

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

2011 ANNUAL REPORT

PHOENIX CENTER FOR ADVANCED LEGAL & ECONOMIC PUBLIC POLICY STUDIES

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PRESIDENT'S MESSAGE

2011 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 prodigious. For example, the Phoenix Center published thirteen scholarly papers in 2011. With these papers, the Phoenix Center also hit an important milestone: since our inception in 1998, we have now published over 100 scholarly papers under the Phoenix Center's moniker. We are also proud to report that no less than nine of our papers were published, or accepted for publication, in a variety of leading academic journals in 2011. And, in a similar vein, we authored six op-eds in such noted media outlets as FOX NEWS, FORBES, and ROLL CALL.

The Phoenix Center's research also continued to make a significant contribution to the dialectic in 2011. For example, as always, we were cited extensively by policymakers both on Capitol Hill and at the Federal Communications Commission. In addition, we again often called upon to testify and to present our research and conferences. Moreover, Phoenix Center Chief Economist George Ford continued to be in the top 1% of authors downloaded on the Social Science Research Network, while I remained in the top 2% of authors downloaded.

We also held two phenomenal events this year relating to our core telecom policy research. The first event we held was a "salon lunch" workshop to discuss our research on emerging economics of the wireless industry. Attended by a wide-selection of people from government, academia, industry and public interest groups, this small and intimate setting provided an excellent forum for discussion and the exchange of ideas.

We are also pleased to report that the Phoenix Center's Annual U.S. Telecoms Symposium was another tremendous success. In addition to presenting panels comprised of some of the leading experts from academia, Wall Street, industry and government, we were delighted to bestow upon Congressman Greg Walden the Phoenix Center's prestigious annual Jerry B. Duvall Public Service Award.

Finally, with an anemic economic recovery, unemployment still at record highs, and contentious battles over record government deficits, this year we inaugurated our "Government and the Market Economy" Project by issuing two papers that studied the complex relationship between government expenditures, regulation, and private sector job creation.

Our first paper was entitled *Regulatory Expenditures, Economic Growth and Jobs: An Empirical Study*. Using fifty-years of data on regulation and advanced econometric techniques, we estimated that each year, a single federal regulatory employee (i) cuts GDP by \$6.2 million; (ii) eliminates 98 private sector jobs; and (iii) destroys the equivalent of the economic output of 134 persons. In our second paper entitled *Can Government Spending Get America Working Again? An Empirical Investigation*, we again, we looked at fifty years of data on government spending, Gross Domestic Product, private sector investment, and private-sector job growth, and found that during periods of economic sluggishness, like now, government spending has zero effect on private-sector job creation. This research was cited repeatedly by numerous members of Congress (including Leadership) and extensively in the national media.

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 2011. 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 2011, the Phoenix Center issued the following POLICY PAPER:

- PHOENIX CENTER POLICY PAPER NO. 42, *A Policy Framework for Spectrum Allocation in Mobile Communications* (March 2011).

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 2011:

- *Public Safety or Commercial Use? A Cost/Benefit Framework for the D Block*, PHOENIX CENTER POLICY BULLETIN NO. 26 (March 2011);
- *Challenges In Using The National Broadband Map's Data*, PHOENIX CENTER POLICY BULLETIN NO. 27 (March 2011);
- *Regulatory Expenditures, Economic Growth and Jobs: An Empirical Study*, PHOENIX CENTER POLICY BULLETIN NO. 28 (April 2011);
- *Outliving its Usefulness: A Law and Economics Argument for Sunset of Section*

629, PHOENIX CENTER POLICY BULLETIN NO. 29 (June 2011);

- *Shocks to the Broadband Ecosystem: Implications for Competition and Market Structure*, PHOENIX CENTER POLICY BULLETIN NO. 30 (September 2011); and
- *Can Government Spending Get America Working Again? An Empirical Investigation* PHOENIX CENTER POLICY BULLETIN NO. 31 (November 2011).

