the expert in the field of "network effects"--which, prior to our conversation, I thought had something to do with the nauseous feeling you get from watching prime-time television. Actually, it just means whoever makes the superior product will make the most money, which made Liebowitz a powerful supporter of Microsoft during the software behemoth's ongoing legal battle with the Justice Department. "People choose what they want, and what they want survives, at least for a while," Liebowitz and co-author Stephen Margolis wrote in their 1999 book *Winners, Losers & Microsoft*. In other words, may the best word-processing program win, period.



Peter Calvin

"If the RIAA paid real attention to Liebowitz's work," says one file-sharing advocate, "it might find a way to save itself."

this week in Culture

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Theatre Arlington makes a tasty meal out of *The Man Who Came to Dinner*

On this stormy summer afternoon, Liebowitz wears short pants and sits at a table in the kitchen of his new home, built on what was, not long ago, Collin County pastureland. Way out here, in the shining sprawl of a new strip-mall suburbia that exists not far from grazing cattle, lives a man whose research could prove that the recording industry is, as many always suspected, nothing more

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FEATURE

good

Why you s know me: talk dirty I but kiss lik to worry— when I ha

than a moneyed thug wielding the billy club of litigation.

In recent weeks, Liebowitz has become the journalist's go-to guy on the issue of online music distribution--a very sexy topic, especially if you're a college student with a broadband connection and a CD burner, a record-label exec terrified of losing your job or a politician taking big bucks from the music industry. In May, Liebowitz published a widely circulated and much-debated study on the subject, and his forthcoming book *Rethinking the Networked Economy* deals extensively with how the widespread circulation of "pirated" MP3s is--or, rather, *isn't*--damming the music industry's revenue stream. His study, published by the Cato Institute, garnered him considerable attention among fellow academics, industry folks on both sides of the issue and the mainstream media.

Liebowitz's is a straightforward reading of a complex issue: Despite the industry's claims to the contrary, the downloading of music on the Internet is not, at this moment, hurting the record industry. It might one day; it just ain't happening yet.

"The record industry is sort of sitting in a position where--and you can understand their position--they're saying, 'We don't want to take any chances. We don't want any technologies that might hurt us,'" Liebowitz says. "And I can even see their point. But I have often claimed that the new technologies they said were going to hurt them *didn't* hurt them."

But just try telling that to the Recording Industry Association of America, the music-biz trade group that, so far, has sued out of existence several music-swapping outlets, including Napster and AudioGalaxy, without offering any viable solutions of its own. Try telling that to the major labels that keep offering pricey and, ultimately, unsatisfying alternatives to file-sharing systems such as Kazaa and Gnutella. Just last week, Pressplay, a joint venture between Vivendi Universal and Sony, announced you could download and burn all the content you wanted for \$180 a year--even though you'd have access to the back catalogs of *just* the two labels, and even then, not all their artists.

And try telling politicians like Representative Howard Berman that file-sharing isn't bad for business. Berman, a California Democrat with financial backing from the music business, just last week introduced legislation that would give the recording industry the right to hack into computer networks if it *thought* someone was "stealing" copyrighted material. He has the support of the RIAA, which long ago started treating consumers like thieves, anyway. Never has an industry had such contempt for its patrons.

"But my work is not purely altruistic," says Liebowitz, who made

his name in the early '80s writing about the impact of photocopying on the publishing industry. "I came back to this subject for largely selfish reasons, because this is a hot topic. I've always liked technology, so that was a good fit. I used to have a stereo system--that was the only thing I spent money on. I had this old beat-up car, and then for a while I had only my bike and no car at all. But my stereo was a big deal; it was my one biggest expense. Then the stereo got replaced by a computer...and the 'network effect' stuff came along, and it was like, 'Whoa, I can write about my favorite subject.'"

Liebowitz, an affable and engaging man with a love for classic rock (more Jefferson Airplane than Black Sabbath), is the rare economist who actually tries to make his research applicable and accessible outside the stuffy, rarefied world of academia. He came to academia through the side door: He graduated from Johns Hopkins University in 1971, where he'd been an economics major, only to sell ice cream in Brooklyn and Staten Island after another vendor had been stabbed. He had long hair, no suit, an unemployed girlfriend and no idea what to do next. Next thing he knew, Liebowitz was at UCLA studying economics, and he was born again--a convert to the faith of Keynes and Smith. Now, he's the kind of prof every college student prays for, the economist who speaks in everyday language; has little use for charts and graphs, since they're meaningless in The Real World; and preaches the religion of economics primarily to help consumers understand how the marketplace really works.

