

PHOENIX FOR ADVANCED
LEGAL & ECONOMIC
C E N T E R PUBLIC POLICY STUDIES
www.phoenix-center.org

2004 ANNUAL REPORT

**PHOENIX CENTER
FOR ADVANCED LEGAL & ECONOMIC
PUBLIC POLICY STUDIES**
5335 Wisconsin Avenue, NW, Suite 440
Washington, D.C. 20015
Tel: (+1) (202) 274-0235 Fax: (+1) (202) 244-8257//9342 e-Fax: (+1) (202) 318-4909
www.phoenix-center.org

PRESIDENT'S MESSAGE

2004 again proved to be another extremely active year for the Phoenix Center.

First, the Phoenix Center's published work was again prodigious. For example, the Phoenix Center published two POLICY PAPERS and four POLICY BULLETINS. In addition, the Phoenix Center inaugurated a POLICY PERSPECTIVES SERIES in 2004, issuing five new PERSPECTIVES on a wide variety of topics.

Second, the Phoenix Center held its inaugural State Regulator Retreat in Phoenix, Arizona. Unlike other conferences, the Phoenix Center Retreat was intended solely to provide regulators the opportunity to expand their knowledge through open and honest discussions with colleagues from across the nation. As such, this Retreat was a true "roll-up your sleeves" event: no press, no lobbyists, working meals, *etc.* - just policymakers and our faculty candidly talking policy in an intimate, academic setting.

Third, the Phoenix Center's Annual U.S. Telecoms Symposium was another phenomenal success. In addition to hearing panels comprised of some of the leading experts in the industry, over eighty people watched Keynote Speaker Senator John Sununu lecture for over ninety minutes and Congressman John Conyers (D-MI) (the ranking member of the House Judiciary Committee) received the Phoenix Center's prestigious annual Jerry B. Duvall Public Service Award (previous recipients include FCC Commissioner Kevin J. Martin, Senator Byron Dorgan and Representative Chris Cannon).

Fourth, major media outlets continued to cite the Phoenix Center and its Members in 2004 as sources of academically rigorous and unbiased information. For example, these outlets included, among others, THE WASHINGTON POST, NEW YORK TIMES, FORBES.COM, MIAMI HERALD, LOS ANGELES TIMES, MILWAUKEE JOURNAL, FT. WORTH STAR

TELEGRAM, SAN FRANCISCO CHRONICLE, and the SEATTLE POST INTELLIGENCER.

Fifth, Phoenix Center Members continued to contribute actively to the public dialectic. Among other things, Phoenix Center Members published op-eds in prestigious media outlets such as the LEGAL TIMES,



the OKLAHOMAN, UNITED PRESS INTERNATIONAL, the WASHINGTON TIMES and CNET.com. In addition, Phoenix Center members were asked to speak at major policy conferences such as the National Association of Regulatory Utility Commissioners Annual Meeting, and PHOENIX CENTER POLICY PAPER NO. 18, *Set It and Forget It? Market Power and the Consequences of Premature Deregulation in Telecommunications Markets* was selected for publication in New York University's JOURNAL OF LAW AND BUSINESS. Significantly, since becoming a "partner in publishing" with the Social Science Research Network ("SSRN") in January 2004, Phoenix Center publications have made the SSRN's "top ten" most-viewed lists a staggering 27 times, and Phoenix Center President Lawrence J. Spiwak is ranked in the top 18% of authors listed overall.

Finally, we are extremely pleased to report that the Phoenix Center's web page received nearly a half a million hits in 2004, again demonstrating that the Phoenix Center's web page is firmly established as an international reference resource of first resort for policymakers and scholars alike.

Thank you for your support.