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 2011:

- PHOENIX CENTER PERSPECTIVE NO. 11-01, *Federalist Implications of the FCC's Open Internet Order* (February 8, 2011);
- PHOENIX CENTER PERSPECTIVE NO. 11-02, *Wireless Mergers and Employment: A Look at the Evidence* (May 10, 2011).
- PHOENIX CENTER POLICY PERSPECTIVE NO. 11-03, *Re-Auction of the D Block: A Review of the Arguments* (May 24, 2011).
- PHOENIX CENTER POLICY PERSPECTIVE NO. 11-04, *Internet Use and Labor Market Participation: Additional Insights from New and Old Data* (August 18, 2011).
- PHOENIX CENTER POLICY PERSPECTIVE NO. 11-05, *Mobile Broadband and Job Search: An Empirical Test* (September 6, 2011); and
- PHOENIX CENTER POLICY PERSPECTIVE NO. 11-06, *On the Road to More Efficient Pricing of Telecommunications Services: A Look at the Evidence* (October 5, 2011).

CONTRIBUTING TO THE PUBLIC DIALECTIC

In 2011, Phoenix Center scholars again continued to make numerous contributions to the public dialectic in a wide variety of forums.

WEB TRAFFIC:

On average, the Phoenix Center's web page received approximately 40,000 hits a month in 2011.

SIGNIFICANT APPOINTMENTS AND TESTIMONY:

- Phoenix Center Chief Economist Dr. George Ford remains in top 1% of authors downloaded on the Social Science Network and Phoenix Center President Lawrence J. Spiwak remains in top 2% of authors downloaded on the Social Science Research Network;
- Phoenix Center Chief Economist Dr. George Ford continues to serve on Connect Alabama by direct appointment of the Governor;
- Phoenix Center was retained by the National Telecommunications and Information Administration to perform preliminary analysis of NATIONAL BROADBAND MAP data;
- Phoenix Center was retained by USAID to perform advisory role for Government Peru on U.S. unbundling experience;
- Phoenix Center Chief Economist Dr. George Ford was invited to testify before the California Public Utilities Commission on the economics of the U.S. wireless industry as part of the CPUC's review of the AT&T/T-Mobile merger; and
- Phoenix Center President Lawrence J. Spiwak continued to serve as co-chair of FEDERAL COMMUNICATIONS LAW

JOURNAL committee of the Federal Communications Bar Association.

ACADEMIC PUBLICATIONS

In 2011, the Phoenix Center had no less than nine of its papers published, or accepted for publication, in leading academic journals:

- *The Broadband Credibility Gap*, 19 COMMLAW CONSPECTUS 75;
- *The Burden of Network Neutrality Mandates on Rural Broadband Deployment*, 4 JOURNAL OF APPLIED ECONOMY 237;
- *Broadband Expectations and the Convergence of Ranks*, 35 TELECOMMUNICATIONS POLICY 213;
- *A Policy Framework for Spectrum Allocation in Mobile Communications*, 63 FEDERAL COMMUNICATIONS LAW JOURNAL 639;
- *The Frontier of Broadband Adoption Across the OECD: A Comparison of Performance*, 25 INTERNATIONAL ECONOMIC JOURNAL 111;
- *Endogenous Sunk Cost, Quality Competition and Welfare*, 1 THEORETICAL ECONOMICS LETTERS 88;
- *Internet Use and Job Search*, forthcoming TELECOMMUNICATIONS POLICY;
- *The Need for Better Analysis of High Capacity Services*, forthcoming in JOHN MARSHAL JOURNAL OF COMPUTER AND INFORMATION LAW; and
- *Internet Use and Depression Among the Elderly*, forthcoming in CYBER-PSYCHOLOGY, BEHAVIOR, AND SOCIAL NETWORKING.

OP-EDS:

- *Wasting Tax Dollars on FCC Policy*, MONTGOMERY COUNTY GAZETTE;

CONTRIBUTING TO THE PUBLIC DIALECTIC

- *Attention Congress: We Need More Phone Spectrum, And Soon*, FORBES.COM;
- *Want Fewer Jobs? Just Create More Regulation*, FOX NEWS;
- *Reining Regulation*, INDUSTRY TODAY;
- *Can Government Spending Get America Back to Work?* FOX NEWS;
- *Mixed Signals on Spectrum Call Into Question FCC Agenda*, ROLL CALL.

