

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

2003 ANNUAL REPORT

PHOENIX CENTER
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PUBLIC POLICY STUDIES
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PRESIDENT'S MESSAGE

2003 proved to be yet another year of tremendous growth for the Phoenix Center.

First, the Phoenix Center's published work was again prodigious. Not only did the Phoenix Center publish a POLICY PAPER on the dangers of premature de-regulation in the face of rampant market power, but the Phoenix Center also issued a series of six POLICY BULLETINS demonstrating empirically the positive effects of unbundling on investment, employment and the capital markets generally.

Second, the Phoenix Center inaugurated a Policy Roundtable Series at the National Press Club to bring together a balanced spectrum of leading scholars, policymakers and industry players in a collegial and intimate setting to discuss current developments in an open and neutral way. So that the discussions can be disseminated to the widest possible audience, transcripts of these roundtables are posted on the Phoenix Center's web page. In 2003, the Phoenix Center used its Policy Roundtable Series to flush out two key items affecting the telecoms debate: In January 2003, the Phoenix Center held a roundtable on the impact of telecoms competition on U.S. small businesses and entrepreneurs; and in October 2003 the Phoenix Center held a roundtable investigating the implications of the Federal Communications Commission's Triennial Review Order.

Third, the Phoenix Center's Annual U.S. Telecoms Symposium (this year held at the International Spy Museum) was another phenomenal success. In addition to hearing panels comprised of some of the leading experts in the industry, over eighty people watched FCC Commissioner Kevin J. Martin receive the Phoenix Center's prestigious annual Jerry B. Duvall Public Service Award (previous recipients include Senator Byron Dorgan and Representative Chris Cannon), and House Judiciary Committee Chairman F. James Sensenbrenner delivered the keynote address.

Fourth, major media outlets continued to cite the Phoenix Center and its Members in 2003 as

sources of academically rigorous and unbiased information. For example, these outlets included, among others, BUSINESS WEEK, the WASHINGTON POST, PUBLIC TELEVISION'S NIGHTLY BUSINESS REPORT, BLOOMBERG NEWS, KIPLINGER'S, the ATLANTA JOURNAL-CONSTITUTION, and the CHICAGO TRIBUNE.

Fifth, Phoenix Center Members continued to contribute actively to the public dialectic. For example, Phoenix Center Members published op-eds in prestigious media outlets such as the LEGAL TIMES, the DETROIT NEWS and the WASHINGTON TIMES. 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 at an international broadband conference at Georgetown University. Moreover, the Phoenix Center has joined the Social Sciences Research Network as a "Partner in Publishing" to further disseminate the Phoenix Center's work product.

Sixth, the Phoenix Center maintained its international presence in 2003, including authoring a chapter in a book entitled TRANSATLANTIC ECONOMIC DISPUTES: THE EU, THE US AND THE WTO (Oxford University Press) commissioned by the European University Institute (a branch of the European Union) and by receiving accreditation as a participating Non-Governmental Organization (NGO) for the World Summit on the Information Society in Geneva.

Finally, we are extremely pleased to report that the Phoenix Center's web page received over a half a million hits in 2003 (including almost 6,000 hits from the Federal Communications Commission alone), further 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

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CONTRIBUTING TO THE PUBLIC DIALECTIC

In 2003, Phoenix Center Members again continued to make numerous contributions to the public dialectic in a wide variety of forums.

PRESS APPEARANCES:

2003 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:

- BUSINESS WEEK;
- The WASHINGTON POST;
- PUBLIC TELEVISION'S NIGHTLY BUSINESS REPORT;
- BLOOMBERG NEWS;
- KIPLINGER'S;
- the ATLANTA JOURNAL-CONSTITUTION;
- the CHICAGO TRIBUNE;
- TOTAL TELECOM;
- The NATIONAL JOURNAL;
- The INDIANAPOLIS STAR;
- The PALM BEACH POST;
- COMMUNICATIONS DAILY;
- COMMUNICATIONS TODAY;
- DSL PRIME
- PHONE+
- AMERICA'S NETWORK
- LIGHTWAVE MAGAZINE
- TRDAILY; and
- TELECOMMUNICATIONS POLICY BRIEFING

OP-EDS AND OPINION PIECES:

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

- The LEGAL TIMES;
- The DETROIT NEWS; and
- The WASHINGTON TIMES.

