

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

2013 ANNUAL REPORT

PHOENIX CENTER FOR ADVANCED LEGAL & ECONOMIC PUBLIC POLICY STUDIES

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PRESIDENT'S MESSAGE

2013 again proved to be another extremely productive year for the Phoenix Center, so much so that all of our many accomplishments and accolades cannot be summarized here.

As always, the Phoenix Center's research in 2013 was prolific. To begin, the Phoenix Center issued nine (9) scholarly papers in 2013. We are also extremely proud to report that no less than four (4) Phoenix Center papers were published, or accepted for publication, in academic journals.

In 2013, the Phoenix Center also took steps to bolster our digital presence. For example, we authored twenty four (24) blogs on @LAWANDECONOMICS, the official blog of the Phoenix Center. As always, we took great pains to make @lawandeconomics as rigorous as the format permits, and we hope readers found these posts useful. We also again participated actively on Twitter with our handle @lawandeconomics, and we are pleased to report that we have over 2,100 followers.

We also are pleased to report that our efforts have not gone unnoticed. For example, Phoenix Center Chief Economist Dr. George Ford remains in top 1% of authors downloaded on the Social Science Research Network, and I am not far behind in the top 1.5%. More importantly, the Phoenix Center's webpage received over one million hits in 2013, and our @LAWANDECONOMICS blog page received over 5,000 hits.

But there is more: Not only was our work cited prolifically in both the press and in the academic literature in 2013, but the Federal Communications Commission repeatedly cited our research in its recent *16th CMRS Report* to break the link between market shares and market performance.

We also participated in a wide variety of conferences, and Phoenix Center Chief Economist Dr. George Ford testified twice before Congress (once before the House and once before the Senate).

Moreover, in 2013 the Phoenix Center again went international as we were hired by USAID to travel to Bangkok to evaluate Thailand's attempts to use market-based mechanisms to allocate spectrum.

We also tried to contribute to the broader telecom community. To this end, I was again pleased to serve as the co-chair of Federal Communications Law Association's committee to oversee the FEDERAL COMMUNICATIONS LAW JOURNAL.

Finally, the Phoenix Center also put on three fantastic programs this year.

First, we inaugurated a "Telecom Economics 101" webinar series. Our goal with this series is to provide an opportunity for interested folks to walk through some of our papers with Phoenix Center Chief Economist Dr. George Ford to better understand the analysis therein.

We also held Second Annual Rooftop Policy Roundtable Discussion, where we had an excellent set of interactive conversations about the IP Transition with FCC Commissioner Ajit Pai and a panel of experts over drinks and cigars.

Finally, we held our Thirteenth Annual U.S. Telecoms Symposium to another standing-room only crowd. As always, we had leading policymakers and practitioners participate, and the discussions were excellent.

Once again, not a bad year...

— Lawrence J. Spiwak, President

PHOENIX CENTER PUBLICATIONS

The Phoenix Center continued to publish a prodigious amount of scholarly research in 2013. As always, all of the Phoenix Center's research is available free on the Phoenix Center's web page and on the Social Science Research Network.

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 2013, the Phoenix Center issued the following POLICY PAPERS:

- PHOENIX CENTER POLICY PAPER NO. 45: *Lessons Learned from the U.S. Unbundling Experience* (June 2013);
- PHOENIX CENTER POLICY PAPER NO. 46: *Market Mechanisms and the Efficient Use and Management of Scarce Spectrum Resources* (December 2013);
- PHOENIX CENTER POLICY PAPER NO. 47: *An Economic Framework for Retransmission Consent* (December 2013).

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 BULLETIN in 2013:

- PHOENIX CENTER POLICY BULLETIN NO. 32, *Equalizing Competition Among Competitors: A Review of the DOJ's Spectrum Screen Ex Parte Filing* (May 2013).

PHOENIX CENTER POLICY PERSPECTIVES

The Phoenix Center's POLICY PERSPECTIVES SERIES is designed 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 2013:

- PHOENIX CENTER POLICY PERSPECTIVE NO. 13-01: *Searching for a New Regulatory Paradigm: A Comment on AT&T's Petition for Wire Center Trials* (February 25, 2013);
- PHOENIX CENTER POLICY PERSPECTIVE NO. 13-02: *Revisiting Internet Use and Depression Among the Elderly* (June 7, 2013);
- PHOENIX CENTER POLICY PERSPECTIVE NO. 13-03: *Will Bidder Exclusions Increase Auction Revenue? A Review of the Arguments* (June 11, 2013);
- PHOENIX CENTER POLICY PERSPECTIVE NO. 13-04: *The Economics of Bidder Exclusion Rules: A Response to Dr. Baker* (July 18, 2013); and
- PHOENIX CENTER POLICY PERSPECTIVE NO. 15-05: *Piracy and Movie Revenues: A Critical Review of "A Tale of the Long Tail"* (September 16, 2013).