SPEECHES AND CONFERENCE PARTICIPATION

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

- Practicing Law Institute's 29th Annual Telecommunications Policy and Regulation Institute;
- A panel co-sponsored New America Foundation and Consumers Union on mobile device choice and spectrum interoperability;
- A panel sponsored by TechNet on the NATIONAL BROADBAND MAP;
- A panel sponsored by Project GOAL (Get Older Americans on-Line) on Internet use and depression in the elderly; and
- A panel on regulatory reform sponsored by RightOnline.

SIGNIFICANT CITATIONS BY POLICYMAKERS

As always, policymakers continued to rely heavily on Phoenix Center research in 2011. By way of example:

- Chairman Peter King of the House Committee on Homeland Security introduced POLICY BULLETIN NO. 26 as the lead piece of evidence in a hearing entitled *Public Safety Communications: Are the Needs of our First Responders Being Met?*

- FCC Chairman Julius Genachowski cited POLICY PERSPECTIVE NO. 11-05 in a USATODAY op-ed entitled *Expand Broadband to Create Jobs*;
- FCC Commissioner Meredith Baker cited POLICY BULLETIN NO. 18 in a speech entitled *Toward a More Targeted and Predictable Merger Review Process*;
- Senator John Barasso mentioned POLICY BULLETIN NO. 28 in a speech entitled *This is Not Your Parents' EPA*;
- Congressman Marsha Blackburn cited POLICY BULLETIN NO. 28 in a piece entitled: *Why Obama Can't Regulate His Regulators*; and
- Both Speaker of the House John Boehner and Majority Leader Eric Cantor cited POLICY BULLETIN NO. 28 in their official blogs.

SIGNIFICANT PRESS HITS

As always, media coverage of the Phoenix Center's research in 2011 was extensive and diverse. These hits ranged from traditional trade press outlets such as COMMUNICATIONS DAILY, TELECOMMUNICATIONS REPORTS, FIERCE CABLE and TMCNET to national outlets such as THE HILL, POLITICO, NATIONAL REVIEW, FOX NEWS, BIG GOVERNMENT, PAJAMAS MEDIA, U.S. NEWS AND WORLD REPORT, and the WASHINGTON EXAMINER.

PHOENIX CENTER WIRELESS "SALON LUNCH"

In October, we held a "salon lunch" workshop to discuss our research on emerging economics of the wireless industry. Attended by a wide selection of people from government, academia, industry and public interest groups, this small and intimate setting provided an excellent forum for discussion and thought.

GOVERNMENT AND THE MARKET ECONOMY PROJECT

Typically, the Phoenix Center's research focuses on the cost/benefits of specific regulations. However, with an anemic economic recovery, unemployment still at record highs, and contentious battles over record government deficits, this year we inaugurated our "Government and the Market Economy" Project by issuing two papers that studied the complex relationship between government expenditures, regulation, and private sector job creation.

"irrespective of ideological considerations – the Phoenix Center is a strong proponent of free markets – Obama would be well-advised to pay close attention to its findings."

– Washington Examiner

Our first paper was entitled *Regulatory Expenditures, Economic Growth and Jobs: An Empirical Study*. Using fifty-years of data on regulation and advanced econometric techniques, we found that there is a strong empirical link between regulatory activity to jobs and economic output. In particular, we estimated that while reducing across the board the operating budgets of federal regulatory agencies by just five percent (5%) may cost 12,000 federal regulatory jobs, that loss is offset by a staggering 1.2 million private-sector jobs and \$75 billion more in GDP each year. If we were to double the cut to 10%, then the domestic economy picks up close to \$150 billion in new GDP and 2.3 million new private-sector jobs annually. Putting in another way, *our analysis revealed that each year, a single federal regulatory employee (i) cuts GDP by \$6.2 million; (ii)*

eliminates 98 private sector jobs; and (iii) destroys the equivalent of the economic output of 134 persons. Equally as important, to the extent reducing regulation can aid economy recovery, expanding regulation can hurt. Our research also revealed that each million dollar increase in the federal regulatory budget costs the economy 420 private sector jobs. Given that the total annual operating budgets for federal regulatory agencies is only about \$60 billion, our "cost per regulator" calculations clearly show the pervasive effect regulation has on the overall economy.

