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Seeing Payday, Not Piracy, Musicians Put Concerts on the Web



Reuters

The Dave Matthews Band in concert. The group says it will soon sell its live concert recordings online.

By **SETH SCHIESEL**

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SHORTLY after Phish, the improvisational rock band, finished its New Year's Eve concert at American Airlines Arena in Miami, perhaps a couple of hundred people remained at play in the private suites that lined the hall. Brad G. Serling, as big a Phish fan as they come, joined them briefly but soon had to depart for the bowels of the arena.

"Everyone's making plans to go party, and here I am making plans to go to the production office," said Mr. Serling, 31. His tone was a bit rueful, but he was certainly not complaining.

That is because there was no place Mr. Serling, a Johnny Appleseed of online concert recordings, would rather go. By 2:30 a.m., he later recounted, he had the entire concert on his iPod, courtesy of the band's sound engineer. At 4:30 a.m., he was back at his hotel in South Beach, transferring the more than two gigabytes of audio files to one of the three laptop computers he had brought along.

Later in the day, from a hotel with a faster Internet link, he uploaded the concert files to the Internet. And so, by the morning of Jan. 2, Phish fans worldwide could pay \$11.95 to download the New Year's Eve concert from Live Phish

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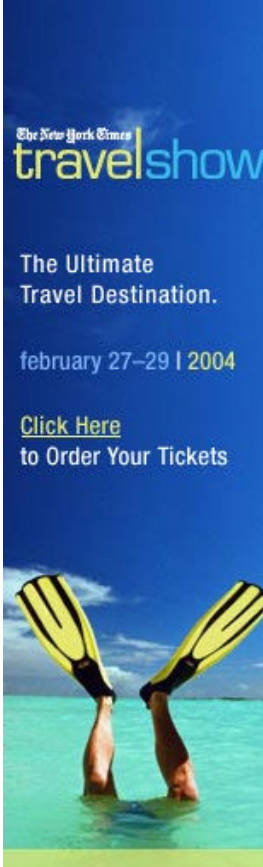


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Downloads (www.livephish.com), a site run jointly by the band and Mr. Serling's company, Nugs.net.

Mr. Serling had also joined forces with three less-prominent bands - the Radiators, the String Cheese Incident and Yonder Mountain String Band - to post recordings of their own New Year's concerts at another site, LiveDownloads (www.livedownloads.com).

As other technology companies scramble to match the success of Apple's online music store, iTunes, which sells songs for 99 cents each, a different online-music economy is emerging around the sale of recordings of live performances - often with no restrictions on how they can be played or shared.

Since it was established in late 2002, Live Phish Downloads, which now offers audio files for about 50 Phish concerts, has generated more than \$2.25 million in sales. Its success has helped prompt a new look at the potential for bands to become their own distributors online.

And on Tuesday, Coran Capshaw, manager of the Dave Matthews Band, said the group had agreed to set up a downloading site with Nugs.net. While other bands following a similar model have focused on selling concert recordings, the Dave Matthews Band intends to begin in March by selling downloads of its album catalog, to be followed shortly by sales of concert recordings. (RCA, the band's record company, is to receive part of the proceeds from the sale of albums online.)

Even Phish's record company, Elektra, which receives a small cut of the Live Phish Downloads proceeds, has embraced the band's online marketing of its music.

"We always thought it would be nice for there to be a happy medium where the band gets more involved with the fans, and this seems to us to be a perfect way to do it," Brian C. Cohen, Elektra's senior vice president for marketing, said in a telephone interview. "It gives the fans access to officially sanctioned recordings. It conditions the fans to not expect to get these things for nothing, and I personally think it's a model, both for the record business and for bands, whether signed or not, to make money from valuable content and at the same time seed the relationship in a very positive way with the fans."

One way that selling downloads appeals to fans is by offering music files that are not crippled by limitations on where and how many times the file can be copied. Such so-called Digital Rights Management systems are used by many traditional online music stores. But most of the budding concert download sites, including Live Phish Downloads, sell unrestricted files.

"The No. 1 issue that most of the music industry has wrong is D.R.M.," Mr. Serling said in an interview last week at his home in Los Angeles. "Why make it harder for people to buy your product? The answer is fear, and you have to get over the fear. What would you do if you walked into Tower Records to buy the new Dave Matthews Band CD and the guy behind the counter said: 'Here's your CD. It's \$18, but you can only listen to it in your den on one stereo. You can't take it to the car. You can't put it on your iPod.' You would laugh at him and walk out, right? It's the same thing here."

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Axel Koester for The New York Times

Uploading Brad Serling has gone from taping concerts to selling downloaded recordings online through his company, Nugs.net.

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Associated Press

The group Phish, led by Trey Anastasio, offers audio files for about 50 of its concerts through a venture with Nugs.net.