- Lawrence J. Spiwak
President

PHOENIX CENTER MEMBERS

Professional Staff:

Lawrence J. Spiwak, Esq.
President and Chairman of the Board of Editorial Advisors
E-mail: lspiwak@phoenix-center.org

George Ford, PhD
Chief Economist
E-mail: george.ford@phoenix-center.org

Thomas Koutsky, Esq.
Resident Scholar
E-mail: tom@phoenix-center.org

Adjunct Fellows And Editorial Advisory Board Members:

T. Randolph Beard, PhD
Adjunct Fellow and Member Ed. Advisory Board
Professor of Economics
Auburn University
E-mail: rbeard@business.auburn.edu

Jason A. Hoida
Editorial Advisory Board Member
University of Oslo, Faculty of Law
E-mail: jason.hoida@jus.uio.no

Flemming Dehn Jespersen
Adjunct Fellow and Member Ed. Advisory Board
General Counsel & Regulatory Director
WorldCom, Scandanavia
E-mail: flemmingjespersen@worldcom.se

Jeffrey Lanning, Esq.
Editorial Advisory Board Member
Washington, D.C.
E-mail: jeff.lanning@mail.com

Christopher T. Marsden
Adjunct Fellow and Member Ed. Advisory Board
United Kingdom
E-mail: marsden@re-think.com

Jason P. Matechak, Esq.
Adjunct Fellow and Member Ed. Advisory Board
Reed Smith
E-mail: JMatechak@ReedSmith.com

Barry L. Mendelsohn, MD
Adjunct Fellow and Member Ed. Advisory Board
Washington, D.C.
E-mail: bmendelsohn@dr.com

Mark Naftel, Esq.
Adjunct Fellow and Member Ed. Advisory Board
Nashville, TN
E-mail: mark@naftellaw.com

Kent R. Nilsson, PhD
Adjunct Fellow and Member Ed. Advisory Board
Federal Communications Commission
E-mail: knilsson@fcc.gov

Brian Thomas O'Connor
Editorial Advisory Board Member
Washington, D.C.
E-mail: brianoconnor@comcast.net

Lucien Rapp
Adjunct Fellow and Member Ed. Advisory Board
Professor Agregé des Facultés de Droit
Université de Toulouse, France
E-mail: lucien.rapp@univ-tlse1.fr

Dr. Ralf Weisser
Editorial Advisory Board Member
McDermott, Will & Emery
Munich Germany
E-Mail: rweisser@europe.mwe.com

Jerry Duvall, PhD
Honorary Chief Economist Emeritus
Director of Economic Research
Media Bureau
Federal Communications Commission
E-mail: Jerry.Duvall@fcc.gov

TABLE OF CONTENTS:

<i>President's Message</i>	1
<i>Members</i>	2
<i>Contributing to the Public Dialectic</i>	3
<i>Phoenix Center Publications</i>	4
<i>Web Page Traffic</i>	5
<i>Duvall Public Service Award</i>	6
<i>U.S. Telecoms Symposium</i>	7
<i>State Regulator Retreat</i>	8
<i>Mission Statement</i>	9

CONTRIBUTING TO THE PUBLIC DIALECTIC

In 2004, Phoenix Center Members again continued to make numerous contributions to the public dialectic in a wide variety of forums.

PRESS APPEARANCES:

2004 marked another year where the world's media called upon the Phoenix Center Staff as experts in their fields. For example, Phoenix Center Staff was quoted by, among other news outlets:

- The WASHINGTON POST;
- The SEATTLE POST INTELLIGENCER;
- The FORT WORTH STAR TELEGRAM;
- The LOS ANGELES TIMES;
- The SAN FRANCISCO CHRONICLE;
- FORBES.COM;
- The NEW YORK TIMES;
- The MIAMI HERALD;
- The MILWAUKEE JOURNAL SENTINEL;
- THE DAY (Connecticut);
- TECH CENTRAL STATION;
- MULTICHANNEL NEWS;
- WALL STREET & TECHNOLOGY ON-LINE;
- RED NOVA;
- UNITED PRESS INTERNATIONAL;
- The NEW JERSEY BEACON;
- THE STATE (South Carolina);
- The Ruth Koscielak Radio Show;
- TOTAL TELECOM;
- COMMUNICATIONS DAILY;
- TELECOMMUNICATIONS POLICY REPORT;
- THE ROGERS REPORT;
- TECH WEB NEWS;
- CONSUMERAFFAIRS.COM;
- PHONE+;
- TRDAILY; and
- TELECOMWEB.

OP-EDS AND OPINION PIECES:

Phoenix Center staff also wrote several op-ed and opinion pieces for national and international media outlets, including:

- Two op-eds in the LEGAL TIMES;
- Three pieces in CNET.com (and reprinted in ZDNET.com);
- The OKLAHOMAN;
- UNITED PRESS INTERNATIONAL;
- The WASHINGTON TIMES;
- TOTAL TELECOM;
- The COLUMBUS LEDGER INQUIRER (Columbus, Georgia), and
- The BRADENTON HERALD (Florida).