Academic Publications

In 2013, the Phoenix Center had no less than four of its papers published, or accepted for publication, in academic journals:

- *Wobbling Back to the Fire: Economic Efficiency and the Creation of a Retail Market for Set-Top Boxes*, 21 *COMMLAW CONSPPECTUS* 1;
- *Wireless Competition Under Spectrum Exhaust*, 65 *FEDERAL COMMUNICATIONS LAW JOURNAL* 79;
- *Justifying the Ends: Section 706 and the Regulation of Broadband*, 16 *JOURNAL OF INTERNET LAW* 1; and
- *Capital Investment and Employment in the Information Sector*, accepted for publication in *TELECOMMUNICATIONS POLICY*.

@LAWANDECONOMICS

In 2013, we worked steadily at @LAWANDECONOMICS, the official blog of the Phoenix Center. As always, we took great pains to make @LAWANDECONOMICS as rigorous as the format permits, and we hope readers found these posts useful. In 2013, our @lawandeconomics blog page received over 5,000 hits.

In 2013, we authored 24 posts on a wide variety of topics. They are, in descending order of hits:

- Sloppy Research Sinks Susan Crawford's Book (January 18, 2013).
- The Misuse of International Broadband Rankings Continues (February 19, 2013).
- Is there a "Silver Lining" of Sequestration? (February 26, 2013)
- The FCC Contradicts Their Facts (Again) To Justify Expanded Broadband Regulation (February 20, 2013).
- The Sixteenth CMRS Competition Report: A Paralysis Born in Humility (March 25, 2013).
- New America Foundation Misinterprets International Data (Again) (March 7, 2013).
- Copyright and Wireless Carterfone (February 7, 2013).
- New America Foundation Misinterprets International Data (Round Three) (November 11, 2013).
- Copyright and Wireless Carterfone (Part Deux) (March 7, 2013).
- It's Time for FCC/DOJ Inter-Agency Cooperation to Come into the Sunlight (May 2, 2013).
- A Response to the WaPo's Timothy Lee: Why Comcast is NOT Acting Like a Monopolist (October 3, 2013).
- Will the FCC Exclude Bidders from the Upcoming Voluntary Incentive Auction? (April 4, 2013)
- The Curious Cases of Aereo, BarryDriller and FilmOn X (October 3, 2013).
- Arguments for Bidder Exclusion Rules Remain Weak and Inconsistent (June 20, 2013).
- FCC Rules Block Broadband Price Cuts (May 13, 2013).
- Price, Profit, and Efficiency: Mark Cooper's Bungled Analysis (December 13, 2013).
- Spectrum Exhaust and the Monopolization Narrative (April 3, 2013).
- Looking Ahead to 2013 (January 11, 2013).
- Who is at Fault for On-Line Piracy? According to PiracyData.org, Blame the Victim (October 16, 2013).
- A Fresh Analytical Start at the FCC (October 11, 2013).
- Takeaways from Our Rooftop Policy Roundtable on the IP Transition (July 24, 2013).
- Thoughts on the 15th Cable Competition Report (August 7, 2013).
- PCAST: An Application of Prior Principles? (December 13, 2013).
- 2013 Year in Review (December 23, 2013).

CONTRIBUTING TO THE PUBLIC DIALECTIC

In 2013, there was certainly no shortage of complex issues raised in the policy debate. Some issues were relatively new (*e.g.*, getting the IP Transition underway), some issues were those with which we constantly struggle (*e.g.*, spectrum allocation and digital piracy), and some issues were those which re-emerged from hibernation after we thought everybody had moved on (*e.g.*, handset unlocking and international broadband rankings). In this section, we highlight what we here at the Phoenix Center found to be the most interesting policy issues of 2013, and some examples of where we believe we added constructively to the debate.

IP Transition

In 2013, the debate about the IP Transition finally began in earnest, and we at the Phoenix Center were right in the thick of things.

