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'Free Culture' Advocate May Pay High Price



Michael Francis McElroy for The New York Times

Aaron Swartz was charged with computer fraud last week after downloading the contents of a subscription-only digital storehouse.

By NOAM COHEN

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A GUY walks into a candy store and sees one of those "leave a penny, take a penny" trays. He picks it up, cups his hands and asks, "What can I get for 68 cents?"

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Associated Press

Bradley E. Manning has been linked with WikiLeaks.

That image came to mind with the case of Aaron Swartz, a 24-year-old agitator for free access to information on the Internet who managed to download more than four million articles and reviews onto his laptop computers from a subscription-only digital storehouse. The material was from some of the most prestigious — and expensive — scientific and literary journals in the world.

Like the penny opportunist, Mr. Swartz was invited to sample the wares of the nonprofit online collection Jstor, and he interpreted that invitation quite expansively. Using a program that automatically paged through each issue of more than 1,300 journals, he was able to methodically download their contents, making a copy of almost

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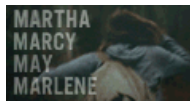
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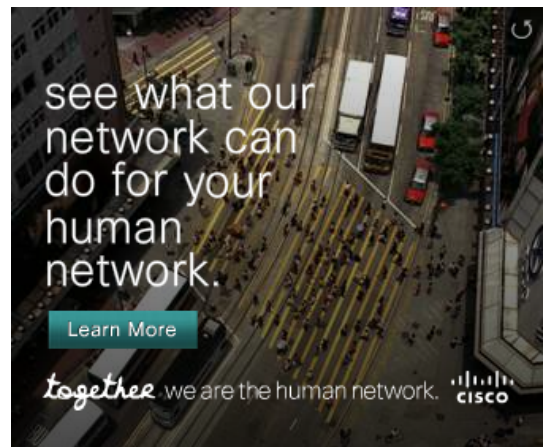
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everything in the collection.

Yet this episode is hardly a joke. Mr. Swartz was arrested last week in Boston on a series of felony counts including wire fraud, computer fraud, unlawfully obtaining information from a protected computer and recklessly damaging a protected computer. If convicted on all counts, the Justice Department said he could face up to 35 years in prison and \$1 million in fines.

Mr. Swartz is not a run-of-the-mill hacking suspect. He has been known for his computer work since he was 14, when he was involved in developing the software behind RSS feeds, which distribute content over the Internet. At the time the investigation began, he was a fellow at the Edmond J. Safra Center for Ethics at Harvard, though he was later placed on leave.

Mr. Swartz did not respond to an e-mail seeking comment. His lawyer would not comment other than to note that Mr. Swartz had pleaded not guilty to the indictment, which “puts everything in it in dispute.”

It should be emphasized, however, that Mr. Swartz was not trying to profit from his activities. He has been a fierce advocate of redistributing information, so much so that in 2008 he promoted a Guerrilla Open Access Manifesto (no longer available online) that said it was imperative to “take information, wherever it is stored, make our copies and share them with the world.”

We are not talking about the latest X-Men movie or Lady Gaga album. Rather it is the research contained in specialized scientific journals with subscriptions that can cost thousands of dollars; institutions can pay tens of thousands of dollars to Jstor, which stands for Journal Storage, for a subscription that bundles these publications online.

That money, Jstor says, is needed to collect and distribute the material and, at times, subsidize institutions that cannot afford it. Founded in 1995, Jstor started with 10 journals available to a few American universities and has since expanded to include about 325,000 journal issues available at more than 7,000 institutions.

His supporters question why the government has reacted so strongly. “This makes no sense,” said David Segal, executive director of Demand Progress, an organization Mr. Swartz founded to rally support online for an open Internet. “It’s like trying to put someone in jail for allegedly checking too many books out of the library.”

The [government had its own interpretation](#) of what Mr. Swartz did. “Stealing is stealing, whether you use a computer command or a crowbar, and whether you take documents, data or dollars,” the United States attorney for Massachusetts, Carmen M. Ortiz, said last week in a statement about the case. “It is equally harmful to the victim whether you sell what you have stolen or give it away.”

In the government indictment, Mr. Swartz is described as becoming more and more devious in his downloading, signing on with a fake name as a visitor to the [M.I.T.](#) campus, and then, when detected, taking more serious steps. At one point, the government says, he tried to get access to the university’s network at a wiring closet, and in an attempt to evade security cameras “held his bicycle helmet like a mask to shield his face, looking through ventilation holes in the helmet.”

It is a tricky situation for Jstor, which got back the hard drives containing its material from Mr. Swartz. It sees itself as having the long-term objective of “continuously adding more content and making it affordably available to more people around the world.”

Asked if it was pleased that someone misusing the service could be brought to justice, a spokeswoman for Jstor wrote in an e-mail response: “We wanted the content back, and we were able to secure it and ensure it wasn’t distributed. We were not interested in further legal action around this incident. We have no comment on the prosecution or how they

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have chosen to characterize it.”

Courtroom battles over file-sharing — as well as the persistent question of whether copying is “stealing” — are old hat. But the seriousness of the charges, the nature of the material and the motives behind Mr. Swartz’s actions lend the case a political edge for many people who grew up with the Internet.

Demand Progress has highlighted the Swartz case on its Web site, and it says 45,000 people have “signed” its online petition to “stand with Aaron Swartz and his lifetime of work on ethics in government and academics.”

While the group Students for Free Culture, an international organization working to promote [free culture](#) ideals, wrote in an e-mail that it had no official position on the Swartz prosecution, the group said it was no surprise that the topic would interest college students.

“One reason that free-culture issues are popular (and not perceived as overly technical or legalistic) is that censorship, copyright abuses, privacy violations, shady network management and other bad behaviors are actually shocking for people who rely on the network for everyday communication,” the group wrote. “They undermine expectations that have built up over years and years of use.”

For Glenn Greenwald, a blogger for Salon and an outspoken critic of the government’s treatment of Bradley E. Manning, the soldier accused of providing secret files later released by WikiLeaks, it also makes sense that a young generation would view the Internet in political terms.

“How information is able to be distributed over the Internet, it is the free speech battle of our times,” he said in interview. “It can seem a technical, legalistic movement if you don’t think about it that way.”

He said that point was illustrated by his experience with WikiLeaks — and by how the Internet became a battleground as the site was attacked by hackers and as large companies tried to isolate WikiLeaks. Looking at that experience and the Swartz case, he said, “clearly the government knows that this is the prime battle, the front line for political control.”

On Twitter, WikiLeaks itself made the link, writing in part, “Keep fighting Mr. Swartz, history is on your side.”

In a comment posted online on Thursday, Gregory Maxwell, 31, a programmer from northern Virginia, wrote that the Swartz case had caused him to rethink his own actions.

He said he had long kept thousands of digital copies of issues from the early years of The Philosophical Transactions of the Royal Society, which are available at Jstor, but that he had never shared them.

“I’ve been afraid that if I published them I would be subject to unjust legal harassment by those who profit from controlling access to these works,” he said. Noting the arrest of Mr. Swartz, he wrote, “I now feel that I’ve been making the wrong decision.”

He made the entire file available last week, and did not do it anonymously.

“One reason I put my name on the release, I strongly believe that if any legal action is taken against me, it will be an unjust one,” he wrote, “and I intend to fight it so that other people have less to be afraid of.”

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