ACADEMIC CONFERENCES AND SYMPOSIUMS

In addition to participating in the Phoenix Center's various events, The Phoenix Center's Members also participated in a wide variety of international conferences, such as the National Association of Regulatory Utility Commissioners 117th Annual Meeting in Nashville, Tennessee.

ACADEMIC PUBLISHING:

Significantly, since becoming a "partner in publishing" with the Social Science Research Network ("SSRN") in January 2004, Phoenix Center publications have made the SSRN's "top ten" most-viewed lists a staggering 27 times, and Phoenix Center President Lawrence J. Spiwak is ranked in the top 18% of authors listed overall.

In addition, we are pleased to report that New York University's JOURNAL OF LAW AND BUSINESS has decided to reprint PHOENIX CENTER POLICY PAPER NO. 18, *Set It and Forget It? Market Power and the Consequences of Premature Deregulation in Telecommunications Markets* in their forthcoming Spring issue.

Phoenix Center Publications

The Phoenix Center continued to publish a prodigious amount of scholarly research in 2004.

PHOENIX CENTER POLICY PAPER SERIES

The Phoenix Center's POLICY PAPER SERIES seeks to provide an in-depth analysis of the current regulatory and political paradigms, as well as to provide constructive and well-reasoned solutions to the problems of the day. In 2004, the Phoenix Center issued the following Policy Papers:

- George S. Ford and Lawrence J. Spiwak, *The Positive Effects of Unbundling on Broadband Deployment*, PHOENIX CENTER POLICY PAPER NO. 19 (September 2004) (<http://www.phoenix-center.org/pcpp/PCPP19Final.pdf>)
- T. Randolph Beard, George S. Ford and Lawrence J. Spiwak, *Quantity-Discount Contracts for Special Access Services as a Barrier to Entry*, PHOENIX CENTER POLICY PAPER NO. 20 (November 2004) (<http://www.phoenix-center.org/pcpp/PCPP20Final.pdf>).

PHOENIX CENTER POLICY BULLETIN SERIES

The Phoenix Center's POLICY BULLETIN SERIES is designed to provide a forum for responding to breaking policy issues in a shorter period of time than our PHOENIX CENTER POLICY PAPER series. The Phoenix Center published the following POLICY BULLETINS in 2004:

- PHOENIX CENTER POLICY BULLETIN NO. 8: *The \$10 Billion Benefit of Unbundling: Consumer Surplus Gains from Competitive Pricing Innovations* (27 January 2004). <http://www.phoenix-center.org/PolicyBulletin/PCPB8Final.pdf>
- PHOENIX CENTER POLICY BULLETIN NO. 9: *Federalism in Telecommunications Regulation: Effectiveness and Accuracy of State Commission Implementation of TELRIC in Local Telecoms Markets* (9 March 2004). <http://www.phoenix-center.org/PCPB9Final.pdf>

- PHOENIX CENTER POLICY BULLETIN NO. 10: *Fixed-Mobile "Intermodal" Competition in Telecommunications: Fact or Fiction?*, (30 March 2004). <http://www.phoenix-center.org/PolicyBulletin/PCPB10Final.pdf>
- PHOENIX CENTER POLICY BULLETIN NO. 11: *Higher Prices Expected from the Cingular/AT&T Wireless Merger* (26 May 2004). <http://www.phoenix-center.org/PolicyBulletin/PCPB11Final.pdf>