ACADEMIC CONFERENCES AND SYMPOSIUMS

The Phoenix Center's Members also participated in a wide variety of international conferences, including:

- The United Nations' World Summit on the Information Society, Geneva Switzerland as a fully accredited Non-Governmental Organization (NGO);
- *Integration, Investment and Innovation: Future Directions for the Telecommunications Industry* hosted by the Center for Business and Public Policy at Georgetown University's McDonough School of Business, Washington, D.C.; and
- The National Association of Regulatory Utility Commissioners 116th Annual Meeting, Atlanta, Georgia.

OTHER ACTIVITIES

Phoenix Center President Lawrence J. Spiwak authored a chapter in a book entitled TRANSATLANTIC ECONOMIC DISPUTES: THE EU, THE US AND THE WTO (Oxford University Press) commissioned by the European University Institute (a branch of the European Union).

The Phoenix Center also joined the Social Sciences Research Network as a "Partner in Publishing" to further disseminate the Phoenix Center's work product.

"... agree or disagree - [the Phoenix Center's work is] always an interesting and thought-provoking read...."

- NATIONAL ASSOCIATION
OF REGULATORY UTILITY
COMMISSIONERS' RAMSAY
REPORT



The Phoenix Center's "data are the best I've seen; they should be respected or rebutted. Any D.C. politician who says [unbundling the public switched telephone network] cuts investment will look foolish unless they directly refute the facts [the Phoenix Center] provides."

- DSL PRIME



Phoenix Center Publications

The Phoenix Center continued to publish a prodigious amount of scholarly research in 2003.

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. Once completed, these POLICY PAPERS are posted promptly on the Phoenix Center's web page (<http://www.phoenix-center.org>).

In 2003, Phoenix Center Adjunct Fellow George Ford and Phoenix Center President co-authored Phoenix Center Policy Paper No. 18: *Set It and Forget It? Market Power and the Consequences of Premature Deregulation in Telecommunications Markets* (July 2003) (<http://www.phoenix-center.org/pcpp/PCPP18.pdf>).

PHOENIX CENTER POLICY BULLETIN SERIES

In 2003, the Phoenix Center dramatically expanded its POLICY BULLETIN SERIES, which provides 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 this year:

- PHOENIX CENTER POLICY BULLETIN NO. 7: *The Positive Effects of Competition on Employment in the Telecommunications Industry* (15 October 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletin7Final.pdf>);
- PHOENIX CENTER POLICY BULLETIN NO. 6: *UNE-P Drives Bell Investment - A Synthesis Model* (17 September 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletin6Final.pdf>);
- PHOENIX CENTER POLICY BULLETIN NO. 5: *Competition and Bell Company Investment in Telecommunications Plant: The Effects of UNE-P*. (Originally released 9 July 2003 and updated 17 September 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletin5.pdf>);

- PHOENIX CENTER POLICY BULLETIN NO. 4: *The Truth About Telecommunications Investment after the Telecommunications Act of 1996* (24 June 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletin4Final.pdf>);
- PHOENIX CENTER POLICY BULLETIN NO. 3: *The Broadband Loophole - Is Symmetrical Regulation in the Face of Asymmetrical Market Power Good Public Policy?* (19 March 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletinNo3.pdf>);
- PHOENIX CENTER POLICY BULLETIN NO. 2: *Telecommunications Stocks and the FCC's Triennial Review* (11 March 2003) (<http://www.phoenix-center.org/PolicyBulletin/PolicyBulletinNo2.pdf>) (Data set available at <http://www.phoenix-center.org/PolicyBulletin/PolicyBulletinNo2.xls>).

Scholars and industry players again cited and commented upon the Phoenix Center's work in 2003.

For example, in response to numerous citations by commenters in WC Docket No. 03-157 at the FCC (*see In re Petition for Expedited Forbearance from the Current Pricing Rules for the Unbundled Network Element Platform*) to PHOENIX CENTER POLICY BULLETIN No. 6, Verizon Communications hired noted economists Thomas W. Hazlett, Ph.D., Arthur M. Havenner, Ph.D., and Coleman Bazelon, Ph.D. to file a critique of POLICY BULLETIN NO. 6 and filed this critique before the Commission as part of their reply comments. (Dr. Hazlett's comments may be downloaded from the Phoenix Center's web page at: <http://www.phoenix-center.org/PolicyBulletin/HazlettetalComments.pdf>)

