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## Press Release

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### PHOENIX CENTER REFUTES STUDY CLAIMING THAT FILE SHARING DOES NOT REDUCE CREATION OF NEW MUSIC

*Phoenix Center Finds that Statistical Analysis is Inexpertly Performed; the Empirical Model is Poorly Motivated, Poorly Designed, and Improperly Estimated*

WASHINGTON, D.C. – There are a growing number of studies which challenge the traditional and constitutional view of Copyright by arguing that piracy (an infringement on the exclusive right) has not hurt and, possibly even helped, professional artists and performers. In a new economic analysis released today entitled *What is the Effect of File Sharing on the Creation of New Music? A Critical Review of "A Case Study of File Sharing and Music Output"*, Phoenix Center Chief Economist Dr. George S. Ford reviews one such study by Tulane University Law Professor Glynn Lunney, Jr. and finds that Dr. Lunney's analysis suffers from defects so severe as to render it useless for guiding public policy.

In particular, Dr. Lunney argues that "file sharing has not reduced the creation of new original music" based on the correlation of music sales over time to the appearance of "new artists" appearing at the top of BILLBOARD's Hot 100 chart. As Dr. Ford demonstrates, however, given the ever-changing definition of the Hot 100 chart, any observed changes in the composition of the chart over time are as likely to be a consequence of the Hot 100's changing definition as it is file sharing. Accordingly, the Hot 100 is a meaningless measure of music output over time.

Dr. Ford also demonstrates that Professor Lunney uses improper statistical procedures and, by his own analysis, all of Professor Lunney's results disappear once the proper estimation method is applied. Moreover, putting aside the many severe statistical defects of Professor Lunney's study – many of which are detailed by Dr. Ford – Professor Lunney's reported results are entirely consistent with the expectations of the standard theory of copyright: *Piracy reduces the creation of new works.*

"The general principle that payment to producers encourages production is, so far as I know, not under attack in any venue *except* copyright," said Dr. Ford. "Claims of special and unique circumstances in intellectual property require extraordinary evidence—a burden that Professor Lunney has totally failed to meet."

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“Professor Lunney’s argument misses the point,” said Phoenix Center President Lawrence J. Spiwak. “The purpose of copyright is *not*, as Dr. Lunney believes, to promote exclusively the creation of ‘new artists’ and their Hot 100 hit count, but to promote the creation of *new works* and other creative output by established artists, new artists, and even artists that will never have a song appear in the Hot 100 chart where songs like ‘*What Does the Fox Say?*’ measure artistic genius.”

A full copy of PHOENIX CENTER POLICY PERSPECTIVE NO. 14-02: *What is the Effect of File Sharing on the Creation of New Music? A Critical Review of “A Case Study of File Sharing and Music Output”* may be downloaded free from the Phoenix Center’s web page at: <http://www.phoenix-center.org/perspectives/Perspective14-02Final.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.*

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