

**PHOENIX** FOR ADVANCED  
LEGAL & ECONOMIC  
C E N T E R PUBLIC POLICY STUDIES  
[www.phoenix-center.org](http://www.phoenix-center.org)

## 2024 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) 318-4909

[www.phoenix-center.org](http://www.phoenix-center.org)

# PRESIDENT'S MESSAGE

2024 proved to be another prodigious year for the Phoenix Center. While we detail our many substantive accomplishments in the pages that follow, here is a quick “by the numbers” overview of our activities in 2024.

First, the Phoenix Center continued to author rigorous legal and economic research to help inform the policy debate. In 2024, the Phoenix Center published six (6) POLICY BULLETINS, five (5) POLICY PERSPECTIVES and two (2) @LAWANDECONOMICS IN BRIEFS. As always, all of our research may be downloaded free from our webpage and from the Social Science Research Network.

Second, we are pleased to report that three of our papers were either published, or accepted, for publication in peer-reviewed academic journals: *Digital Discrimination Under Disparate Impact: A Legal and Economic Analysis*, 48 TELECOMMUNICATIONS POLICY Issue 10 (2024) (originally released as PHOENIX CENTER POLICY PAPER NO. 61); *Internet Regulation and Investment in the U.S. Telecommunications Industry*, APPLIED ECONOMICS (published online 18 December 2024) (originally released as PHOENIX CENTER POLICY PERSPECTIVE NO. 24-04); and *The Broadband Tribal Gap: An Empirical Evaluation*, JOURNAL OF REGIONAL ECONOMICS (forthcoming 2025) (originally released as PHOENIX CENTER POLICY BULLETIN NO. 62). Along the same lines, I authored a chapter entitled *A Poor Case for a “Digital Platform Agency”* in the forthcoming RESEARCH HANDBOOK ON DIGITAL REGULATORY AGENCIES (Edward Elgar).

Third, we continued with our timely commentary on current events. In 2024, we published eleven (11) op-eds and essays in an assortment of outlets, including the YALE JOURNAL ON REGULATION and the FEDERALIST SOCIETY BLOG.

Fourth, Phoenix Center staff were invited to present our research at a variety of conferences this year, including TPRC’52.

Fifth, 2024 again proved to be a very busy year for the Phoenix Center’s amicus brief practice. Among other filings, the Phoenix Center filed in support of the defendant’s motion for summary judgment in the case of *State of Ohio v. Google LLC* in the Court of Common Pleas of Delaware County, Ohio. The Phoenix Center also filed an amicus brief with the Sixth Court of Appeals in support of the petitioners in the case of *In Re: MCP No. 185: Federal Communications Commission, In the Matter of Safeguarding and Securing the Open Internet, Declaratory Ruling, Order, Report and Order, and Order on Reconsideration*.

Sixth, we continued to submit our research in on-going administrative proceedings where we believed our work would help inform the debate.

Finally, we continued our efforts to contribute to the larger policy community in the hope of raising the level of the discussion. Among other activities, I continued to serve as a co-chair of FEDERAL COMMUNICATIONS LAW JOURNAL Committee and administer its peer review process for the Federal Communications Bar Association. I also continued to serve as a member of the Executive Committee for both the Telecom Practice Group and the Antitrust Practice Group of the Federalist Society. And both Phoenix Center Chief Economist Dr. George Ford and I continue to remain in the top 1% of authors downloaded on the Social Science Research Network.

All things considered, not a bad year...

– Lawrence J. Spiwak, President

# PHOENIX CENTER PUBLICATIONS

The Phoenix Center continued to publish a prodigious amount of scholarly research in 2024. As always, 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 BULLETINS

The Phoenix Center's POLICY BULLETINS are designed to provide a forum for responding to discrete policy issues in a shorter format than our PHOENIX CENTER POLICY PAPERS. The Phoenix Center published the following POLICY BULLETINS in 2024:

- *Economic Impacts of Georgia's Film Tax Credit*, PHOENIX CENTER POLICY BULLETIN NO. 66 (February 2024).
- *Amazon: A Monopolist That Undersells Its Competitors?* PHOENIX CENTER POLICY BULLETIN NO. 67 (March 2024).
- *Economic Impacts of New York's Film Tax Credit*, PHOENIX CENTER POLICY BULLETIN NO. 68 (May 2024)
- *FCC Overreach in Mobile Device Regulation? A Legal and Economic Analysis*, PHOENIX CENTER POLICY BULLETIN NO. 69 (September 2024).
- *Meddling with Platforms: Can Antitrust or Regulatory Interventions in Platform Design Improve Economic Welfare?* PHOENIX CENTER POLICY BULLETIN NO. 70 (September 2024).
- *United States v. Apple: A Review of the DOJ's Case*, PHOENIX CENTER POLICY BULLETIN NO. 71 (October 2024).