"I don't live in a fantasy world," he added. "I know we're getting ripped off left and right by people copying our files. But people who are intent on ripping you off are going to rip you off no matter what you do. All we can do is make it easier for the vast majority of people who want to do the right thing."

However compelling that argument, Mr. Capshaw said the Dave Matthews Band had not decided whether its online offerings, particularly its albums, would be copy-protected or unrestricted. (For its part, Phish recently gave would-be pirates a new incentive to do the right thing, announcing that it was donating its profits from Live Phish Downloads to a nonprofit group supporting music education for children.)

Other bands, too, are being drawn to the model. In November, the hard-rock band Primus began PrimusLive (www.primus.com) with a company called BackOfficeMusic. Last month, the guitarist Steve Kimock started a live-concert download store in partnership with a new New Jersey company called DigitalSoundboard (www.digitalsoundboard.net).

A year ago Pearl Jam began offering downloads of live shows to fans who also bought a CD of that concert. Now, the band also offers concert recordings through iTunes, though only song by song.

But even as other bands and other companies get into the concert-downloading game, Mr. Serling is the sector's youthful godfather.

Growing up near Philadelphia, Mr. Serling became a serious fan of the classic rock of the 1960's and 1970's. By 1990, when he entered Cornell, he was regularly taping Grateful Dead concerts in the area that the band set aside for noncommercial tapers - and meeting like-minded fans through the Internet-based interest groups known as Usenet.

At that time, trading Grateful Dead tapes was an arduous experience, often conducted by mail, and there was one big problem: sound quality. "People have all of these subjective ratings for their tapes and someone's like, 'Oh this is an A+,' but then you get it and it sounds horrible," Mr. Serling said. "So I thought it would be great to put up clips from the tapes so you know what you're getting."

Given the bandwidth limitations of the early 1990's, that was a challenge, but by 1994 Mr. Serling had posted some audio clips from his collection to a computer server set up for Grateful Dead fans. And so the seeds of Nugs.net were planted.

After college, Mr. Serling went to work in a new kind of business - Web design and consulting - where his company did not mind his using the corporate bandwidth. In 1995, he started offering RealAudio streams of shows. In 1997, he bought the Nugs .net domain - short for nuggets - and in 1999 began offering MP3 tracks that could be downloaded and replayed.

Meanwhile, Mr. Serling continued to collect and post concert recordings of bands that allowed taping. By June 2000, fans were downloading 500,000 MP3 files a month from Nugs .net, from bands including the Grateful Dead, Phish and the String Cheese Incident. The demand was met with the bandwidth of Mr. Serling's new employer, CinemaNow, for which he became chief technology officer.

When Nugs.net hit that mark, Mr. Serling said, "that was when I saw that there was enough interest to make a business out of it" - in other words, to begin selling recordings, if permission could be obtained.

Around the same time, the same idea appeared to occur to music executives, including John Paluska, Phish's manager. "We became aware of Nugs.net in particular as a very well-run and successful fan site that had both a lot of shows, high-quality shows and, even more than that, high reliability and customer satisfaction, even though it was just a fan site," Mr. Paluska recalled in a telephone interview. "So we started looking around and asking, 'Who's running this site?' "

The result was a collaboration between Phish and Mr. Serling called Live Phish Downloads, established in December 2002, which now posts live recordings of every Phish concert for sale within 48 hours. Profits are divided between the band and Nugs .net on undisclosed terms.

Last summer, when it was clear that Nugs.net had made the leap from fan site to business and that Mr. Serling had made the leap from Johnny Appleseed to commercial farmer, he quit his job at CinemaNow.

Now, from a spacious house in the Hollywood Hills, with a microwave antenna pointed at a receiver somewhere in the flatlands below, Mr. Serling is just trying to stay ahead of his new competitors. In addition to a deal with the Dave Matthews Band, Nugs.net has reached a broader agreement with Musictoday, a company run by Mr. Capshaw that provides Internet services to more than 250 other bands, including Metallica and the Rolling Stones.

Musictoday already offers services like Web stores, ticketing and fan club support to its artist clients. Now, Musictoday will also offer those bands a downloading service powered by Mr. Serling's operation. For Nugs.net, the Musictoday deal is meant to expose the company to hundreds of bands without having to hire dozens of salespeople.

"Hopefully this deal can help us get to the next level," Mr. Serling said.

Until now, most bands that have embraced selling concert recordings are best known for their improvisational live performances, not studio albums. Mr. Serling acknowledges that his distribution model might not appeal to every musical act - at least until there is more evidence of potential profits.

For now, though, after years of running Nugs.net as a labor of love, Mr. Serling feels as if he is living a fantasy. In addition to the pay sites, Nugs.net still offers dozens of concerts free, in both streaming and downloadable formats.

"This is what I would be doing even if there were no LivePhish.com," Mr. Serling said. "I would be out there as a taper with my recording deck and making files and putting them up on Nugs.net. It's nice to be able to do the same thing and also pay the rent."

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