

IS DOWNLOADING MUSIC LEGAL?

By WORLDDirect [February 1st, 2011]

<http://www.worldlawdirect.com/article/1395/downloading-music-legal.html>

MP3 music files have been available for several years, and file-sharing programs are more popular than ever. Still, many people are confused about what is legal and what isn't. Can downloading music put you at risk for legal action?

It's no wonder so people are confused. The Net is full of sites with ads for "Napster replacements" which claim to be 100% legal. You may have read claims that "MP3 is legal" and "file sharing is legal." These statements are true, but very misleading.

Is MP3 legal? Yes, because MP3 is just a file format. Indeed, the vast majority of MP3 files found on the Web are perfectly legal, put up there by unknown bands who want to get noticed or by established artists promoting their current material.

Is file sharing legal? It can be, but the vast majority of files shared on P2P (peer-to-peer) networks like KaZaA and Shareza violate copyright law.

What is illegal is unauthorized copying of commercial music. This usually means MP3's that are made from CD's and then put on the Net by individuals who haven't sought permission from the artist or music company.

What do copyright laws allow? To put it simply, you may make a copy of your own CD for your personal use. That means you may record it to a cassette tape or rip it to MP3 files. You may not, however, give this copy to another person. Many people believe that if no money is involved, then no law has been broken. This is false. Whether you give the copy away or sell it, this is still a violation of copyright law.

The bottom line: if it sounds too good to be true, it probably is. If you want the latest hits, you need to pay for them. Fortunately, the legitimate online music services are very good, and the competition is keeping the prices down.

by Steve Allen

When is downloading music on the Internet illegal?

So perhaps you're looking to make a nice Christmas music compilation for playing over the holidays. For many people it is as simple as opening one of many peer-to-peer file share programs, selecting the tracks, downloading and burning to a CD-ROM. What isn't so simple about downloading music is the copyright protection laws that people break everyday by downloading some music tracks off the Internet.

The U.S. Digital Millennium Copyright Act deems copying of copyrighted music (with the exception of making a copy for your own use) as illegal. The U.S. Code protects copyright owners from the unauthorized reproduction, adaptation or distribution of sound recordings, as well as certain digital performances to the public. In more general terms, it is considered legal for you to purchase a music CD and record (rip) it to MP3

files for your own use. Uploading these files via peer-to-peer networks would constitute a breach of the law.

One of the big issues concerning the music industry is, of course, the revenue loss. In theory, if a person is able to download his or her favorite music off the Internet, that person would not need to purchase the CD at a local music store.

The music industry and even some musicians who feel they are taking a loss due to the sharing of their copy-protected works online have started fighting back, so to speak. In recent months there have been more cases of music piracy heading to the courts. From the creators of peer-to-peer and music sharing program authors, to individual users uploading and sharing copy-protected works online, more people are finding themselves in court trying to avoid paying monetary damages and trying to prove that what they are doing is in fact, fair use.

As mentioned on the RIAA (Recording Industry Association of America), the penalties for breaching the copyright act differ slightly depending upon whether the infringing is for commercial or private financial gain. If you think being caught infringing on these copyright laws will result in a small fine or "slap on the wrist", think again! In the U.S., the online infringement of copyrighted music can be punished by up to three years in prison and \$250,000 in fines. Repeat offenders can be imprisoned up to six years. Individuals also may be held civilly liable, regardless of whether the activity is for profit, for actual damages or lost profits, or for statutory damages up to \$150,000 per infringed copyright.

If there are so many lawful issues surrounding the downloading of music, you might wonder why we have such an influx of MP3 players, CD burners, and even software that allows users to easily rip music from a CD to their computer. The simple answer is that these devices do have a legitimate and legal fair use association. As mentioned earlier, you may choose to make your personal back-up copy to use in a MP3 player, or you may visit one of many Web sites, like iTunes, which offers music that you pay for as you download. While some may wonder why people are willing to pay for what can be had for 'free'. Those who do prefer to obey the copyright protection laws have sung in to the tune of purchasing over 150 million songs from the iTunes site alone.

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