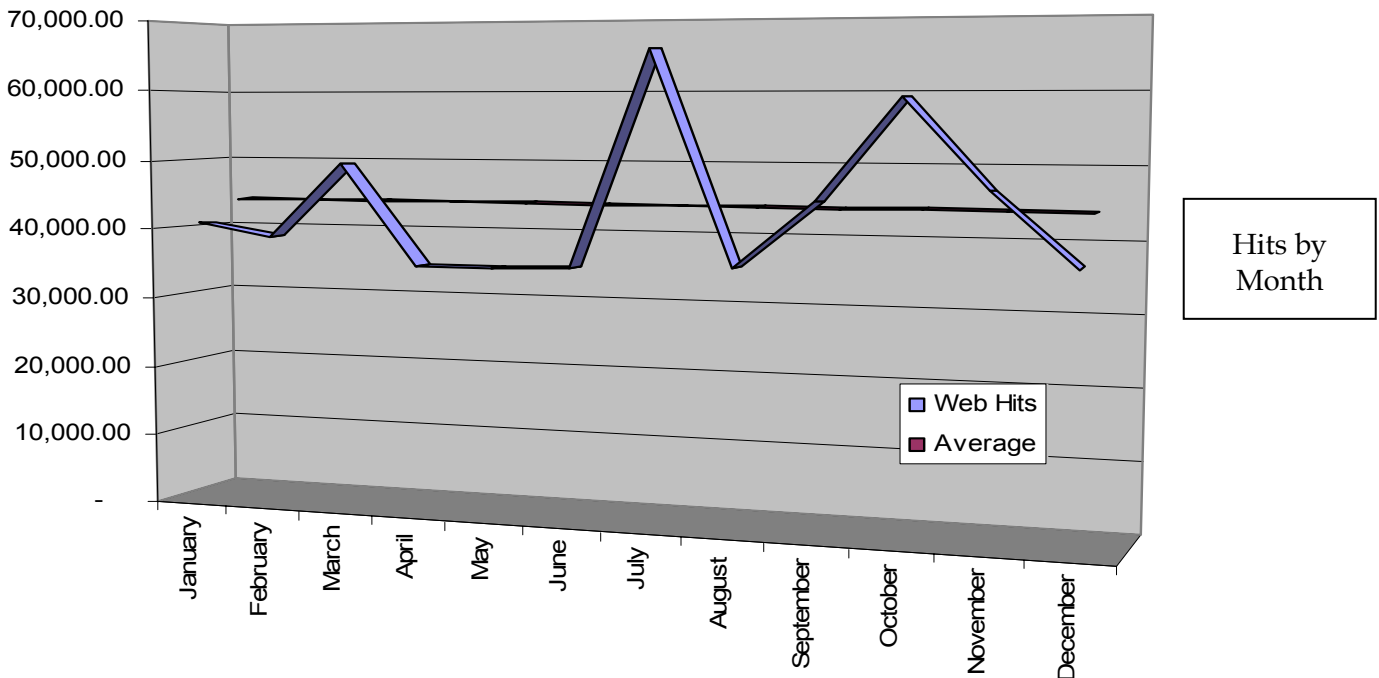
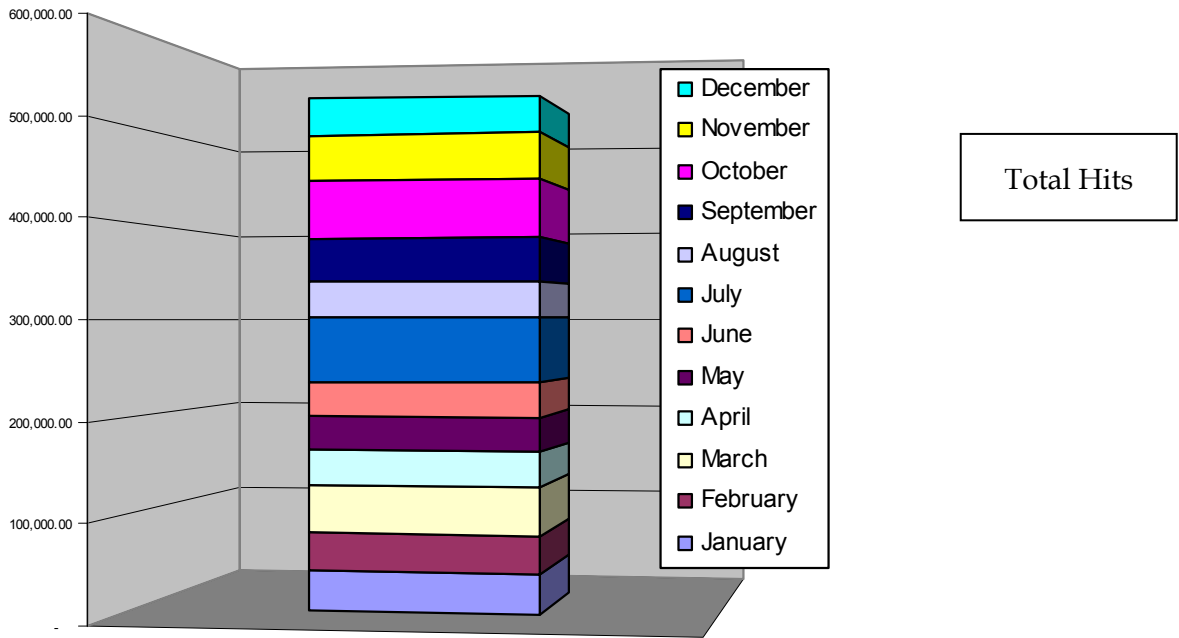
Adding to the Socratic debate, Z-Tel Communications subsequently hired noted econometrician Professor C. Carter Hill to evaluate both the original Phoenix Center analysis and Dr. Hazlett et al.'s critique. (Dr. Hill's comments may be downloaded from the Phoenix Center's web page at (<http://www.phoenix-center.org/PolicyBulletin/HillComments.pdf>).