For example, we issued a paper entitled *Searching for a New Regulatory Paradigm: A Comment on AT&T's Petition for Wire Center Trials*, where we focused on firms' incentives to act on their best behavior during AT&T's proposed wire center trials. We presented an economic model which revealed that, given the heavy regulatory oversight of the proposed trials by the FCC, participating firms are likely to be on their best behavior during these field experiments. As a result, we showed that these trials will provide significant evidence of industry "best" practices (although the practices are expected to be slightly biased against the unconstrained interests of those favoring reform), leaving a trail of precedent applicable to a more widespread implementation of regulatory reform.

We also issued a paper entitled *Lessons Learned from the U.S. Unbundling Experience*, many of which can be applied to the IP

Transition. In particular, our paper showed that (1) before you formulate any regulatory paradigm, it is important to understand the complex underlying economics of the last mile; (2) policymakers must make sure the incentives of the stakeholders are properly aligned (otherwise you create the incentive for sabotage); and (3) policymakers must recognize that any regularly paradigm can easily be undercut by technological advances.

Finally, in July we held our ever-popular Rooftop Policy Roundtable to discuss the IP Transition over drinks and cigars. Not only were we honored with a keynote presentation from FCC Commissioner Ajit Pai, but for those who stayed and braved the Rain Gods we had an amazing discussion from an all-star panel. While the discussion was lively and insightful, perhaps the biggest take-away from our Roundtable is that the IP Transition is not a discrete issue; instead, the IP Transition concerns the whole regulatory ecosystem surrounding the communications industry. Indeed, our Roundtable made clear that if we are to develop a cohesive regulatory paradigm for an IP-based world, then we must also include in the conversation such complex and diverse issues such as interconnection, copper retirement, universal service, intercarrier compensation, carrier of last resort obligations, etc. Simply stated, the IP Transition is not going to be a quick and easy process for us to work through, but it's an important one and we shouldn't be afraid to take it on.

Spectrum/Wireless Issues

In 2013, the Phoenix Center once again focused on a wide range of spectrum issues which continue to occupy center stage among the policy set.

For example, we spent a considerable amount of time continuing our research exploring the relationship between spectrum allocation and

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industry structure. This work included the publication of our paper *Wireless Competition Under Spectrum Exhaust* in the FEDERAL COMMUNICATIONS LAW JOURNAL, having Phoenix Center Chief Economist Dr. George Ford testify before the Senate Commerce Committee on “The State of Wireless Communications” and having the Federal Communications Commission repeatedly cite our research in its recent 16th CMRS Report as analytical support to break the link between market shares and market performance.

We also spent a fair amount of time focusing on the FCC’s upcoming voluntary incentive auctions and, in particular, efforts by the Department of Justice and others to impose some sort of bidder exclusion rules. This research included not only two formal papers (PHOENIX CENTER POLICY BULLETIN NO. 33, *Equalizing Competition Among Competitors: A Review of the DOJ’s Spectrum Screen Ex Parte Filing* (May 2013) and PHOENIX CENTER POLICY PERSPECTIVE NO. 13-03, *Will Bidder Exclusions Increase Auction Revenue? A Review of the Arguments* (June 11, 2013)), but also a series of blogs. Yet, perhaps most surprising to us was the fact that even though the Phoenix Center has a long-standing policy of not filing anything at the FCC, T-Mobile nonetheless felt compelled to hire both a special outside counsel and expert witness to formulate (and subsequently file in the FCC’s record) a response to our research (which was simply posted on our webpage). While we were slightly dismayed by the harsh tone of T-Mobile’s attacks, we were nonetheless flattered that they believed our research has such a major impact in the policy debate. So, consistent with our policy of posting meaningful critiques of our work on our webpage to foster academic debate, interested readers can view both T-Mobile’s filing, as well as our response (which was also not filed at the FCC) on our webpage.

Also, we attempted to tackle the difficult (and heretofore unresolved) issue of how government can use and spectrum more efficiently in the hopes of repurposing spectrum for commercial use. In a POLICY PAPER entitled *Market Mechanisms and the Efficient Use and Management of Scarce Spectrum Resources*, we looked into this issue and came to the conclusion that that if the goal of spectrum use and management is economic efficiency, then policymakers should expand the private sector’s management of the nation’s scarce spectrum resources.