## PHOENIX CENTER POLICY PERSPECTIVES

The Phoenix Center's POLICY PERSPECTIVES are designed to provide a forum for its individual staff members to express their

views on current policy developments. The Phoenix Center published the following POLICY PERSPECTIVES in 2024:

- *The Federal Communications Commission's Section 706 Problem*, PHOENIX CENTER POLICY PERSPECTIVE NO. 24-01 (January 17, 2024).
- *Broadband Inequality in the Era of Subsidies*, PHOENIX CENTER POLICY PERSPECTIVE NO. 24-02 (March 19, 2024).
- *What Are the Effects of Changing the Definition of Broadband?* PHOENIX CENTER POLICY PERSPECTIVE NO. 24-03 (March 21, 2024).
- *In Response to the FCC...*, PHOENIX CENTER POLICY PERSPECTIVE NO. 24-04 (April 18, 2024).
- *Explaining Higher Prices in the Covid and Post-Covid Era*, PHOENIX CENTER POLICY PERSPECTIVE NO. 24-05 (May 14, 2024).

## @LAWANDECONOMICS IN BRIEF

In 2024, the Phoenix Center inaugurated its @LAWANDECONOMICS IN BRIEF series. The Phoenix Center's @LAWANDECONOMICS IN BRIEF series is designed to provide a forum for short "factoids" we think are interesting and relevant to policy debate. The Phoenix Center published the following @LAWANDECONOMICS IN BRIEFS in 2024:

- *Getting Aggressive with Broadband Regulation*, @LAWANDECONOMICS IN BRIEF NO. 24-01 (May 28, 2024).
- *Third-Party Candidates and the Presidential Election: Who's Hurting Whom?* @LAWANDECONOMICS IN BRIEF NO. 24-02 (July 9, 2024).

# PHOENIX CENTER PUBLICATIONS

## ACADEMIC PUBLICATIONS

In 2024, the Phoenix Center's staff had the following papers published, or accepted for publication, in the academic literature:

- *Digital Discrimination Under Disparate Impact: A Legal and Economic analysis*, 48 TELECOMMUNICATIONS POLICY Issue 10 (November 2024) (originally released as PHOENIX CENTER POLICY PAPER NO. 61).
- *Internet Regulation and Investment in the U.S. Telecommunications Industry*, APPLIED ECONOMICS (published online 18 December 2024) (originally released as PHOENIX CENTER POLICY PERSPECTIVE NO. 24-04).
- Book Chapter: *A Poor Case for a "Digital Platform Agency"* in RESEARCH HANDBOOK ON DIGITAL REGULATORY AGENCIES (Edward Elgar, forthcoming 2025).
- *The Broadband Tribal Gap: An Empirical Evaluation*, JOURNAL OF REGIONAL ECONOMICS (forthcoming 2025) (originally released as PHOENIX CENTER POLICY BULLETIN NO. 62).

## OP-EDS AND ESSAYS:

The Phoenix Center had the following op-eds and essays published in 2024:

- *The Costs of KOSA?* NOTICE & COMMENT – YALE JOURNAL ON REGULATION (March 12, 2024).
- *"Digital Discrimination" Kills Low-Income Broadband Discount Plans*, NOTICE & COMMENT – YALE JOURNAL ON REGULATION (April 3, 2024).
- *When Facts Bear Out Theory: How Do Firms Respond to Government Efforts to Block Acquisitions of Nascent Competitors in*

*Digital Markets?* FEDERALIST SOCIETY BLOG (April 29, 2024).

- *The FTC's Weak Case Against Amazon*, FEDERALIST SOCIETY BLOG (May 1, 2024).
- *Some Thoughts on NTIA's New "Artificial Intelligence Accountability Policy Report,"* FEDERALIST SOCIETY BLOG (May 24, 2024).
- *Reviving the Robinson-Patman Act is Bad for Consumers: In Response to Mark Meador*, FEDERALIST SOCIETY BLOG (July 31, 2024).
- *The FCC is Running Out of Time for a Spectrum "Win,"* NOTICE & COMMENT – YALE JOURNAL ON REGULATION (August 15, 2024).
- *United States v. Apple: A Triumph of Politics Over Economic Analysis*, FEDERALIST SOCIETY BLOG (October 25, 2024).
- *Murthy Provides a Teachable Moment About the "Vast Power" of the Administrative State*, FEDERALIST SOCIETY BLOG (October 30, 2024).
- *Sauce for the Goose: The FCC Lacks Authority to Interpret Section 230 Post-Loper Bright*, FEDERALIST SOCIETY BLOG (November 21, 2024).

# CONTRIBUTING TO THE PUBLIC DIALECTIC

2024 provided fertile soil for those interested in policy research. In this section, we highlight some (but not all) of our assorted activities and where we believe we added constructively to the debate.

## AMICUS BRIEFS

In 2024, the Phoenix Center filed several amicus briefs where we believed our perspective would assist the reviewing court.

- The Phoenix Center filed an amicus brief in support of the defendant’s motion for summary judgment in the case of *State of Ohio v. Google LLC* in the Court of Common Pleas of Delaware County, Ohio (filed January 30, 2024).
- The Phoenix Center filed an amicus brief with the Sixth Court of Appeals in support of the petitioners in the case of *In Re: MCP No. 185: Federal Communications Commission, In the Matter of Safeguarding and Securing the Open Internet, Declaratory Ruling, Order, Report and Order, and Order on Reconsideration* (filed August 19, 2024).

