

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

2006 ANNUAL REPORT

PHOENIX CENTER FOR ADVANCED LEGAL & ECONOMIC PUBLIC POLICY STUDIES

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PRESIDENT'S MESSAGE

2006 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 published work was again prodigious. For example, the Phoenix Center published three POLICY PAPERS and five POLICY BULLETINS. We are also proud to report that five of our papers were either published or accepted for publication in a variety of academic journals. Moreover, we authored several op-eds explaining our research in such noted outlets as the ORANGE COUNTY REGISTER, the LEGAL TIMES, the WASHINGTON TIMES and CNET.

The Phoenix Center also sponsored a variety of conferences and briefings in 2006. These conferences included a "Telecom Town Hall" and several briefings for senior Congressional and Federal Communications Staffer. The Phoenix Center also continued its tradition of presenting its research at a series of breakfast briefings at the National Association of Utility Regulatory Commissioners' Summer and Annual Meetings to standing-room only crowds.

We also continued our Educational Retreat in Phoenix, Arizona. Unlike other conferences, the Phoenix Center Retreat is intended solely to provide policymakers 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. Among other participants, we were honored to have FCC Commission Debi Taylor Tate, Under Secretary of Commerce for Technology Robert Cresanti and Congressman Trent Franks as keynote speakers.

The Phoenix Center's Annual U.S. Telecoms Symposium was also another phenomenal success. In addition to hearing panels comprised of some of the leading experts in the industry, nearly 100 people watched FCC Chairman Kevin Martin make news during his keynote speech by announcing the parameters of the FCC's then-forthcoming Section 621 Order to facilitate new video and broadband competition and the Hon. Fabian Nunez, Speaker of the California State Assembly, receive the Phoenix Center's prestigious annual Jerry B. Duvall Public Service Award.

The Phoenix Center's research also made a significant contribution to the dialectic in 2006. For example, not only were we cited by the Congressional Research Service and the FCC, but our research was repeatedly cited on the respective floors of the United States Senate and House of Representatives. In addition, over 200 major media and trade outlets continued to cite the Phoenix Center and its Members in 2006 including, THE WASHINGTON POST, LOS ANGELES TIMES, and the WALL STREET JOURNAL.



Finally, given the Phoenix Center's reputation for analytical rigor and ability to act as a neutral arbiter, the FCC recently appointed the Phoenix Center to serve on the North American Numbering Counsel (NANC) and, moreover, selected Phoenix Center Resident Scholar Thomas M. Koutsky to service as NANC's chairman.

Not a bad year...

— Lawrence J. Spiwak
President

PHOENIX CENTER PUBLICATIONS

The Phoenix Center continued to publish a prodigious amount of scholarly research in 2006. 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 2006, the Phoenix Center issued the following Policy Papers:

- ADDENDUM: PHOENIX CENTER POLICY PAPER NO. 23, *Franchising and the Digital Divide – The Maryland Experience*;
- *Network Neutrality and Industry Structure*, PHOENIX CENTER POLICY PAPER NO. 24;
- *The Burden of Network Neutrality Mandates on Rural Broadband Deployment*, PHOENIX CENTER POLICY PAPER No. 25;
- *An Investigation into the Influence of Retail Gas Prices on Oil Company Profits*, PHOENIX CENTER POLICY PAPER NO. 26.

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 2006:

- *"In Delay There Is No Plenty": The Consumer Welfare Cost of Franchise Reform Delay*, PHOENIX CENTER POLICY BULLETIN NO. 13;

- ADDENDUM: PHOENIX CENTER POLICY BULLETIN NO. 13, *State-By-State Breakdown of The Consumer Welfare Cost of Franchise Reform Delay*;
- *A La Carte and "Family Tiers" as a Response to a Market Defect in the Multichannel Video Programming Market*, PHOENIX CENTER POLICY BULLETIN NO. 14;
- *Unnecessary Regulations and the Value of Spectrum: An Economic Evaluation of Lease Term Limits for the Educational Broadband Service*, PHOENIX CENTER POLICY BULLETIN NO. 15;
- *The Efficiency Risk of Network Neutrality Rules*, PHOENIX CENTER POLICY BULLETIN NO. 16;
- *Separating Politics from Policy in FCC Merger Reviews: A Basic Legal Primer of the "Public Interest" Standard*, PHOENIX CENTER POLICY BULLETIN NO. 17.