Significantly, when the constructive comments of both Hazlett and Hill were considered in Phoenix Center POLICY BULLETIN No. 6, the original results of POLICY BULLETIN No. 5 actually improved.

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.

2003 was another year of incredible growth for the Phoenix Center's web page. As demonstrated below, the Phoenix Center's web page received over a half a million hits in 2003 (including nearly 6,000 hits from the Federal Communications Commission alone), clearly demonstrating once again that the Phoenix Center's web page continues to be an international reference resource of first resort for policymakers and scholars alike.



2003 ANNUAL U.S. TELECOMS SYMPOSIUM

On 6 November 2003, the Phoenix Center held its Annual U.S. Telecoms Symposium at the International Spy Museum in Washington, D.C. where we again assembled leading scholars, policymakers and players to discuss key issues affecting the public dialectic in an open and neutral forum. The theme of this year's Symposium was *For Structural Problems, Are Structural Solutions Required?*

The Symposium opened with a keynote address by the Chairman of the U.S. House of Representatives Committee on the Judiciary, James Sensenbrenner (R-WI). Chairman Sensenbrenner began his speech by praising the work of the Phoenix Center, commenting that "the Phoenix Center has served as an important catalyst for debate concerning the proper application of the antitrust laws in our free market economy. Over the last few years, the Center's focus on the role of antitrust law in promoting consumer welfare in the telecommunications sector has been particularly instructive to both legislators and regulators alike." Chairman Sensenbrenner also discussed his views of the proper application of the antitrust laws to the telecoms industry, the FCC's Triennial Review, as well as provided his first major comments about the pending *Trinko* case before the U.S. Supreme Court. The full text of Chairman Sensenbrenner's speech may be downloaded from the Phoenix Center's web page.

Next, the Symposium featured a series of panels designed to flush out the conference theme, featuring such leading players as Dr. Jerry B. Duvall, Director of Media Economic Research - FCC Media Bureau; Dr. Simon Wilkie, Chief Economist - FCC; Dr. Robert Willig, Princeton University; Dr. Tom Hazlett, Manhattan Institute; Dr. George Ford, Adjunct Fellow - Phoenix Center; Dr. Kent Nilsson, Special Counsel - FCC Office of Engineering and Technology; Dave Belanger, Chief Scientist - AT&T Labs; David Cohen, Acting General Counsel - United States Telephone Association; Daniel Brenner, Senior VP

"[T]he Phoenix Center has served as an important catalyst for debate concerning the proper application of the antitrust laws in our free market economy. Over the last few years, the Center's focus on the role of antitrust law in promoting consumer welfare in the telecommunications sector has been particularly instructive to both legislators and regulators alike."

