

# Los Angeles Times

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WEDNESDAY, SEPTEMBER 10, 2003

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## 'Amnesty' for Music File Sharing Is a Sham

BY FRED VON LOHMANN

**N**o one can hold a candle to the music industry when it comes to squandering an opportunity. Having gotten everyone's attention by threatening to sue 60 million American file-sharers, flooding Internet service providers with more than 1,500 subpoenas and on Monday suing hundreds of individual file-sharers (or their parents) in federal court, the Recording Industry Assn. of America has blown it again.

Here's what the RIAA has proposed as its "solution" to file-sharing: an "amnesty" for file-sharers. Just delete the MP3s you've downloaded, shred those CD-R copies, confess your guilt and, in return, the most change-resistant companies in the nation will give you nothing. Oh, the RIAA promises not to assist copyright owners in suing you. But its major-label members reserve the right to go after you, as do thousands of music publishers and artists like Metallica.

In other words, once you have come forward, you are more vulnerable to a lawsuit, not less. This is more "sham-nesty" than "amnesty." What a waste.

Rather than trying to sue Americans into submission, imagine a real solution for the problem. What if the labels legitimized music swapping by offering a real amnesty for all file-sharing, past, present and future, in exchange for say, \$5 a month from each person who steps forward?

The average American household spends less than \$100 on prerecorded music annually. Assuming that many people will continue buying at least some CDs (a recent survey by Forrester Research found that half of all file-sharers continue to buy as many or more CDs as they did before catching the downloading bug), \$60 per year for file sharing seems reasonable.

And such a plan would surely be more popular than the use-restricted and limited-inventory "authorized" alternatives. After all, the explosive growth of file-sharing is the strongest demand signal the record business has ever seen. The industry should embrace the opportunity instead of continuing to thrash around like dinosaurs sinking in hot tar.

Rather than asking music fans to brand themselves as thieves, the music industry could be welcoming them back into the fold as customers. Five bucks a month doesn't sound like much, but it would be pure profit for the labels. No CDs to ship, no online retailers to cut in on the deal, no payola to radio conglomerates, no percentage to Kazaa or anyone else.

Best of all, it's an evergreen revenue stream — money that would just keep coming during good times and bad.

It has been done before. This is essentially how songwriters brought broadcast radio in from the copyright cold. Radio stations step up, pay blanket fees and in return get to play whatever music they like. Today, the performing-rights societies like ASCAP and BMI collect the money and pay out millions annually to their artists.

It's easy to predict the industry's excuses: "We don't have all the rights." "Antitrust law prevents us from acting together." "What about my cut of the CD?"

Puh-leeze. You tell us your industry's on the brink of extinction: It's time to do something daring, not suicidal.

The labels can create a new business model that will serve as an example to other copyright owners. After all, it's no more radical than their threatening millions of Americans — customers — with ruinous litigation. What court or regulator is going to get in the way of a new approach that turns fans back into customers? Especially if the labels decide to offer a piece of the pie to artists — the only group with a credible claim to victimhood, even if most of their victimization has come at the labels' hands.

There are only two possible outcomes here: Either the music companies stop whining and woo the 60 million potential customers who have voted with their PCs for file-sharing, or some new companies will. There's no place in the world for companies that are bent on holding back the future.

Let's see a real amnesty, one that displays respect instead of spite for customers.

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