## COMMENTS

- The Phoenix Center filed comments with the National Telecommunications and Information Administration on Proposed BEAD Alternative Technology Guidance (September 10, 2024).
- The Phoenix Center filed comments with the Federal Communications Commission in response to the letter filed by the agency’s Office of Economics Letter in the *Open Internet* proceeding challenging Phoenix Center Chief Economist Dr. George S. Ford’s peer

reviewed work on the investment effects of reclassification (December 1, 2024).

## CITATIONS IN THE ACADEMIC LITERATURE

In 2024, citations to Phoenix Center research could be found in academic journals such as the FEDERAL COMMUNICATIONS LAW JOURNAL, NEW MEDIA & SOCIETY, JOURNAL OF MEDICAL INTERNET, COMPUTERS IN HUMAN BEHAVIOR, PUBLIC HEALTH, JOURNAL OF TECHNOLOGY TRANSFER, JOURNAL OF THE KNOWLEDGE ECONOMY, TELECOMMUNICATIONS POLICY, INFORMATION ECONOMICS & POLICY, JOURNAL OF REGIONAL SCIENCE, ECONOMIC INQUIRY, CONTEMPORARY ECONOMIC POLICY, JAPANESE ECONOMIC REVIEW, among others.

## CONFERENCES AND EVENTS

Phoenix Center staff were privileged to participate in a variety of conferences to present our research. For example:

- Phoenix Center President Lawrence Spiwak participated in a panel entitled *Digital Regulatory Agencies: Reboot, Retrofit, and Reform; Perspectives from regulators in USA, EU, Asia, Latin America and Africa* at TPRC’52.

## SIGNIFICANT CITATIONS BY POLICYMAKERS

- In 2023, the Phoenix Center filed comments in response to the Federal Communications Commission’s *Notice of Proposed Rulemaking on Safeguarding and Securing the Open Internet*. In this filing, the Phoenix Center submitted several published academic papers on the topic, including a peer-reviewed paper by Chief Economist Dr. George S. Ford which demonstrated that the reclassification of broadband internet access services as common carrier

# CONTRIBUTING TO THE PUBLIC DIALECTIC

telecommunications service harmed investment. In a highly unusual step, on April 11, 2024—well after the public comment period ended and with just a little more than a week before the FCC’s Sunshine Act provisions went into effect—the FCC’s Office of Economics and Analytics took the highly unusual step of entering into the docket a letter providing several criticisms of Dr. Ford’s peer reviewed paper. On April 18, 2024, Dr. Ford issued a detailed response, painstakingly responding to each one of the FCC’s critiques and showing why the FCC’s staff’s analysis lacked merit. Apparently, our research caused the Commission some consternation. The Commission focused extensively on the Phoenix Center’s work throughout its final order, including dedicating over twenty-five paragraphs to Dr. Ford’s paper. The Phoenix Center filed an amicus brief with the Sixth Circuit Court of Appeals to defend our work. The Sixth Circuit heard oral arguments in October 2024 and a decision is widely expected in the first quarter of 2025. In the meantime, Dr. Ford’s response to the FCC was published in the peer-reviewed journal *APPLIED ECONOMICS*, providing third-party validation of Dr. Ford’s analysis.

## OTHER ACTIVITIES

- Phoenix Center President Lawrence Spiwak continued to serve as co-chair of Federal Communications Bar Association’s committee to oversee the *FEDERAL COMMUNICATIONS LAW JOURNAL*.
- Phoenix Center President Lawrence Spiwak continued to serve on both the Telecommunications Practice and

Antitrust Practice Executive Committees of the Federalist Society.

- Both Phoenix Center Chief Economist Dr. George Ford and Phoenix Center President Lawrence Spiwak continue to remain in the top 1% of authors downloaded on the Social Science Research Network.

## CONCLUSION

As policy debates have become increasingly politicized over the years, we still believe (perhaps over-optimistically) that, in the end, substance matters. The policy choices we face are hard, and they should be treated with the respect and analytical rigor they deserve. Hopefully, the Phoenix Center has contributed positively towards restoring some of this analytical rigor to the dialectic.

# 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 the digital age.

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.

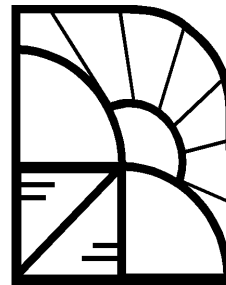
The Phoenix Center achieves this goal by providing an honest and credible voice in the public dialectic by supporting objective, solutions-based academic research to the forefront that is unencumbered by political hyperbole or agendas and is instead well grounded in fact, law and economic theory.

## 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



**PHOENIX** FOR ADVANCED  
LEGAL & ECONOMIC  
C E N T E R PUBLIC POLICY STUDIES  
[www.phoenix-center.org](http://www.phoenix-center.org)

## 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) 318-4909

[www.phoenix-center.org](http://www.phoenix-center.org)