

From: [REDACTED]
To: [FN-OMB-IntellectualProperty](#)
Subject: I am Allison Nicol and would like to express my opinion.
Date: Wednesday, February 24, 2010 10:35:18 PM

Form details below.

First Name: Allison
Last Name: Nicol
Email: [REDACTED]
Telephone: 9899288827
Comments: To whom it may concern,

First of all, thank you for this effort to hear public opinion on an important issue. Before I begin, I urge you remain open-minded to all sides of the issue before choosing sides. Don't let influence of large organizations drown out the voices of ordinary citizens.

As one of those ordinary American citizens, I am appalled that I live in a country where committing a relatively minor act of copyright infringement (Joel Tenenbaum downloading 30 songs, for example) results in an outrageously disproportionate punishment (\$675,000, or \$22,500 PER SONG). This is utterly ridiculous and completely unjust. Even assuming that the affected recording companies lost money from his copyright infringement, it is absurd to think that they lost over \$20,000 PER SONG. Worse yet, Tenenbaum's predicament is hardly an isolated case--most prominently, Jammie Thomas-Rasset shared 24 songs and was ordered to pay \$1.9 million (although it was later reduced, the resulting figure [\$54,000] is still shockingly high). While I understand that copyright protection is an important issue and a relatively large fine is reasonable for such an offense, the idea that someone be forced to pay the equivalent of several years' pay is absurd, and I fail to see how it is NOT ! a cruel punishment, as it far outstrips the actual cost of the offender's act.

In summary, I oppose any law or other measure to increase enforcement of or expand current copyright laws until the severely broken system is fixed. I urge you to be reasonable and consider all sides of the issue--simply because illegal file-sharers commit copyright infringement does not mean their side has no valid points. This is a complex issue, one that cannot be neatly divided into "good" and "evil". As a concerned citizen of the United States, I ask only that you do your democratic duty in obeying the will of the people, as a true democracy should.

In regards to the actual questions:

For part one, I believe that alleged losses have been greatly exaggerated by the RIAA, MPAA, and other such organizations. For example, they have made it widely known that when computing "profits lost" to piracy, they usually consider each download as equivalent to a lost sale, ignoring the possibility that the same person might download one file several times--and more importantly, that many downloaders likely would not have paid for the actual song/movie in the first place. Furthermore, many people download files because there is no other alternative, such as a TV show only available in certain countries.

There is also a serious possibility that piracy has *increased* sales of some records. I freely admit that I have purchased music (from iTunes, etc.) after hearing even a short clip in, say, a fan-made music video on Youtube. While I may have committed a minor (and inadvertent) act of copyright infringement by viewing the clip (and the uploader committed copyright infringement by creating and uploading the clip to begin with), it ultimately led to an *increase* in that artist's profits and popularity, as I would likely never have discovered them otherwise. Because of this and many other similar stories, it seems reasonable to conclude that while copyright infringement may cause some profit loss, it still gives many artists and songs a greatly expanded audience, many of whom go on to buy music legally or attend concerts. In particular, small-time artists can benefit hugely from this.

There is one further example I would like to make before moving on to the second part of the question. This is the fascinating story of the indie film Ink. After it was rejected for distribution by big studios, its

creators were forced to negotiate personally with a few independent cinemas (in only 15 cities) and distribute their own DVDs online. Despite the film's innovation and reportedly interesting story, its makers faced the grim reality that, as it was not picked up by any large studios, it would never reach a widespread audience.

Then Ink was added to a Bittorrent tracker and was downloaded over 400,000 times in a single week, becoming the #1 downloaded movie. It soon reached #16 on IMDb's movie meter and was counted as one of the top 20 most popular films in the world. According to its creators, sales of DVDs and other merchandise also shot up with its new-found popularity... all because someone committed copyright infringement. Since then, Ink's makers have publicly embraced the so-called "piracy" of the film, saying that this was "the best thing that could happen to our little film" and "what Hollywood would calculate as lost dollars, we calculate as fans earned". (information from <http://torrentfreak.com/ink-the-movie-that-blew-up-on-bittorrent-100205/>) Another interesting project to look at is the VODO project, which distributes indie films, with a new release every month. Downloaders can donate to the creators--and by all accounts, it's working quite well.

I just now noticed that the original question asks about how copyright infringement affects public health and safety. In my opinion, I see little reason to believe that downloading copyrighted materials has any affect on either. Watching a pirated copy of Avatar hardly constitutes a threat to public safety.

Concerning part two, I do not feel qualified to offer a personal response to specific recommendations, but I agree with the stance of the United States Pirate Party and thousands of concerned citizens across the United States when they say that businesses need to look for new business models that work *with* instant Internet file-sharing, instead of wasting time working *against* it. As they say, our country was founded on a strong principle of the free sharing of all ideas. Even the so-called "Copyright Clause" of the US Constitution supports limited copyrights, as it says "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Actual interpretation of this is best left to the courts, as opposed to a concerned high school senior, but it seems clear to me that the intent of this section was simply to prevent anyone from claiming another's idea as their!

own and cheating them of their rightful honor and reward for their discoveries or ideas. The "limited Times" section seems to make it abundantly clear that copyrights should not last forever--and let's be honest here, the author's life plus 70 years is essentially "forever". If the public has to wait well over 100 years before they can freely read, share, or remix a work, it's doubtful that any of that reading, sharing, or remixing is going to occur... meaning ideas are not being shared freely.

If it is determined that the lengthy and overly restrictive regulations currently in place are actually fair and reasonable, I am willing to accept that, but I still request that you consider the enforcement and punishments currently used. These should NEVER deny the rights of citizens; this goes double for paying consumers. This includes (but is not restricted to) the right to back-up materials already owned by a person, or make copies for the sole purpose of having a back-up.

Furthermore, while I support the rights of authors to own their own created content, this should be done in a way that does not impede my ability to use materials I own in a way I choose. (for example, putting music from a CD I purchased onto an mp3 player) Enforcement should also never violate a citizen's privacy--and I firmly believe that no private group, such as the RIAA, should have the right to demand an ISP (or other group) give up the name of an accused copyright infringer without substantial evidence and a court ruling.

That's all I have to say. I have never before contacted a government official, agency, or office in any way, but the problem of file-sharing (more specifically, the problem of the RIAA and MPAA's reaction to it) is one that I feel my voice needs to be heard on. The great thing about a democracy is that the people are supposed to affect the government--so please don't let preconceived prejudices lead you to dismiss the side that doesn't condemn piracy.

Thank you sincerely for taking the time to seek public views on such an important topic. I can only hope you are sincere in truly wanting to see both sides of the issue.

--Allison Nicol