- Rep. James Sensenbrenner (R-WI)
Chairman,
House Judiciary Committee

for Law and Policy - NCTA; Thomas M. Koutsky, Adjunct Fellow - Phoenix Center; Julian Epstein, Principal - LawMedia Group, LLC (Former Chief Minority Counsel - House Judiciary Committee); Brad Ramsay, General Counsel - National Association of Regulatory Utility Commissioners (NARUC); John Thorne, Deputy General Counsel - Verizon; J. Bruce McDonald, Deputy Assistant Attorney General for Regulated Industries - United States Department of Justice/Antitrust Division; and the Hon. J. Joseph Curran, III, Commissioner - Maryland Public Service Commission.

Finally, as detailed more on the next page, the Phoenix Center bestowed its annual public service award to FCC Commissioner Kevin J. Martin, after which he discussed his views on the current issues now pending before the FCC with Phoenix Center President Lawrence J. Spiwak.



Phoenix Center President Lawrence J. Spiwak introduces Chairman Sensenbrenner

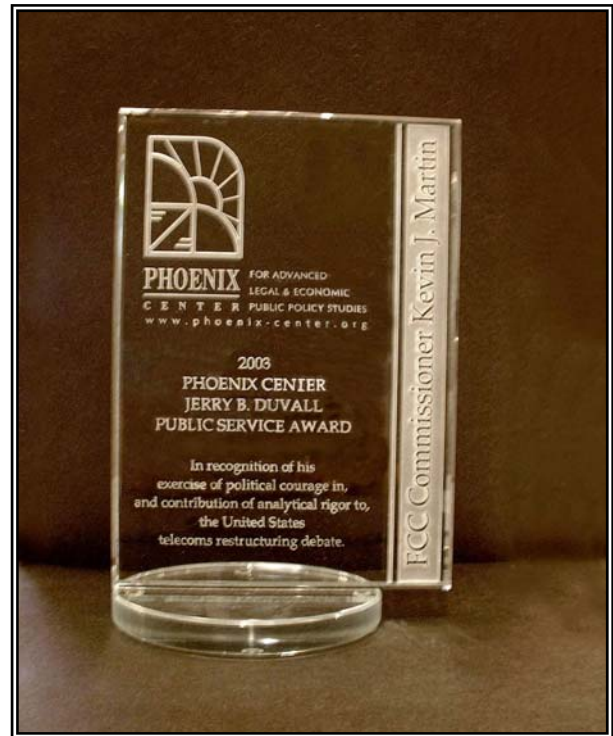
DUVALL PUBLIC SERVICE AWARD

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) and Senator Byron Dorgan (D-ND).

In 2003, the Phoenix Center chose Federal Communications Commissioner Kevin J. Martin (R) to be the recipient of the Duvall Award in recognition of the political courage and analytical rigor he demonstrated during the difficult FCC Triennial Review process.



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



The Duvall Award



Above and Right:

FCC Commissioner Martin shares his views with Phoenix Center President Lawrence J. Spiwak



2003 SYMPOSIUM PICTURES



Chairman Sensenbrenner Delivers the Symposium's Keynote Address



Economists Panel - L to R: George Ford (Phoenix Center); Jerry Duwall (Phoenix Center); Robert Willig (Princeton U.); Simon Wilkie (FCC); Tom Hazlett (Manhattan Institute)



Phoenix Center Adjunct Fellow Dr. George Ford presents his findings



Phoenix Center President Lawrence J. Spiwak introduces Chairman Sensenbrenner



L to R: Brad Ramsay (NARUC), Hon. Bruce McDonald (USDOJ), John Thorne (Verizon) Julian Epstein (LawMedia), Hon. Joe Curran (MDPSC), Lawrence J. Spiwak, Phoenix Center



L to R: Tom Koutsky (Phoenix Center); David Cohen (USTA); Dave Belenger (AT&T Labs); Dan Brenner (NCTA); Kent Nilsson (Phoenix Center)



Phoenix Center Adjunct Fellow Kent Nilsson, PhD



L to R: Brad Ramsay (NARUC), Hon. Bruce McDonald (USDOJ), John Thorne (Verizon) Julian Epstein (LawMedia), Hon. Joe Curran (MDPSC), Lawrence J. Spiwak, Phoenix Center



Phoenix Center President Lawrence J. Spiwak Interviews FCC Commissioner Kevin J. Martin



Lunch



Lunch



Phoenix Center President Lawrence J. Spiwak Interviews FCC Commissioner Kevin J. Martin

OTHER PHOENIX CENTER EVENTS

In 2003, the Phoenix Center instituted a Policy Roundtable Series at the National Press Club in Washington, D.C. While these Roundtables - like the Phoenix Center's Annual U.S. Telecoms Symposium - are designed to provide an environment where leading scholars, policymakers and players can discuss key issues affecting the public dialectic in an open and neutral forum. The Roundtables provide a more intimate setting of only 15-20 people to discuss specific topics in-depth. To ensure that members of the Phoenix Center community can take advantage of the work product of these Roundtables, full transcripts are always posted on the Phoenix Center's web page.