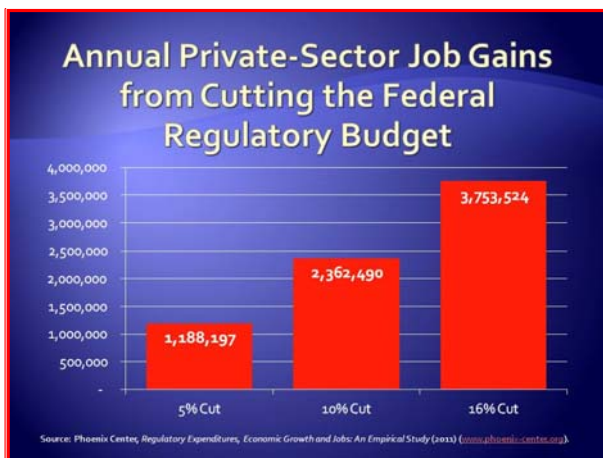


RSC Chairman Congressman Jim Jordan Speaks at Phoenix Center Capitol Hill Briefing on our "Cost Per Regulator" research

Our second paper was entitled *Can Government Spending Get America Working Again? An Empirical Investigation*. Again, we looked at fifty years of data on government spending, Gross Domestic Product, private sector investment, and private-sector job growth, and then divided this economic history into low-growth and high-growth periods. In so doing, our analysis permitted an assessment of the stimulus effects on private-sector jobs of both government and private investment during economic downturns, and during economic expansions. After review, we found that during periods of economic sluggishness, like

GOVERNMENT AND THE MARKET ECONOMY PROJECT

now, government spending has zero effect on private-sector job creation. This result is consistent with the impotence of the most recent rounds of federal government “stimulus” efforts that have failed to dent unemployment. In contrast, expansions in private investment are effective at creating jobs in both good and bad economic times. Most interestingly, we found that the efficacy of private investment is greater during periods of slow economic growth. By implication, public policies that discourage private investment may have severe job-killing effects during economic downturns, since it is during the low growth periods that jobs are most responsive to increases in private investment. In light of these results and the evident failure of government stimulus to restore economic growth, our research clearly demonstrated that job creation appears best served, under present economic conditions, by policies that encourage efficient private-sector investment such as tax and regulatory reform.



We are pleased to report that both of our papers received tremendous positive attention on Capitol Hill. For example, not only did we hold a Congressional Briefing with Republican Study Committee Chairman Jim Jordan to present our research, but our

work was also mentioned specifically by numerous members of Congress (including Leadership). Media coverage was also significant: For example, U.S. NEWS & WORLD REPORT described our research as a “bombshell.” Similarly, the WASHINGTON EXAMINER wrote that “*irrespective of ideological considerations—the Phoenix Center is a strong proponent of free markets—Obama would be well-advised to pay close attention to its findings.*” (Emphasis supplied.)

“... a bombshell.”

– U.S. News and World Report

With an election year looming, questions about the proper role of government in a market economy, including how regulation and government spending affect private sector investment and job growth, will remain at the forefront of the public debate in 2012. To this end, we are in the process of seeking funding to build upon past momentum and to grow our “Government and the Market Economy” Project in 2012. Consistent with our activities in 2011, we envision continuing with our groundbreaking research in this area, as well as publishing op-eds, holding Symposia and Congressional briefings to educate both policymakers and the public about our findings.



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

On December 1, 2011, nearly 100 people from government, academia, industry and the media joined the Phoenix Center for its 11th Annual U.S. Telecoms Symposium at the University Club in Washington, D.C. This year's Symposium theme was *The Path to Regulatory Reform in Modern Communications Markets* and the discussions were both substantive and lively.

The Symposium kicked off with the traditional "Economists' Panel." This year, the Economists' Panel included Dr. Tim Brennan, Professor of Economics—University of Maryland, Baltimore Campus; Dr. Marius Schwartz, Chief Economist—Federal Communications Commission; Dr. Michael Pelcovits—MiCRA; and Dr. George Ford, Chief Economist—The Phoenix Center. As always, the panel was moderated by Dr. Jerry Duvall, Honorary Phoenix Center Chief Economist Emeritus and current FCC International Bureau Chief Economist.

