



## Downloading by Students Overstated

January 23, 2008

In its campaign urging lawmakers and colleges to take the issue of on-campus illegal file sharing seriously, the Motion Picture Association of America has wielded an array of legal arguments, facts and statistics. It now appears that a central figure in that arsenal was high by a factor of three, galvanizing its opponents who maintain that colleges have been singled out unfairly as havens of downloading activity.

The association often notes that according to a 2005 study it commissioned, 44 percent of the money the industry lost within the United States that year was attributable to peer-to-peer file sharing by college students. It now appears that the figure was closer to 15 percent, or \$243 million. Mark Luker, a vice president at Educause, an organization promoting technology use in higher education, said the numbers reflected college students both on and off campus even though college Internet service providers, the target of pressure from both Congress and the MPAA to step up anti-piracy efforts, typically only serve on-campus residents. It would be "reasonable," Luker said, to divide the MPAA numbers by five, since about a fifth of college students live on campus, leaving the figure somewhere around 3 percent of domestic losses.

Why is this not surprising?" said Kenneth C. Green, the director of The Campus Computing Project, when he was told about the revised figure. Green has long argued that Hollywood and the recording industry have exaggerated college students' role in peer-to-peer file sharing as compared to the general population.

"I've not seen the formal report of new -- and much lower -- numbers from the MPAA on campus P2P activity," he continued in an e-mail. "But if the reports are true that the new, corrected numbers are way below the initial and highly publicized earlier numbers, then the MPAA owes an apology to the campus community. The corrected MPAA numbers clearly confirm what many of us have said for a very long time: that P2P piracy is primarily a consumer broadband issue, not primarily a campus network issue, and that colleges and universities are more concerned and far more engaged in efforts to stem illegal P2P activity than are consumer broadband providers."

Luker said that Congressional staffers and interested parties in higher education were never given copies of the study cited by the MPAA, which led some to remain skeptical of the group's claims about college file-sharing habits. While some will surely feel vindicated by the correction, it doesn't necessarily change the legal disputes between colleges, downloaders and content owners (although "it definitely changes the magnitude of the problems," he noted).

The MPAA's recording-industry counterpart, the RIAA, has been pursuing a legal strategy since early last year that begins with "pre-litigation" letters offering reduced settlement amounts to

students caught sharing content by its peer-to-peer network sniffers. Since only colleges can match IP addresses with users' identities, the letters are often forwarded to students by administrators, placing many institutions in a reluctant digital watchdog role. (Some have begun resisting the RIAA's strategy, arguing that colleges and students are being unfairly targeted.)

On the legislative front, both associations have lobbied Congress for stricter rules governing colleges' and universities' file-sharing policies. The Senate's July version of the Higher Education Act reauthorization bill would require institutions to install "technology based" systems to police illegal downloading and charge the secretary of education with releasing an annual list of the 25 colleges and universities that had received the most copyright violation notices. The House version isn't as far-reaching, but it pushes colleges to embrace legal alternatives to peer-to-peer file sharing and to report their policies for downloading copyrighted content through campus networks.

"We first heard from the MPAA on this on Thursday. We've asked them for more information and we plan to review it," said Rachel Racusen, a spokeswoman for the House Education and Labor Committee.

The MPAA says it hired the consulting firm LEK to perform the 2005 study, which covered piracy habits in 22 countries. In updating the findings for 2007, the company found that the original number had been distorted due to human error. The MPAA has been informing members of Congress and Hill staffers of the mistake, but its long-term effect on anti-piracy efforts and on higher education policy is unclear.

"We take this error very seriously and have taken strong and immediate action to both investigate the root cause of this problem as well as to substantiate the accuracy of the latest report," the association said in a statement. "Additionally, the MPAA will retain a third party to validate LEK's updated numbers. We are confident that when the report is complete it will provide an accurate and reliable assessment of worldwide piracy."

It continued: "The latest data confirms that college campuses are still faced with a significant problem. Although college students make up 3 percent of the population, they are responsible for a disproportionate amount of stolen movie products in this country."

**— Andy Guess**