CRITIQUES AND RESPONSES:

The Phoenix Center is unique among think tanks in that it publishes all legitimate critiques of our work on our web page. In 2006, we had the following colloquy with Dr. Taylor Roycroft about the analysis in PHOENIX CENTER POLICY PAPER NO. 24, *Network Neutrality and Industry Structure*:

- Trevor R. Roycroft, *Network Neutrality, Product Differentiation, and Social Welfare: A Response to Phoenix Center Policy Paper No. 24*;
- *Network Neutrality and Scale Economies: A Response to Dr. Roycroft (May 2006)*;
- Trevor Roycroft, *Network Neutrality, Product Differentiation, and Social Welfare: Response to Phoenix Center's Reply*;
- *A Response to Dr. Roycroft (Redux)*.

CONTRIBUTING TO THE PUBLIC DIALECTIC

In 2006, Phoenix Center Members again continued to make numerous contributions to the public dialectic in a wide variety of forums.

SIGNIFICANT APPOINTMENTS AND GRANTS:

The Phoenix Center was honored to be selected to participate in several important programs sponsored by the U.S. Government in 2006, including:

- Phoenix Center appointed to, and Resident Scholar Thomas M. Koutsky Appointed Chairman of, North American Numbering Council;
- Phoenix Center President Lawrence Spiwak Selected by U.S. Department of State to participate in Telecommunication Leadership Program (TLP) trip to Manila and Hanoi;
- Phoenix Center Selected by U.S. Department of Commerce to Administer “The Valley of Death or Funding Gap for Technology Development” Project.

SIGNIFICANT CITATIONS

In 2006, the Phoenix Center’s work was once again cited at the highest level, including:

- *Statement of FCC Chairman Kevin Martin, Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING (MB Docket No. 05-311);*
- CONGRESSIONAL RECORD: Senator Mel Martinez cites Phoenix Center Research in support of the Communications Act of 2006 of the floor of the U.S. Senate;

- CONGRESSIONAL RESEARCH SERVICE REPORT, *Access to Broadband*;
- CONGRESSIONAL RECORD: Chairman Fred Upton cites Phoenix Center Research in support of COPE Act on the floor of the U.S. House of Representatives;
- CONGRESSIONAL RECORD: Senator John McCain cites Phoenix Center research in support of CHOICE Act on the floor of the U.S. Senate;
- *In The Matter Of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, 2006 WL 521465, 37 Communications Reg. (P&F) 1181 (F.C.C. Mar 03, 2006), TWELFTH ANNUAL REPORT (NO. MB05-255, FCC06-11);*
- *In The Matter Of Amendment Of Parts 1, 21, 73, 74 And 101 Of The Commissions Rules To Facilitate The Provision Of Fixed And Mobile Broadband Access, Educational And Other Advanced Services In The 2150-2162 And 2500-2690 Mhz Bands Part 1 Of The Commissions Rules - Further Competitive Bidding Procedures Amendment Of Parts 21 And 74 To Enable Multipoint Distribution Service And The Instructional Television Fixed Service Amendment Of Parts 21 And 74, 2006 WL 1114064, 38 Communications Reg. (P&F) 372, 38 Communications Reg. (P&F) 455 (F.C.C. Apr 27, 2006), ORDER ON RECONSIDERATION AND FIFTH MEMORANDUM OPINION AND ORDER AND THIRD MEMORANDUM OPINION AND ORDER (No. FCC06-46, RM-10586, 03-67, 97-217, 02-68, RM-9718, 00-230, 02-364, 00-258).*