Dr. Ford was also invited to testify before the House Energy and Commerce Committee at a fascinating hearing which sought to determine whether mHealth applications transformed smartphones into a “medical device” subject to both the 2.3% medical excise tax required by the Affordable Care Act as well as regulation by the Food and Drug Administration.

Finally, we are pleased to report that our spectrum work went international in 2013, as we were again asked by USAID to author a study on Thailand’s efforts to use market mechanisms to allocate spectrum. We truly appreciated the hospitality we received when we traveled to Bangkok, and we certainly enjoyed noshing our way through Thailand’s famous street food scene. Best of all, we can now check off riding an elephant from our bucket lists.

The “Monopolization” Narrative

One of the constant arguments we hear in the broadband debate is that firms are somehow “acting like monopolists” or “exercising market power.” However, as we repeatedly showed, these arguments are often based on an improper application of economic theory and, as such, the facts cited by the

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“monopolization narrative” proponents regularly belie their arguments.

For example, we felt compelled to call out the numerous flaws made when Mark Cooper of the Consumer Federation of America attempted a formal analysis of wireless firms’ pricing, profits, and efficiency. As Phoenix Center Chief Economist Dr. George Ford explained in great detail in his blog *Price, Profit, and Efficiency: Mark Cooper’s Bungled Analysis*, the evidence Mr. Cooper presented leads to no strong suspicion that AT&T and Verizon are exercising undue market power in the mobile wireless industry. Using proper economic techniques, George demonstrated that what Mr. Cooper’s evidence does suggest is that the companies are reaping positive returns on their investments in superior quality, and that’s a good thing.

And then we had WASHINGTON POST technology reporter Tim Lee’s unsupported claim that Comcast is “acting more and more like a monopolist.” In a blog post entitled *A Response to the WaPo’s Timothy Lee: Why Comcast is NOT Acting Like a Monopolist*, we explained that not only were we unable to find an economic argument in Mr. Lee’s reporting that supported Mr. Lee’s argument that large quality spreads are monopoly behavior—whether formal or informal—but we also pointed out (again using proper economic techniques) how Mr. Lee’s own data belied his argument.

Last, but certainly not least, we had Susan Crawford’s controversial book *Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age*. This was a thought provoking book, and we were delighted to see that Professor Crawford cited Phoenix Center President Larry Spiwak by name in the text. As the overwhelming number of critiques of her book were nothing more than *ad hominem* attacks, we felt

Professor Crawford deserved a legitimate academic critique on the merits. Unfortunately, as we explained in a blog post entitled *Sloppy Research Sinks Susan Crawford’s Book*, we found, among numerous other problems, that because Professor Crawford did not check her citations carefully regarding, for example, the true cost of building out a nationwide network or the true number of homes cable companies serve in their service territories, it was not possible to assign the book any analytical credibility. As a result, rather than make a substantive contribution either to the debate or to the literature with scholarship and attention to detail, Professor Crawford’s sloppy research came off as pure advocacy.

Examining the Relationship Between the DOJ and FCC

Examining the relationship between the antitrust authorities and the Federal Communications Commission has long been a popular subject of research at the Phoenix Center. In 2013, Phoenix Center President Lawrence Spiwak authored two blogs on this topic which we believe warrant mention here.

In the first blog entitled *It’s Time for FCC/DOJ Inter-Agency Cooperation to Come into the Sunlight*, Larry argued that it’s time for the FCC to eliminate its *ex parte* rule which essentially allows it to meet in total secrecy with the DOJ. As Larry explained, while this rule has been increasingly abused over the last several years (*see, e.g.*, the DOJ/FCC tag team in the AT&T/T-Mobile merger), the fact that he found a video of Assistant Attorney General William Baer proudly testifying before the Senate Judiciary Committee that the DOJ worked “very cooperatively—quietly—with the Federal Communications Commission” in formulating the DOJ’s position on championing bidder exclusion rules for the upcoming voluntary incentive

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auctions is beyond the pale and raises some serious due process concerns.

