



**PHOENIX** FOR ADVANCED  
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## Press Release

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### NEW PHOENIX CENTER STUDY DEMONSTRATES THAT DMCA “SAFE HARBOR” PROVISIONS COST U.S. MUSIC INDUSTRY NEARLY \$1 BILLION ANNUALLY IN LOST REVENUE

#### *Plausible Royalty Rate Increase on YouTube Could Produce Increased Royalty Revenues in the U.S. of \$650 Million to Over One Billion Dollars A Year*

WASHINGTON, D.C. – According to the music recording industry, YouTube, one of the largest purveyors of on-demand digital music, evades paying market rates for the use of copyrighted content by exploiting the Digital Millennium Copyright Act’s “safe harbor” provisions. The source of the distortion in licensing negotiation appears to be that at any one time, there may be multiple unauthorized copies of a particular song available notwithstanding compliance with the safe harbors, suggesting that services may essentially be able to offer access to music without paying royalties and still claim safe harbor protection for infringement. The evidence appears to confirm the claim: market-based royalties for subscription-based services are about eight-times larger than that paid by YouTube.

In a new POLICY BULLETIN released today entitled *Safe Harbors and the Evolution of Music Retailing*, the Phoenix Center attempts to calculate how much revenue the recording industry loses from the distortions caused by the safe harbor provisions. Employing accepted economic modeling techniques, the Phoenix Center simulates revenue effects from royalty rate changes on YouTube’s service. Using 2015 data, the Center finds that that a plausible royalty rate increase could produce increased royalty revenues in the U.S. of \$650 million to over one billion dollars a year.

“Outdated regulation is determining where and how people listen to music,” said study co-author and Phoenix Center Chief Economist Dr. George Ford. “The fact that DMCA safe harbor exploitation costs the U.S music industry between \$650 million to over one billion dollars a year in lost revenues is a sizeable effect and lends credence to the recording industry’s complaints about YouTube’s use of the safe harbor.”

A full copy of PHOENIX CENTER POLICY BULLETIN NO. 41, *Safe Harbors and the Evolution of Music Retailing*, may be downloaded free from the Phoenix Center’s web page at: <http://www.phoenix-center.org/PolicyBulletin/PCPB41Final.pdf>.

*The Phoenix Center is a non-profit 501(c)(3) organization that studies broad public-policy issues related to governance, social and economic conditions, with a particular emphasis on the law and economics of the digital age.*