ACADEMIC PUBLICATIONS

In 2006, the Phoenix Center had several of its papers published and/or accepted for publication by such noted academic journals as:

CONTRIBUTING TO THE PUBLIC DIALECTIC

- HASTINGS COMMUNICATIONS AND ENTERTAINMENT LAW JOURNAL;
- COMMLAW CONSPECTUS;
- FEDERAL COMMUNICATIONS LAW JOURNAL;
- I/S: A JOURNAL OF LAW AND POLICY FOR THE INFORMATION SOCIETY.

OP-EDS

In 2006, Phoenix Center staff wrote several op-ed and opinion pieces for national and international media outlets, including:

- The WASHINGTON TIMES;
- CNET NEWS.COM;
- ST. PETERSBURG TIMES;
- WASHINGTON LEGAL TIMES;
- DALLAS-FT. WORTH STAR TELEGRAM;
- ORANGE COUNTY REGISTER.

TESTIMONY

In 2006, Phoenix Center staff was called upon by several different bodies to testify and present our research, including:

- New Jersey Board of Public Utilities;
- Pennsylvania House Consumer Affairs Committee;
- Pennsylvania Senate Commerce and Technology Committee;
- Pennsylvania House Majority Policy Committee;
- Florida House Committee on Utilities and Telecommunications;

- Telecommunications Committee, New Jersey House of Delegates.

SPEECHES AND CONFERENCE PARTICIPATION

Once again, Phoenix Center staff was asked to present our research at a variety of forums, including:

- NARUC;
- SECRUC;
- MACRUC;
- Washington Tech Affinity;
- TelecomNext;
- ABA Section of Antitrust Law, Communications and Computer & Internet Committees;
- New Mexico State University's Center for Public Utilities;
- Americans for Tax Reform.

OTHER PUBLICATIONS:

Congressional Internet Caucus Advisory Committee "One Pager": *Legislating Net Neutrality – Necessary?*

PHOENIX CENTER BRIEFINGS AND WORKSHOPS:

The Phoenix Center also put on several briefings and workshops to present our research to various policy makers. These briefings included:

- Several briefings to senior FCC staff;
- Several briefings on Capitol Hill; and
- Breakfast briefings at NARUC's Summer and Annual Meetings.

IN THE NEWS...

In 2006, the Phoenix Center's work and staff were cited over 200 times by major news and trade media outlets around the world, including:

- The WASHINGTON POST;
- The ASSOCIATED PRESS;
- CBS MARKETWATCH;
- CNN Money;
- The WALL STREET JOURNAL;
- NATIONAL JOURNAL;
- NATIONAL REVIEW;
- BROADCASTING AND CABLE;
- MULTICHANNEL NEWS;
- PITTSBURGH TRIBUNE REVIEW;
- GRAND FORKS HERALD;
- SEATTLE POST INTELIGENCER;
- LAS VEGAS BUSINESS PRESS;
- The BOSTON GLOBE;
- BUSINESS WEEK;
- The BALTIMORE SUN;
- CHARLOTTE NEWS OBSERVER;
- CHICAGO TRIBUNE;
- FORBES;
- FOX NEWS;
- FT. WAYNE JOURNAL GAZETTE;
- FT. WAYNE SENTINEL;
- FT. WORTH STAR TELEGRAM;
- HOUSTON CHRONICLE;
- LOS ANGELES TIMES;
- MIAMI HERALD;
- MSN MONEY;
- SAN FRANCISCO CHRONICLE;
- SAN JOSE MERCURY NEWS;
- SAN LUIS OBISPO TIMES;
- SYDNEY MORNING HERALD (Australia);
- THE AGE (Australia);
- HONOLULU ADVERTISER;
- TALLAHASSEE DEMOCRAT;
- LAS VEGAS BUSINESS PRESS;
- KANSAS CITY STAR;
- WASHINGTON TIMES;
- TELEVISION WEEK;
- FAT PIPE MAGAZINE
- COMMUNICATIONS DAILY;
- TELECOMMUNICATIONS REPORT;
- RCR WIRELESS NEWS;
- ARKANSAS DEMOCRAT GAZETTE
- ORLANDO SENTINEL;
- ASIA TIMES;
- BRADENTON (FL) HERALD;
- COLUMBUS (GA) LEDGER ENQUIRER;
- MONTEREY (CA) HERALD.

