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Press Release

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PHOENIX CENTER COMMENTS ON CCIA'S "COMICALLY-OUTSIZED" ECONOMIC IMPACT IN FAIR USE REPORT

US trade negotiators, governments and international organizations should reject efforts to expand fair use based on fantastic claims by CCIA

WASHINGTON, D.C. — Copyright law provides incentives for creative activity by granting an exclusive property right in creative works, thereby permitting the market for such works to exist. There are, however, some exceptions and limitations to this exclusive right, including the fair use provisions of Section 107 of the U.S. Copyright Act (and similar laws in other countries). Online intermediaries that rely heavily on copyrighted works prefer, for obvious reasons, an expansive interpretation of fair use not only in the U.S. but across the globe. As such, they routinely argue the adoption of U.S. style fair use will materially stimulate economic activity.

To support this claim, dominant internet platforms rely on a serial report published by the Computer & Communications Industry Association ("CCIA") entitled *Fair Use in the U.S. Economy: 2017.* According to CCIA, fair use is responsible for a whopping 16% of total U.S. Gross Domestic Product.

Given the eye-popping size of CCIA's number, Phoenix Center Chief Economist Dr. George S. Ford subjects CCIA's claim to review in a new economic analysis released today entitled *Fair Use and the Economy: A Critical Review of CCIA's Estimate*. As Dr. Ford demonstrates, CCIA has produced a "comically-outsized effect" by requiring policymakers to believe that entire industries like computer manufacturing, computer and printer repair, architectural and legal services, newspapers, the movie industry, among others, "would not exist" without liberal fair use.

"To see the silliness of the claim, note that under the CCIA Report's framework the entire U.S. economy (if not the world's) is attributable to the electric industry, since electricity is essential to the production, distribution and/or consumption of all goods and services" said Dr. Ford. "Yet, the electric utility industry lays claim to only 5% of U.S. GDP, less than one third of the contribution claimed in the CCIA Report for a narrow provision of copyright law."

Few will be surprised to find out that the evidence does not support the CCIA's central assumption. Industries labeled in CCIA's Report as "core" fair use sectors thrive in countries without broad fair use provisions, undermining the Report's conclusions.

Additionally, Dr. Ford conducts some empirical analysis to see whether the adoption of the liberal U.S.-style fair use policies by South Korea and Singapore affected economic outcomes. Certainly, if broad fair use provisions are responsible for 16% of GDP as CCIA's Report concludes, then the adoption of perhaps the most liberal of fair use policies should be readily detected in increased GDP. Yet, Dr. Ford finds no such beneficial effect. In fact, the evidence suggests that, if anything, economic growth slowed in these countries after incorporating U.S.-style fair use into their copyright laws. According to Dr. Ford, "Given these obvious and serious defects CCIA's Report should be ignored by policymakers."

A full copy of PHOENIX CENTER POLICY PERSPECTIVE NO. 18-05, *Fair Use and the Economy: A Review of CCIA's Estimate,* may be downloaded free from the Phoenix Center's web page at: http://www.phoenix-center.org/perspectives/Perspective18-05Final.pdf.

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