PHOENIX CENTER POLICY PERSPECTIVES

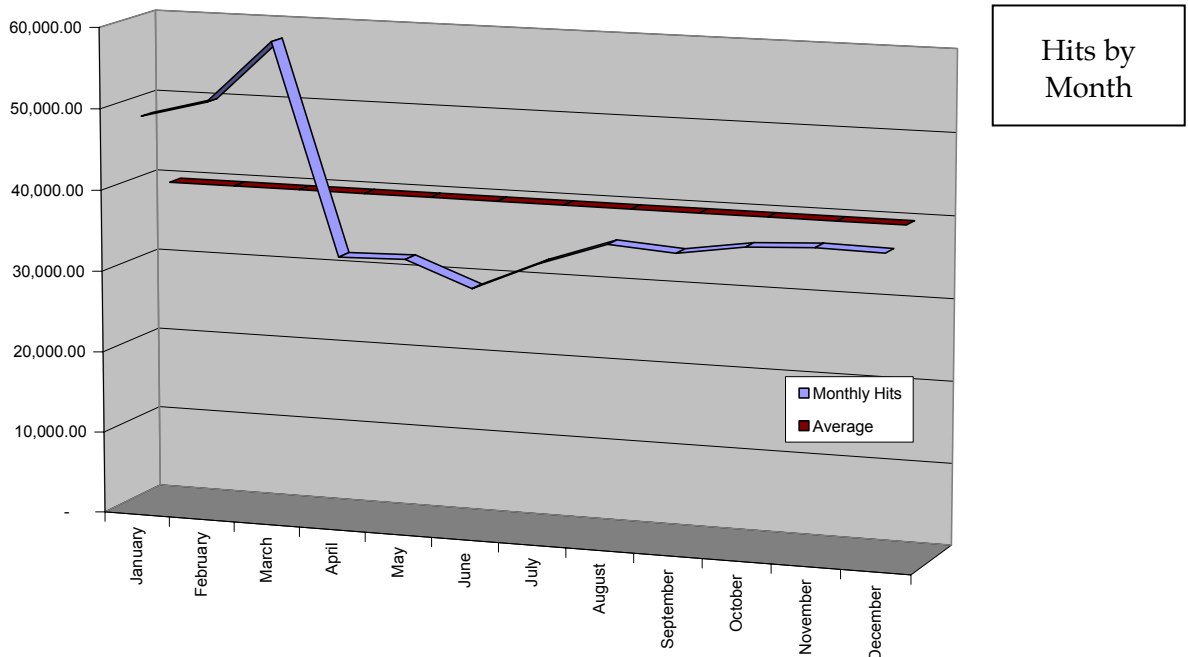
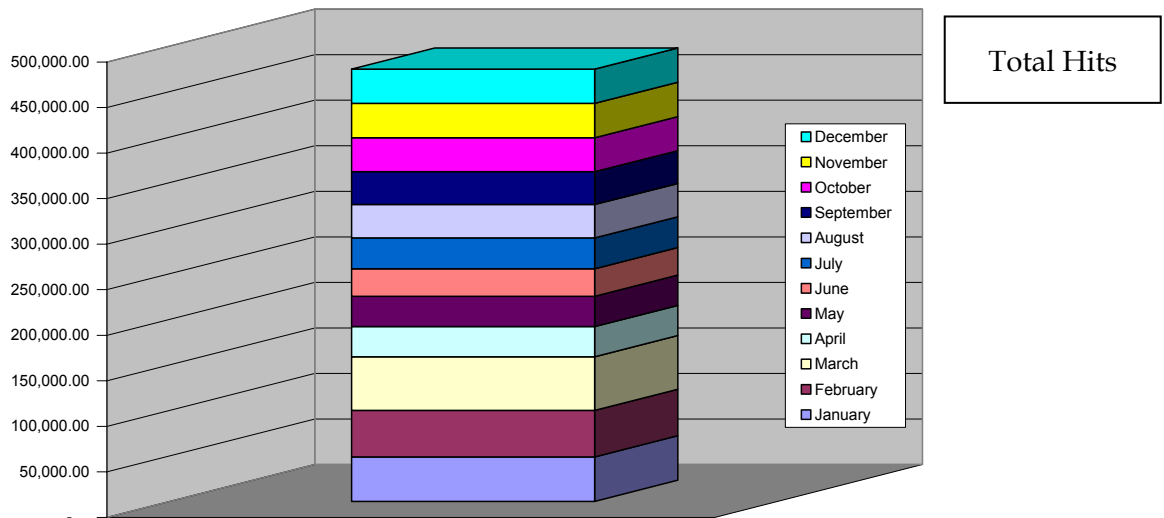
In 2004, the Phoenix Center inaugurated its POLICY PERSPECTIVES SERIES to provide a forum for its individual members to express their personal views on current policy developments. The Phoenix Center published the following POLICY PERSPECTIVES in 2004:

- PHOENIX CENTER PERSPECTIVES NO. 04-01: *Remembering What the Fight is About* (26 April 2004). <http://www.phoenix-center.org/perspectives/Perspective04-01Final.pdf>
- PHOENIX CENTER PERSPECTIVES NO. 04-02: *The Public's Network?* (13 May 2004). <http://www.phoenix-center.org/perspectives/Perspective04-02Final.pdf>
- PHOENIX CENTER PERSPECTIVES NO. 04-03: *A Little Intellectual Honesty Please...* (15 June 2004). <http://www.phoenix-center.org/perspectives/Perspective04-03Final.pdf>
- PHOENIX CENTER PERSPECTIVES NO. 04-04: *The Creeping Tide of the Gathering Storm* (10 November 2004). <http://www.phoenix-center.org/perspectives/Perspective04-04Final.pdf>
- PHOENIX CENTER PERSPECTIVES NO. 04-05: *You're Not Impaired Because You Are Impaired* (10 November 2004). <http://www.phoenix-center.org/perspectives/Perspective04-05Final.pdf>

WEB PAGE TRAFFIC

One of the major activities of the Phoenix Center is to host the Phoenix Center's internationally renowned web page (<http://www.phoenix-center.org>). Not only is the Phoenix Center's web page a fertile "clearing house" of ideas, but visitors to this site may avail themselves of one of the largest sources of free research tools on the Internet.

2004 was another year of incredible growth for the Phoenix Center's web page. As demonstrated below, the Phoenix Center's web page again received nearly a half a million hits in 2004, clearly demonstrating that the Phoenix Center's web page continues to be an international reference resource of first resort for policymakers and scholars alike.



DUVALL PUBLIC SERVICE AWARD

Each year at the Phoenix Center's Annual U.S. Telecoms Symposium, the Phoenix Center recognizes policy-makers who seek to maximize consumer welfare through its prestigious Jerry B. Duvall Award for Public Service. The Duvall Award goes to the policy-maker who - like its namesake - most demonstrates the political courage to break from the conventional rhetoric and instead approaches the complex competitive issues raised by telecoms restructuring with the solemnity and analytical rigor they deserve. Previous recipients include Representative Chris Cannon (R-UT), Senator Byron Dorgan (D-ND), and FCC Commissioner Kevin Martin.

In 2004, the Phoenix Center chose Congressman John Dingell (D-MI), the ranking member of the House Judiciary Committee to be the recipient of the Duvall Award.



Phoenix Center President Lawrence J. Spiwak presents Commissioner Martin with the Duvall Award



The Duvall Award



Representative Conyers with Phoenix Center President Lawrence J. Spiwak



From Left to Right: FCC Commissioner Kevin Martin, Representative Conyers, and Jerry B. Duvall

2004 U.S. TELECOMS SYMPOSIUM

On December 16th, 2004, the Phoenix Center again held its annual U.S. Telecoms Symposium in Washington, D.C.

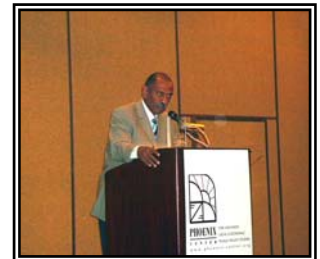
Right off the bat, delegates were treated to a remarkable ninety-minute unscripted lecture by Senator John Sununu (R-NH) on a wide range of issues, including VoIP, universal service and inter-carrier compensation.

After Senator Sununu's speech, the conference began in earnest with the traditional "economists' panel. This year, this panel included Dr. Martin Perry, Chief Economist - Federal Communications Commission; Dr. Jerry Ellig, Senior Research Fellow - Mercatus Center; Dr. John W. Mayo, Professor of Economics - Georgetown University; and Dr. George Ford, Chief Economist - Phoenix Center. As always, the panel was moderated by Honorary Phoenix Center Chief Economist Emeritus Jerry Duvall.

The second panel of the day, moderated by Phoenix Center Adjunct Fellow Dr. Kent Nilsson, examined policy implications and market realities of VoIP. Panelists included Larry Irving, Internet Innovation Alliance; David G. Belanger, Chief Scientist - AT&T Labs; Rick Whitt, Senior Vice President for Law and Policy - MCI; and Russell Hanser, Special Counsel to the Chief, Competition Policy Division, Wireline Competition Bureau Federal Communications Commission.