PHOENIX CENTER “TELECOM TOWN HALL”

On April 25th, 2006, the Phoenix Center held its inaugural “Telecom Town Hall”. The “Telecom Town Hall” was not a typical conference where interested parties re-hash old ideas on formal panels. Instead, it provided an open and neutral forum where policymakers interacted and engaged with conference attendees and discuss the current issues in the telecom sector.

We were honored to have an excellent line-up of senior policymakers to present a wide variety of perspectives.

For example, the State Perspective was presented by the Hon. Connie Hughes - Commissioner, New Jersey Board of Public Utilities.

Next, the Administration Perspective was presented by the Hon. Robert Cresanti, Undersecretary of Commerce for Technology.

Finally, we were honored to have Representative Marsha Blackburn (TN - 7th District) presented the Town Hall attendees with a perspective from the House Commerce Committee, who at that time was busy debating the COPE Act.

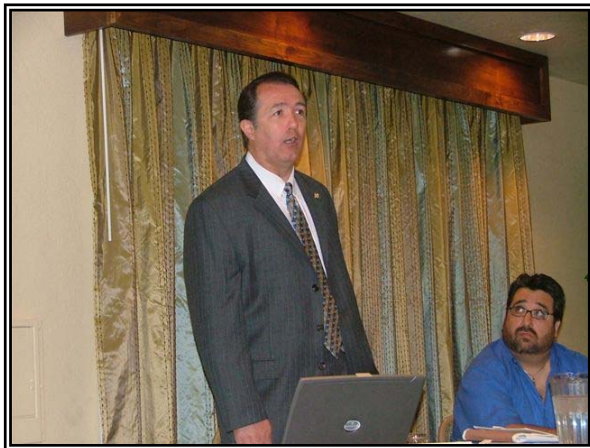


PHOENIX CENTER ANNUAL RETREAT

Each year, the Phoenix Center gathers together a select group of some two dozen selected policymakers, a “blue ribbon” faculty from academia and government, and several keynote speakers for a series of invitation-only briefings and informal exchanges about the interaction of regulation, economics and technological change. Unlike other conferences, the Phoenix Center’s Retreat is 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.

Once again, in addition to our Phoenix Center staff, we were privileged to have a great line-up of speakers this year, including FCC Commissioner Debi Taylor Tate, Congressman Trent Franks (AZ), Under Secretary of Commerce for Technology Robert Cresanti, FCC Inspector General (and Phoenix Center Adjunct Fellow) Kent Nilsson, FCC International Bureau Chief Economist Jerry Duvall, Grover Norquist from Americans for Tax Reform, and NARUC General Counsel Brad Ramsay.

Initiatives on Entry and Long-Term Industry Structure”; “Policy Auctions for Competitive Bidding for Universal Service”, and “Network Security/Critical Infrastructure.”



As always, the topics discussed ranged widely and were timely. Session topics included: “Two-Sided Markets: Introductory Concepts and Implications for Competition Policy”; the “Impact of Current Policy



ANNUAL U.S. TELECOMS SYMPOSIUM AND JERRY B. DUVALL PUBLIC SERVICE AWARD

On December 6th, 2006, nearly 100 people from government, academia and industry joined the Phoenix Center for its Annual U.S. Telecoms Symposium in Washington, D.C. This year's Conference Theme was "*Beyond Rhetoric: The Broadband Policy Debate Comes of Age*" and the discussions were both substantive and lively.

