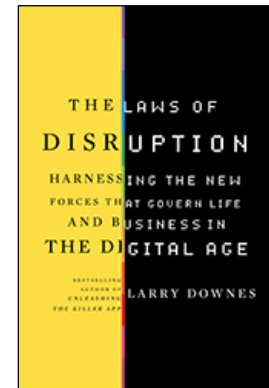Larry Downes, **The Laws of Disruption: Harnessing the New Forces that Govern Life and Business in the Digital Age,** Basic Books, 2009, 304 pp., $26.95 (hardcover).

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In the late 1800s, the American railroads suffered staggering losses as they operated under pressure from shippers to reduce rates. To avoid bankruptcy and ruination, the Great Northern Railroad instituted a system that mandated round-trip charges on routes through Spokane, Washington, regardless of whether the freight actually returned or not. In response, shippers and towns on the route sued. The case eventually made its way to the U.S. Supreme Court before which the shippers' lawyer, Brooks Adams, argued that because of the nature of competition introduced by the railroads—a relatively new technological development—old laws could not apply. Instead, Adams said, the law needed to adapt to new technology or the law would eventually collapse. As government response and regulation almost always lag behind market and technology innovations, this tale is repeated again and again.

Larry Downes opens *The Laws of Disruption* with this story. He offers his readers a neatly synthesized package of recommendations for confronting the chasm that lies between technological innovation and legal regulation. Downes' primary proposition is that modern legal systems fail to address the unique properties and legal landmines of the digital era and that this puzzle is both global and systematic. The immediacy of this issue, he argues, makes it imperative to act, and soon. Downes repeatedly illustrates the general problem by invoking the "Law of Disruption," a phrase he coined 10 years ago in his best-selling *Unleashing the Killer App: Digital Strategies for Market Dominance.* The principle as defined in his earlier book is simple: "Social, political, and economic systems change incrementally, but technology changes exponentially (Downes, 1998)."

Downes did not originate this concept; he explicitly builds on Joseph Schumpeter's theory of creative destruction, first described in 1942, and on Thomas Kuhn's suggestion in 1962 that systemic economic breakdown follows technological revolution as a paradigm shift. Downes follows in the traditions of scholarly work that describes why legal systems designed for the analog world are collapsing under the weight of a digital era in consistent flux. The author's critical contribution is to rescue technical concepts from the bowels of academia and deliver them to the public in a manner that underscores their continuing relevance and applicability to real-world concerns.

In part, Downes accomplishes this feat of user friendliness through judicious and practical structuring of content. The book is divided into four sections (Digital Life, Private Life, Public Life, Information Life) consistent with his argument that we lead parallel existences, virtual and real, as a result

of information technology. The chapters in each section correspond to nine guiding principles for the transformation of the information economy. This structure allows the author to cover a tremendous range of topics from digital civil liberties to technological convergence to global regulatory standards with ease and finesse. Downes highlights the most critical issues and makes them comprehensible to readers with or without technical backgrounds. He consistently clarifies these issues with relevant examples, boils them down to core points, and pays attention to how the current state of Internet regulation might evolve. By choosing topics that can be grouped loosely into regulatory concerns regarding online civic rights, market responses to convergence, cybercrime, and intellectual property, he provides an excellent primer for the student or citizen seeking a quick guide to the core issues shaping the heart of this problem we term the future of the Internet.

There is some trouble with presentation. Downes is a corporate venturing consultant and business journalist by trade and a lawyer by training; this is evident in his heavy reliance on legal cases to illustrate almost every point of significance. Some examples tend to become mired in legal minutia at odds with the author's otherwise broad writing style. He falls most short, however, in his efforts to provide prescriptive recommendations for correcting the course of the future of technology. The author states explicitly that a primary goal of this work is to "offer guidance to policymakers, business leaders and consumers" but although the simplicity of his prose works beautifully to describe the problems, it fails all too often to prescribe the solutions.

In his discussion of intellectual property rights, for instance, Downes proposes that the divide between advocates of strict content controls and those opposing digital rights management can be bridged by "a global act of common sense." The offered solution is reversal of the Digital Millennium Copyright Act, a reset of copyright term lengths, and restoration of fair use policies. Downes fails to mention that the copyright law, although unpopular among academics, was passed in 1998 by a unanimous vote in the U.S. Senate and would be difficult to overturn. Such lapses are all too frequent in Downes' book, and prosaic statement that "open [source] always wins" and the suggestion that a single uniform law of digital commerce can address most local regulatory problems for e-businesses appear rather shallow. Downes may use oversimplification of complex issues to attract and remain consistently accessible to consumers but runs the risk of undermining his credibility with policy makers. Readers interested in a more in-depth analysis of these issues might be better off delving into the work of Lawrence Lessig, Mark Lemley, or Pam Samuelson.

The problem of oversimplification is at times compounded by the author's beliefs. Downes favors free markets and distrusts government regulation in general and the Federal Communications Commission in particular. He believes that the government ought to institute a few online protections for individuals and otherwise leave the Internet to its own devices. With regard to online privacy rights, he suggests that individuals be able to purchase or sell their right to privacy, in its entirety or in portions. For cybercrime, he favors privatization through insurance and anti-crime software solutions. It would appear that Downes is a staunch devotee of the market's "invisible hand." The problem is that policymakers may find these extreme market proposals naive, especially given the absence of discussion regarding potential pitfalls or political landmines that might accompany such approaches.

Many of Downes' most extensively developed ideas are outside of dominant existing paradigms. He is distrustful of net neutrality, fearing that it will disrupt markets and stunt innovation. However, Downes ignores worries that if Internet traffic algorithms give priority to particular content based on premium routing for high-paying content providers, the Internet will become a frothing sea of corporate fiefdoms, not a free marketplace of ideas. Downes could be right on many points and may prove highly prescient, but he does not provide his readers with enough context to evaluate the feasibility of the proposals he puts on the table. Consequently, this book seems occasionally unbalanced, despite its winning and easy prose.

Overall, this is an articulate, well-written tome. In the tradition of Clayton Christensen, Malcolm Gladwell, and Clay Shirky. Larry Downes is most successful when he serves not as the architect of new ideas, but as a clever and lucid connector of complicated and dense concepts. Serious scholars and informed business leaders and policymakers may lament the lack of detailed context and yearn for a broader frame for the debate at large. Still, Downes adds value and clarity to the discussion of the issues we face, if not to the solutions that are needed. He should be lauded for improving, at least for general consumers, the ratio of signal to noise in the debates that rage at the intersection of technology, society, and the law.

## References

Downes, L., & Mui, C. (1998). *Unleashing the killer app: Strategies for market dominance*. Harvard Business School Press: Boston.