"It's nice to have an impact on the real world, opposed to, say, the academic world," he says. But the belief is that "you shouldn't sully yourself when you are discussed in the real world, and particularly if you are saying anything that has to do with the real world. It's sort of a risk you take."

Liebowitz has used several of the "illegal" peer-to-peer downloading services, but he doesn't have a vested interest in which side--the consumer or the music industry--"wins." Liebowitz will admit he isn't quite sure what's going on--that not only does he not have all the answers, but we still don't know what the right questions should be. "I have a more narrow view: What's going to happen in the next 10 or 20 years? There isn't much in the way of unanimity, in part because there's so little actual occurrence. It's still about theory."

Until a few months ago, he believed the RIAA's line: Thirty percent of all households in the United States have CD burners, millions of people are downloading songs to their hard drives and burning them to discs, and CD sales in 2001 were down some 12 percent from 2000. Add it up, and the only reasonable explanation is that the sharing of songs is killing the industry.

But Liebowitz started looking at the numbers and figured if they weren't exactly cooked, they were at least steaming on the stove. After separating sales of full-length CDs from those of CD and cassette singles, he discovered the receipts were down only 6 percent--still a loss of billions, but not as disastrous as originally reported. More likely, he figured, the dip could be attributed as much to a recession--which, the Commerce Department's Bureau of Economic Analysis reported last week, was deeper and lasted longer than the government originally reported--as bootlegging. After all, if millions of people were downloading and burning illegal copies of CDs, then how come sales were down only slightly?

"The question is: Is a 6 percent decline something that's outrageous?" Liebowitz says. "From what I can see, it may be a little bit stronger than most, but it's not something that's big enough that you could say it's out of the ordinary, that it wouldn't happen *without* MP3s."

Thus far, the industry has yet to take notice of Liebowitz's work--primarily because it doesn't have to. It has the deep pockets, and it carries politicians like Howard Berman inside them. (*Salon* reported last week that Berman received more than \$180,000 from the entertainment industry for his 2002 re-election campaign.) But, as cultural historian Siva Vaidhyanathan points out, sooner or later the industry will be forced to listen to its fans, who demand what the RIAA isn't offering: an easy and inexpensive way to download anything they want, anytime and from anywhere.

"Stan Liebowitz is taking fan behavior seriously," says Vaidhyanathan, author of the superb 2001 book *Copyrights and Copywrongs*. "So the record industry should pay more attention to us and take our observations seriously. Instead, the RIAA clouds the discussion with bad studies and cooked numbers. If the RIAA paid real attention to Liebowitz's work, it might find a way to save itself. Because it will not, the record industry as we know it is doomed to fall from its own arrogance."


Liebowitz does have his ideas on how the industry could save itself from itself, but he's well aware they're likely temporary solutions--Band-Aids on a severed neck. One is taxing blank CDs, which would unfairly penalize those who use CD-Rs for data, not music; another is micropayments, wherein users pay pennies per download.


More than likely, the solution is years away--as is any substantive proof that downloads are taking down the industry. As Liebowitz rightly points out, it may seem like it's taking forever for the industry to get its act together, but in tech time, it will one day feel like the blink of an eye.


"And till then, people will still buy CDs," he says. "One of the things the RIAA also does is put out these surveys where they age-profile these people who buy CDs, and there are still people in the baby boom generation who are buying large numbers of CDs and who presumably will continue to buy CDs because they're used to listening to music. One of the hypotheses on why perhaps MP3-burning wasn't damaging the record industry very much is that for the ordinary person, it's just too much of a pain to put those MP3s together on a CD and move it to the stereo. It's just easier to go to the store and buy them. The innate resistance of consumers to tasks of moderate or light challenge may turn out to be what keeps the record industry from being hurt by any of it."


And if not, an industry that's made a killing off perpetuating the status quo will kill itself.

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