The first panel of the Symposium kicked-off with the traditional "economists' panel." This year, the "economists' panel" included Dr. Charles Goldfarb - Congressional Research Service, Library of Congress, Dr. Scott Wallsten - Progress and Freedom Foundation; Dr. John Mayo - Georgetown University; and Dr. George Ford, Chief Economist - The Phoenix Center. As always, the panel was moderated by Honorary Phoenix Center Chief Economist Emeritus, and current FCC International Bureau Chief Economist, Jerry Duvall.

We were then extremely honored to have FCC Commissioner Debi Taylor Tate moderate the second panel of the day entitled "*How Do We Fix the "Third Rail" of American Communications Policy?*" which focused on the difficult issues of universal service and rural broadband deployment. Panelists included Daniel Sepulveda, Legislative Assistant - Senator Barack Obama; Dennis Weller, Chief Economist - Verizon; Kathleen O'Brien Ham, Managing Director, Federal Regulatory Affairs - T-Mobile; and Brian Adkins, Director, Federal Legislative Affairs - Embarq.

The last panel of the day, moderated by Phoenix Center Resident Scholar Thomas M. Koutsky focused on "*The Emerging VoIP Regulatory Regime*". Panelists for this lively discussion included Earl Comstock, President and CEO - CompTel; Brad Ramsay, General Counsel - NARUC; Tom Navin, Chief - FCC

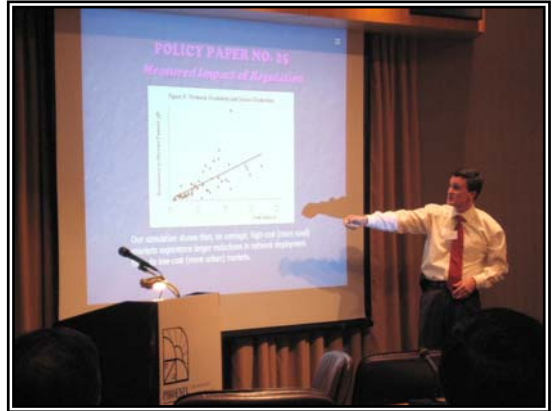
Wireline Competition Bureau; and Robert Quinn, Senior Vice President for Federal Regulatory Affairs - AT&T.

Following the various panels, we were extremely privileged to welcome FCC Chairman Kevin J. Martin as the keynote speaker of the Symposium. Chairman Martin used this opportunity to set forth his views on the local franchise debate, and cited to the Phoenix Center's work extensively in his presentation.

The Symposium ended with the presentation of the Phoenix Center's Annual Jerry B. Duvall Public Service Award to the Speaker of California State Assembly, the Hon. Fabian Núñez. 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 restructuring debate." Significantly, this was the first time the Phoenix Center bestowed its Duvall Award on a state policymaker, but given Speaker Núñez's leadership in passing legislation that will bring California's consumers real choice for cable television and increased broadband deployment, we could think of no one who epitomized the Duvall Award's criteria more in 2006.



SYMPOSIUM PICTURES



RESEARCH INTERESTS FOR 2007

The Phoenix Center's research agenda will be divided among three primary projects in 2007: the Phoenix Center's Broadband Competition Project; the Phoenix Center's Information Economy Policy Project; and a project funded by the US Department of Commerce to study the "Valley of Death" or "Funding Gap" for Technology Development. Each is described more fully below.

BROADBAND COMPETITION PROJECT:

As the dynamic telecommunications industry continues to evolve, the issues facing policymakers remain numerous and complex. Although we are never quite sure where the debate will take our research throughout the year, below are some of the potential research topics we are considering in 2007.