The last panel of the day, moderated by Phoenix Center Resident Scholar Tom Koutsky, examined the thorny issue of inter-carrier compensation. Panelists included Dorothy Attwood, Senior Vice President - SBC; Jason Oxman, General Counsel - ALTS; John Jones, Vice President for Federal Relations - CenturyTel; and the Hon Allen Freifeld, Commissioner - Maryland Public Service Commission.

The Symposium concluded with the presentation of the Phoenix Center's Annual Jerry B. Duvall Public Service Award to Congressman John Conyers (D-MI), the ranking member of the House Judiciary Committee. We also very much appreciated the fact that while his schedule could not allow him to speak, FCC Commissioner Kevin Martin was nonetheless able to join us for lunch.



PHOENIX CENTER STATE REGULATOR RETREAT

Searching for new ways to spark the public dialectic, the Phoenix Center held its inaugural State Regulator Retreat at the Tapatio Cliffs Resort in Phoenix, Arizona.

The purpose of this Retreat was to bring together a select group of state regulators, a “blue ribbon” faculty from academia and government, and several keynote speakers for a series of briefings and informal exchanges about the interaction of regulation, economics and technological change. Unlike other conferences, the Phoenix Center Retreat was intended solely to provide regulators the opportunity to expand their knowledge through open and honest discussions with colleagues from across the nation. As such, this Retreat was true a “roll-up your sleeves” event: no press, no lobbyists, working meals, *etc.* – just policymakers and our faculty candidly talking policy in an intimate, academic setting.

As always, our “blue ribbon” faculty and guest speakers were of the highest caliber. For example, the keynote discussion was led by Grover Norquist, President Americans for Tax Reform; our political roundtable was led by long-time Republican Strategist Charlie Black; and FCC Commissioner Kevin Martin gave his first public address since *USTA II* and the FCC’s Interim Rules were released and spoke candidly to the Retreat’s participants about the current state of affairs. And, in addition to the Phoenix Center’s expert staff, our “blue ribbon” faculty included Princeton Professor Bobby Willig (the author of the 1992 DOJ Horizontal Merger Guidelines), Bruce Fein (former FCC General Counsel), Bruce Mehlman (former Assistant Secretary of Commerce of Technology Policy), and Brad Ramsay (NARUC General Counsel).



What People Said About the Retreat...

“What distinguishes the Phoenix Center’s presentation was the quality of the facilitators and rigor of analysis. The presentations avoided the temptations of ideology and orthodoxy in favor of intense economics, factual and legal analysis. [T]here were no ‘sacred cows’ and discussion was uninhibited and robust.”

- Brian Moline, Chair – Kansas Corporation Commission

*“I was particularly impressed by the analytical rigor of the presentations. *** Sometimes I feel weighty issues are decided in a vacuum. It is a fact that there are a few structured events for me to immerse in a complex matter. [T]he Phoenix Center afforded me such an opportunity.”*

- Marc Spitzer, Chairman – Arizona Corporation Commission

“I truly enjoyed the analytical rigor of the program, and I found it to be a great learning experience. The Retreat provided the perfect forum to discuss critical policy issues with my colleagues from around the nation, and to listen to others’ views on the interaction of regulation, economics, and technological change.”

- J. Peter Lark, Chair – Michigan Public Service Commission

“I ... commend you for the extraordinary quality of the [Retreat]...The presentations, and the give and take that they generated, constituted a great learning experience.”

- Allen Freifeld, Commissioner – Maryland Public Service Commission

*“The Retreat was an excellent opportunity for me, as a State Regulator, to take some time to strategically think about the regulatory issues confronting my state. *** I especially appreciated the way the sessions were well balanced and objective in their discussion of often time controversial regulatory issues. Such an analytical approach caused me to think of issues in a different way and I am sure will greatly benefit me in my regulatory role in Tennessee.”*

- Sara Kyle, Director – Tennessee Regulatory Authority

The Retreat “was one of the most pleasant and informative events I have attended during my tenure.”

- Ted Boyer, Commissioner – Utah Public Service Commission

The Phoenix Center’s State Regulator Retreat “was one of the most informative and intellectually stimulating activities that I have experienced in more than eight years as a regulator.”

- Arnetta McRae, Chairman – Delaware Public Service Commission