Larry also authored a blog entitled *A Fresh Analytical Start at the FCC*, where he argued that if the FCC is to re-establish its reputation as the “expert” agency, then it needs to reject calls to adopt the same analytical approach used by the antitrust authorities. Using four recent case studies—the AT&T/T-Mobile merger, the *Phoenix Forbearance Order*, Special Access and the upcoming voluntary incentive auctions—Larry showed that using a typical antitrust “head count” approach leads to more regulation, not less. As such, Larry argued if we are truly going to achieve Congress’ stated desire of a “pro-competitive” and “deregulatory” communications marketplace, then the Commission is going to have to employ a more innovative analysis than a boilerplate “antitrust-type” approach can provide. Instead, the FCC must be an expert in the economics of markets characterized by few firms (often burdened by Congress with significant social obligations), not markets characterized by many firms.

Intellectual Property Protection

Over the past couple of years, the Phoenix Center has refuted the notion that digital piracy is costless to society. However, given the ever-growing popularity of the “information needs to be free” movement, in 2013 the Phoenix Center found itself pulled back into the debate.

For example in a POLICY PERSPECTIVE entitled *Piracy and Movie Revenues: A Critical Review of “A Tale of the Long Tail”*, George showed that a claim by researchers at the University of Munich and the Copenhagen Business School that digital piracy actually increases box office sales for some films was an artifact of a poorly-designed statistical model, which was, in part, a consequence of the study’s authors

ignoring the basic economics of the box office. Similarly, in a blog Larry wrote entitled *Who is at Fault for On-Line Piracy? According to PiracyData.org, Blame the Victim*, Larry demonstrated that not only was the data used by PiracyData.org unreliable, but the dataset—which purports to show the on-line availability of the most pirated movies on the assumption that digital piracy would be reduced if studios simply made more of their content on-line faster and cheaper—was irrelevant to the piracy debate in the first instance. (After all, theft is still theft.) The debate about the appropriate legal and economic contours of digital piracy is expected to intensify in the coming years, and we look forward to continuing to contribute to that discussion.

We also looked into the legal ramifications of new technology on the “Transmit Clause” contained in Section 101 of the Copyright Act in a blog entitled *The Curious Cases of Aereo, BarryDriller and FilmOn X*. Specifically, Larry examined various courts’ rulings on the legality of new third-party subscription services designed to allow customers to view over-the-air broadcast television via the internet and mobile devices. At issue was a simple legal question: do these services facilitate a “public performance” of protected works under Section 101 of the Copyright Act (*a.k.a.* the “Transmit Clause”), which provides, *inter alia*, that a work is performed publicly whenever such work is “transmit[ed] or otherwise communicate[ed] ... to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.” The Second Circuit ruled that the answer is no, finding that these services essentially act as a high-tech DVR; however, two district courts (one in California and one in the District of Columbia) held that the answer is yes, and

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granted preliminary injunctions against further use of the technology. As Larry explained, these services, at least to two district courts, were clearly a bridge too far. To them, the technology was patently developed to produce a product designed to look and quack like a souped-up betamax but act like a (*de facto*) cable provider. As Larry also predicted, this issue is now pending before the Supreme Court, and it will be interesting to see if they grant *certiorari* and, if so, how they eventually rule.

Finally, we also waded into the Byzantine world of Retransmission Consent with a POLICY PAPER entitled *An Economic Framework for Retransmission Consent* that provided (as far as we know) the first policy-relevant economic theory of the issue. Taking into account the social contract between the government and broadcasters to serve the “public interest” (e.g., provide “local” programming and a “diversity of voices” to as many Americans as possible), we show that the “market” outcome for the license fee under the Retransmission Consent paradigm may not be socially efficient. As our paper explains, broadcast regulation creates a type of positive information externality, and private transactions do not typically account for externalities, meaning the market price for the retransmission fee is theoretically “too high,” both relative to the socially-optimal price and the market price of an otherwise-equivalent cable network. This “spread” (which we do not quantify) is a consequence of a disharmony between the historical and continuing policy of the broadcast social contract and the “market” approach embodied in the Retransmission Consent regime.