National/State Franchising Initiatives

At the time of this writing, franchise reform legislation is pending both in Congress and in several states. While the Phoenix Center has taken the lead in authoring over seven papers about this important issue, our research is hardly exhausted. As noted *supra*, Phoenix Center staff testified on this topic before several states in 2006, including Florida, New Jersey and Pennsylvania, and we have received strong feedback from both Federal and State legislators on the value of our research. As a result, the Phoenix Center intends to continue its on-going franchise reform research and to testify and present this research before interested policymakers in 2007.

Program Access

The program access rules were perhaps the only pro-entry achievement that came out of the Cable Act of 1992. Unfortunately, however, just as significant new wireline

video entry is finally taking place, the program access rules will sunset as a matter of law at the end of 2007 unless the FCC decides to keep the rules in place for another five years. Among other research into this important area, the Phoenix Center may build upon and update Phoenix Center President Lawrence J. Spiwak's seminal 1995 law review, *Can Short-Term Limits on Strategic Vertical Restraints Improve Long-Term Cable Industry Market Performance?* (with James W. Olson), 13 CARDOZO ARTS & ENT. L.J. 283 (1995), to show why the program access rules not only should be maintained, but that the so-called "terrestrial exemption" remains a significant policy-relevant barrier to entry. In addition, the Phoenix Center may tie this research into its on-going research of "network neutrality", *infra*, in order to examine the important distinction between various types of vertical arrangements in the industry.

Reverse Auctions/Competitive Bidding for Universal Service

The notion of reverse auctions—or, as we prefer to describe it properly, "competitive bidding"—is rapidly coming to the foreground as a potential market-based component of Universal Service. As the Phoenix Center has been directly asked by senior Federal and State policymakers to look into the potential benefits and pitfalls of reverse auctions, the Phoenix Center intends to devote a portion of its research agenda to this complex issue.

Network Neutrality

The issue of "network neutrality" will likely dominate the telecom debate in 2007.

As demonstrated by our network neutrality research in 2006, proponents of network neutrality often ignore the inherent consequences of hindering the ability of

RESEARCH INTERESTS FOR 2007

broadband providers to simplify the broadband experience for Internet users. To this end, the Phoenix Center conduct research to examine whether network neutrality rules which prohibit broadband providers from transacting with upstream content providers in an effort to improve quality would lead to higher prices for both broadband access and content. Based upon preliminary research, we anticipate that the economics will demonstrate that any network neutrality rule that prevents firms and consumers from efficiently contracting with each other would be against consumer interests and, consequently, bad policy.

Another area of research will be to examine the incentives and abilities of network firms to engage in undue discrimination and/or sabotage. While proponents of network neutrality rules often cite to anecdotal evidence from senior network company executives as proof of imminent bad acts, anecdotal evidence is not dispositive to a thorough examination of both economic theory and hard data. Indeed, just because someone expresses their frustration in the media does not automatically mean that they have either the incentive or ability to engage in anticompetitive discriminatory conduct. More specifically, based on a review of the literature, it is unclear why firms would want to block competition in the upstream market since reducing competition for content would diminish demand for their network (unless, of course, strategic vertical conduct is specifically intended to deter entry in the downstream market as is the case with exclusive distribution contracts for MVPD programming). At the same time, the changing patterns of Internet traffic (as IP video applications increase) raise important issues with regard to the provision of network services that may appear to be “discriminatory” but might, in fact, be the most efficient method of pricing those services. In 2007, the Phoenix Center may

examine this important issue by examining whether current and potential structural conditions would give network owners the incentive and ability to sabotage.

INFORMATION ECONOMY POLICY PROJECT:

While the “Broadband Competition Project” is designed to focus on issues affecting entry on the infrastructure side of the equation, the Information Economy Policy Project is designed to focus on entry on the applications side of the equation.