The second panel was entitled "Should I Write A Check" and featured two of the leading Wall Street analysts working in the field today: Michael Rollins, Managing Director—Citi Investment Research & Analysis and Chris Gleason from Alyeska Investment Group.

The third panel was our "Phoenix Center Power Panel" featuring Hon. Michael Powell, President—NCTA; Hon. Steve Largent, President—CTIA; James W. Cicconi, Senior Executive Vice President—AT&T Services, Inc.

The Symposium ended with the presentation of the Phoenix Center's Annual Jerry B. Duvall Public Service Award to Congressman Greg Walden—Chair, Subcommittee on Communications and

Technology, House Energy and Commerce Committee.

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 Chairman Walden's efforts to bring much needed FCC reform and to pass legislation to alleviate spectrum exhaust, we could think of nobody who epitomized this standard more in 2011.



RESEARCH INTERESTS FOR 2012

2012 promises to bring a wide variety of complex broadband and technology policy challenges. In our continuing spirit of contributing positively to the dialectic, the Phoenix Center has a series of research projects underway designed to educate the public and policymakers on the impact of broadband and technology policy. As always, our research agenda is flexible, thus allowing us to adapt quickly depending on the tenor and focus of the debate at the time.

SPECTRUM POLICY:

By all accounts, there is a looming “spectrum crisis.” However, while there is broad consensus to make more spectrum available, the more difficult and politically sensitive question is who gets the new spectrum? In 2012, we intend to continue to study the complex issue of spectrum caps and the policy consequences of the trade-off between the desire for new entrants in the market against the potential efficiency gains from allowing existing players to acquire additional spectrum. In addition, should legislation providing for voluntary incentive auctions be enacted, we expect that the design and implementation of such auctions will be an active part of our research agenda.

BENEFITS OF BROADBAND:

The Phoenix Center has, in the past, issued several papers on the benefits of broadband. These papers include examinations of how Internet use reduces depression in the elderly, and how internet use reduces “discouragement” for unemployed Americans. We intend to continue with such research in 2012.

RETHINKING BROADBAND REGULATION:

By all accounts, legislative reform of the Communications Act is well overdue. What this reform actually looks like, however, will be the subject of vigorous debate. To aid in the

policy discussion, we intend to continue our research on how best to regulate, if at all, in concentrated markets characterized by high fixed and sunk costs and the need for large economies of scale and scope.

ROUGE WEBSITES AND ON-LINE PIRACY:

While copyright and patent laws attempt to ensure that innovators are properly compensated for their intellectual property, the stark reality is that information can be easily stolen and distributed at very low cost. As part of our Information Economy Policy Project, we believe that we can contribute positively to the debate by reviewing a number of the legal and economic concepts regarding the creation and enforcement of intellectual property rights. Such concepts include optimal enforcement strategy, the dynamic nature of supply and demand for content, weak-link public goods, and so forth. After outlining these concepts, we intend to discuss how the legislative proposals coincide with the prescriptions of both legal and economic science. Ideally, this research will raise the level of debate by providing a concise yet insightful review of the legal and economic ideas underlying the creation of an efficient and effective public policy for enforcing intellectual property rights.

GOVERNMENT AND THE MARKET ECONOMY PROJECT:

In our earlier research, we considered the influence of government spending on private sector employment. During periods of economic sluggishness, we found no effect, though we confirmed statistically a strong effect on jobs from private investment. We are looking now for additional evidence on these effects, studying the influence of fiscal stimulus on consumer sentiment, an established leading indicator. Many experts feel that sentiment must rise to initiate a recovery, so we believe that study on this topic is valuable to the public 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 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.

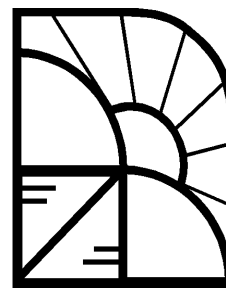
The Phoenix Center achieves this goal by providing an honest and credible voice in the public dialectic by supporting objective, solutions-based academic research to the forefront that is unencumbered by political hyperbole or agendas and is instead well grounded in fact, law and economic theory.

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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