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Press Release

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NEW PHOENIX CENTER STUDY DEMONSTRATES THAT FCC'S REGULATORY PROCESS MAY BE USED TO IMPEDE SOLUTIONS TO SPECTRUM EXHAUST AND SLOW THE DEVELOPMENT OF A SECONDARY MARKET FOR COMMERCIAL SPECTRUM

"Taxing" Efforts to Repurpose Spectrum Resources from Lower- to Higher-Valued Uses Deters the Larger Scale Secondary Market Transactions Necessary to Mitigate Spectrum Exhaust

WASHINGTON, D.C. – In a new study released today, the Phoenix Center demonstrates how the regulatory process may be used to impede solutions to spectrum exhaust and slow the evolution and functioning of a secondary market for commercial spectrum. In particular, the Phoenix Center's analysis shows that imposing (and threatening to impose) significant conditions when firms seek to repurpose spectrum from a low-value to a higher-value use acts as a "tax" and thus reduces the incentives of firms to offer spectrum to, and acquire spectrum in, the secondary market. As a result, "taxation by condition" will discourage the larger scale transactions necessary to resolve spectrum exhaust.

The Phoenix Center's analysis also reveals that in many cases conditioning of spectrum licenses based on "market power" concerns is misguided. Market power does not over-motivate licensees to repurpose spectrum relative to a socially-minded regulator. In fact, economic theory shows that even a monopolist will repurpose spectrum to a degree less than or equal to a benevolent "social planner."

Accordingly, the Phoenix Center's study concludes that "under the constant threat of spectrum exhaust, 'taxing' efforts to repurpose spectrum is perhaps the worst of all policies. Instead, if the Commission is serious about alleviating exhaust for commercial spectrum, then barring legitimate competitive or interference concerns, the agency should expeditiously approve efforts to repurpose spectrum without extraneous conditions."

"As demand for additional commercial spectrum explodes exponentially, firms have no choice but to look at the secondary market to acquire spectrum that can be converted from a low-value use to a higher-value use," said study co-author and Phoenix Center President Lawrence J. Spiwak. "However, if firms perceive that the agency intends to "tax" every effort to repurpose spectrum with onerous conditions, then less spectrum will reach the market and the American consumer will be worse off."

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"If you want more of something, then you don't tax it," explained study co-author and Phoenix Center Chief Economist Dr. George Ford. "If the FCC wants more spectrum for mobile data, then the agency must avoid imposing hefty taxes in the form of conditions on private efforts to solve the spectrum crisis. A requirement to 'pay the vig' impedes the development of a secondary market for spectrum and influences the type of transactions we do see. It's bad policy."

A complete copy of the study, PHOENIX CENTER POLICY PAPER NO. 44: *Taxation by Condition: Spectrum Repurposing at the FCC and the Prolonging of Spectrum Exhaust*, may be downloaded free from the Phoenix Center's web page at: http://www.phoenix-center.org/pcpp/PCPP44Final.pdf.

The Phoenix Center is a 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.