For example, one issue intriguing Phoenix Center staff is how to treat computer software under modern tort law. As computer software is the brain of the Information Economy, it intuitively seems that that blindly applying strict liability to certain types of software may not be economically efficient and detrimental to consumer welfare in the long-run. Indeed, the literature indicates that there is an important distinction between “intrinsic” computer software—such as software that operates machinery like anti-lock brakes without much direct interaction with the consumer—and “extrinsic” computer software, like common shrink-wrapped software purchased by consumers and installed on computers. As such, the Phoenix Center intends to determine whether the difference in the user experience between intrinsic and extrinsic software may be key to a socially efficient liability regime, because the economic theory of product liability law prescribes the assignment of liability to the party who controls the risk. It follows, therefore, that a strict liability regime probably is unlikely to be economically optimal” for those types of software which require the customer to “be actively involved in the selection, operation and maintenance thereof.

RESEARCH INTERESTS FOR 2007

Another item the Phoenix Center may tackle in its Information Economy Policy Project during 2007 is the important issue of patent reform—particularly as it applies to high tech industries. Indeed, unlike other industries dependent on patents (*e.g.*, pharmaceuticals) where each product constitutes a single patent, any given piece of complex technology may contain hundreds if not thousands of patents. Given the massive judgments of recent years, the Phoenix Center intends to look at how the current legal environment for patent infringement suits affects the incentives of firms to invest and innovate. This includes examining such diverse factors as: the phenomenon of so-called “patent trolls” (*i.e.*, firms that aggregate patents with the intention of suing later when a product becomes successful); the deleterious effect of automatic injunctions on technology innovation; the question of whether damages should be calculated on the value of the patent or whether on the value of the product as a whole; and, in particular, the question of “willfulness” (*i.e.*, prior knowledge) of patents in the application process. Finally, the patent approval process will also be examined as it applies to high tech, because it is often impossible to tell whether there is an infringement under existing legal parameters.

“VALLEY OF DEATH” PROJECT:

The period between a company’s formation and its producing cash flow is often referred to as the “Valley of Death” or “Funding Gap”. Unfortunately, the ability to cross the “Valley of Death” is particularly difficult for American technology entrepreneurs. Not only do technology entrepreneurs need adequate capital to segue from basic research to commercialization, but entry-level funding from venture capital sources stung by the “dot-com” bubble has been insufficient to promote economic development fully.

Given the significance of this issue for American entrepreneurs and the American economy as a whole, the Technology Administration (“TA”) has provided the Phoenix Center with funding to conduct a one-year, three phase project to study the causes and potential solutions of the “Valley of Death” or “Funding Gap”.

The Project will consist of three basic Phases:

- In Phase One, the Phoenix Center will produce a paper to set out a theoretical framework for analyzing the “Valley of Death.” This paper will be a significant contribution to the debate, because while there have been studies on this subject, none have offered a formal theoretical treatment or analysis of the problem that offers to shed greater light on the underlying mechanisms creating the “gap” and the role of public policy, if any, to attenuate the apparent deficit in funding. This theoretical paper is expected to be released sometime in early First Quarter 2007.
- In Phase II, the Phoenix Center will hold an interactive public “Summit” on the “Valley of Death” in the metropolitan Washington, DC area in the Second Quarter of 2007, comprised of government officials, academics, senior executives, other stakeholders, and experts to test the predictions of model set forth in the theoretical paper.
- In Phase III, the Phoenix Center will incorporate its theoretical model, along with the findings, conclusions and recommendations garnered through the Summit process, into a Final Report for public reference. The Final Report is expected to be released sometime in the Summer of 2007.

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 telecommunications and high-tech industries.

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

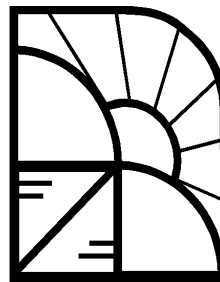
The Phoenix Center achieves this goal by providing an honest and credible new voice in the public dialectic by supporting objective, solutions-based academic research to the forefront that is unencumbered by political hyperbole or agendas and is instead well grounded in fact, law and economic theory.

Long-Term Goals:

- (1) The Phoenix Center seeks to demonstrate that consumer welfare is best enhanced 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.

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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