Handset Unlocking

The Phoenix Center has been looking at the law and economics of handset unlocking—and its broader cousin, “Wireless

Carterfone”—for years. While we thought everybody had moved on from this sophistic debate, with the Librarian of Congress’s ruling that handset unlocking no longer required an exemption from the non-circumvention provisions of the Digital Millennium Copyright Act due to the abundance of competition for handset devices, the issue returned to the forefront of the debate (complete with White House intervention as a result of a populist write-in campaign). As Larry explained in two blogs as well as in a debate in which he participated on this issue sponsored by our friends at TechFreedom, the handset unlocking debate is not about the appropriate bounds of DMCA copyright enforcement; instead, the real debate is about how to get an unlocked phone at a subsidized price. However, making his first act as the new FCC Chairman the enforcement (or non-enforcement) of Copyright law, Tom Wheeler shined the spotlight on the major wireless carriers to encourage them to set forth a formal policy on device unlocking that established some standardized intervals and triggering events. These policies put increasing pressure on the industry to kill the subsidized devices—a death which the FCC has been promoting for years. While we are generally not ones to say “see, I told you so” (OK, we are), we would remind folks that we formally demonstrated several years ago that such policies *could slow the diffusion of new technology, diminish innovation in mobile handsets, and raise handset prices*. So, with the growing demise of handset subsidies, it appears that our predictions are correct (at least in the short term).

Benefits of Broadband

Way back in 2009, George co-authored a seminal study entitled *Internet Use and Depression Among the Elderly* (subsequently published in the referred journal, COMPUTERS IN HUMAN BEHAVIOR), where he

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demonstrated that there was a strong statistical relationship between increased Internet use and reduced depression in the elderly. In 2013, George updated his research in a paper entitled *Revisiting Internet Use and Depression Among the Elderly*, where he expanded the dataset and applied statistical methods that assess depression and Internet use over time. In his update, George found that Internet use reduces depression by 34%, a result slightly larger than the 20-28% reduction found when the Phoenix Center released his original findings in 2009.

Net Neutrality

With the FCC's *Open Internet Order* winding its way through courts in 2013, the fate of the *Order* now rests in the hands of the D.C. Circuit. While various legal arguments have been bandied about, to our knowledge we are the only ones who have focused on the factual predicate (or lack thereof) of the Commission's *Order*. That is to say, in a PERSPECTIVE we published in 2012 and re-published in the JOURNAL OF INTERNET LAW in 2013 entitled *Justifying the Ends: Section 706 and the Regulation of Broadband*, we demonstrated how the Federal Communications Commission deliberately ignored its own evidence to support expanded regulatory jurisdiction over IP-based services. Specifically, we showed how the FCC ignored its own financial analysis conducted as part of its *National Broadband Plan* which found that ubiquitous availability using wireline or terrestrial wireless services is unreasonably costly. Even worse, we showed how the agency rejected the *National Broadband Plan's* recommendation that it should consider using satellite, finding that such service to be inferior. Well guess what? In a blog Larry wrote this year entitled *The FCC Contradicts Their Facts (Again) To Justify Expanded Broadband Regulation*, I pointed out that in the FCC's 2013 *Measuring Broadband America Report*, the FCC suddenly found that

satellite broadband was the greatest thing since sliced bread. So, with the Commission's admission that satellite will, in fact, now "support many types of popular broadband services and applications," the FCC has plainly conceded that the major factual predicate for its invocation of Section 706 as an independent source of legal authority over advanced services is no longer true.

International Broadband Rankings

Way back in 2007/2008, proponents of increased government intervention attempted to use international broadband rankings as evidence of some sort of market failure. Through our extensive work and the work of others, it was demonstrated that these arguments were pure sophistry and the debate moved on. That said, some folks just can't take "no" for an answer and nonetheless seek to take another bite at the apple. For example, in 2013 the New America Foundation twice attempted to invoke an emotional response to a fabricated broadband "crisis" using international ranking data. As George pointed out in two scathing critiques, however, New America's researchers committed numerous technical flaws and, as such, their work cannot be accorded any analytical credibility. Indeed, George demonstrated—using proper economic techniques—that the evidence New America presented actually suggested the following: First, that currently observed broadband prices in the U.S. (at least, in the form of a triple-play bundle) are consistent with competitive outcomes (*i.e.*, the lowest reasonable prices); and second, an increase in government involvement, up to and including owning and operating a network, is not going to bring significantly lower prices for broadband services in America.

CONFERENCES AND SYMPOSIUM

ROOFTOP POLICY ROUNDTABLE:

This July, the Phoenix Center held our second Rooftop Policy Roundtable Discussion. Rather than hold yet another conference with laborious PowerPoint presentations, we thought the policy debate would be better served with some frank discussion in an informal environment. To this end, we established our Rooftop Policy Roundtable Discussion, where we facilitate a set of interactive conversations on the roof of the University Club to a standing-room only crowd over drinks and cigars. This year, our topic was the IP Transition. Not only were we honored with a keynote presentation from FCC Commissioner Ajit Pai, but for those who stayed and braved the Rain Gods we had an amazing discussion from an all-star panel including Jeff Lanning from CenturyLink, Harold Feld from Public Knowledge, independent consultant Joe Gillan, and Bob Quinn from AT&T.