PHOENIX CENTER ROUNDTABLE ON THE IMPACT OF TELECOMS COMPETITION ON U.S. SMALL BUSINESSES AND ENTREPRENEURS

On 28 January 2003, the Phoenix Center held a Roundtable at the National Press Club on the impact of telecoms competition on U.S. small businesses and entrepreneurs. Moderated by Phoenix Center President Lawrence J. Spiwak, the participants in this Roundtable were:

Sue Ashdown - Executive Director, American ISP Association; Lara Chamberlain, Policy Analyst - National Federation of Independent Business; Carol Fleming Williams - Federal Communications Commission Office of Communications Business Opportunities (OCBO); Erin Fuller - Executive Director National Association of Women Business Owners; Jack Goldberg - Member of the Board, InfoHighway Communications; Karen Kerrigan - Chairman Small Business Survival Committee; Thomas M. Koutsky - Phoenix Center Adjunct Fellow; John Mayo, PhD - Dean, McDonough School of Business, Georgetown University; Riley Murphy - Vice President - Regulation KMC Telecom; Daniel Phythyon - Senior Vice President of Law and Policy United States Telephone Association (USTA); Barry Pineles - Majority Counsel House Small Business Committee; James Bradford Ramsay - General Counsel National Association of Regulatory

Utility Commissioners; and Joseph A. Gregori - Chief Executive Officer InfoHighway.

The full transcript of this Roundtable is available on the Phoenix Center's web page at <http://www.phoenix-center.org/RoundtableTranscript.pdf>.

PHOENIX CENTER ROUNDTABLE ON THE FCC'S TRIENNIAL REVIEW AND TELRIC NPRM

On 1 October 2003, the Phoenix Center held another Roundtable at the National Press Club entitled: *What Hath the FCC Wrought? Examining the Triennial Review and the TELRIC NPRM*. Moderated by Phoenix Center President Lawrence J. Spiwak, the participants in this Roundtable were: Harold Furchgott-Roth - former FCC Commissioner; Tom Navin - Deputy Chief, FCC Competition Bureau; Robert Blau - Vice President, BellSouth; Jason Oxman - Assistant General Counsel, Covad; George Ford - Phoenix Center Adjunct Fellow; John Mayo, PhD - Dean, McDonough School of Business, Georgetown University; Sue Ashdown - President, American ISP Association; Lawrence Sarjeant - General Counsel, United States Telephone Association; Brad Ramsey, General Counsel, National Association of Regulatory Utility Commissioners; and Tom Koutsky - Phoenix Center Adjunct Fellow.

The full transcript of this Roundtable is available on the Phoenix Center's web page at <http://www.phoenix-center.org/TriennialPanelTranscript.pdf>.

The "role of government is not to create wealth, but to create an environment where entrepreneurs can flourish."



The White House
PRESIDENT GEORGE W. BUSH

MISSION STATEMENT

The Phoenix Center for Advanced Legal & Economic Public Policy Studies is an international, 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 regulated industries.

Founded in 1998, the Phoenix Center's mission is to maximize consumer welfare by promoting free markets, competition, and individual freedom and liberty.

The Phoenix Center achieves this goal by providing an honest and credible new 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.

What makes the Phoenix Center particularly unique among Washington, D.C. think-tanks is that many of the Phoenix Center's members have acted (and continue to act) as senior career staffers in government, rather than as political appointees. In so doing, the Phoenix Center's atypical public/private collegial environment provides fertile ground for scholars and government alike to work towards developing real solutions for the complex problems facing the United States and the world.

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

Long-Term Goals:

- (1) The Phoenix Center seeks to demonstrate that consumer welfare is best maximized by promoting free markets, competition, and individual freedom and liberty.
- (2) 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.
- (3) The Phoenix Center seeks to promote public confidence in the democratic process, government's institutions and in the free enterprise system.
- (4) 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.

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