PHOENIX CENTER TELECOM ECONOMICS 101 WEBINAR SERIES

The economics of the broadband ecosystem are complex, and understanding them can be a daunting task. To help bring some much-needed clarity to this important but sometimes confusing element of broadband policy, the Phoenix Center in 2013 inaugurated a new "Telecom Economics 101" Webinar Series. In this series, we hold from time to time a one hour interactive webinar on a discrete topic with one or more of our PhD economists who will walk participants through the economic concepts at issue in an easy to understand and entertaining way.

PHOENIX CENTER ANNUAL TELECOMS SYMPOSIUM

In December, the Phoenix Center held its thirteenth Annual Symposium to another standing-room crowd. The theme of this year's Symposium was Challenges for the

Incoming FCC, and the discussions were both informative and lively.

As always, we began with our traditional "Economists Panel." This year's panel was comprised of Dr. Rich Clarke - Assistant Vice President, AT&T; Professor Thomas Hazlett - George Mason University; and Dr. George Ford - Chief Economist, The Phoenix Center. As always, the panel was moderated by Dr. Jerry Duvall, Senior Advisor to the Bureau Chief for Economic Analysis - International Bureau, Federal Communications Commission.

Our next panel was entitled "Spectrum Policy Challenges for 2014" and our panelists included Mary Brown - Managing Director, Cisco Systems; Charla Rath - Vice President, Wireless Policy Development, Verizon; Jeff Blum - SVP & Deputy General Counsel, DISH Network; and David Don - Executive Director, Regulatory Affairs, Comcast/NBC Universal.

Our final panel was entitled "Defining the FCC's Role in the 21st Century" and were privileged to have join us some of the true "wise old sages" of the business, including Walter B. McCormick, Jr. - President and CEO, US Telecom; Hon. Rob McDowell - Former Commissioner, FCC; Hon. Jonathan Adelstein - Former Commissioner, FCC and current President of PCIA; and Blair Levin - Former Director, FCC National Broadband Plan.

The Symposium ended with the presentation of the Phoenix Center's Annual Jerry B. Duvall Public Service Award to FCC Commissioner Mignon Clyburn. The Duvall Award does not seek to recognize the recipient's personal politics; rather, the Duvall Award goes to the policymaker who most demonstrated the "political courage in, and contribution of analytical rigor to, the United States telecoms policy debate." Given Commissioner Clyburn's tenure and accomplishments as interim FCC Chair, we could think of nobody who epitomized this standard more in 2013.

YEAR IN PICTURES



MISSION STATEMENT

The Phoenix Center for Advanced Legal & Economic Public Policy Studies is a non-profit 501(c)(3) educational and research organization that studies broad public-policy issues related to governance, social and economic conditions, with a particular emphasis on the law and economics of telecommunications and high-tech industries.

Founded in 1998, the Phoenix Center's mission is to provide independent assessments of the economic and material implications of regulatory and economic policy in the U.S. and abroad.

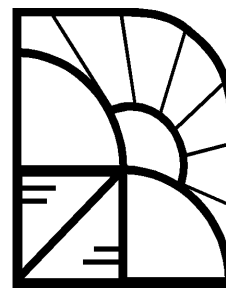
The Phoenix Center achieves this goal by providing an honest and credible voice in the public dialectic by supporting objective, solutions-based academic research to the forefront that is unencumbered by political hyperbole or agendas and is instead well grounded in fact, law and economic theory.

Long-Term Goals:

- (1) The Phoenix Center's seeks to remind stakeholders that it is crucial to avoid political hyperbole and instead approach public policy with the analytical rigor and solemnity it deserves.
- (2) The Phoenix Center seeks to promote public confidence in the democratic process, government's institutions and in the free enterprise system.
- (3) The Phoenix Center seeks to foster an environment where citizens can openly and vigorously debate today about what kind of a world they want to live in tomorrow.

The "ideal of democracy rests on the belief that the view which will direct government emerges from an independent and spontaneous process. It requires, therefore, the existence of a large sphere independent of majority control in which the opinions of the individuals are formed."

— Friedrich von Hayek



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