



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

5335 Wisconsin Avenue, NW  
Suite 440  
Washington, D.C. 20015-0234  
Tel: +1 (202) 274-0235  
Fax: +1 (202) 318-4909  
[www.phoenix-center.org](http://www.phoenix-center.org)

## Press Release

Contact: Lawrence J. Spiwak  
Phone: +1 (202) 274-0235

FOR IMMEDIATE RELEASE  
Wednesday – September 19, 2012

### NEW PHOENIX CENTER STUDY DEMONSTRATES AGGRESSIVE REGULATORY AGENDA IN U.S. THREATENS BROADBAND INFRASTRUCTURE INVESTMENT

*Phoenix Center Finds that if the Government is Serious about Promoting Broadband Infrastructure Investment, then it Needs to Stop Sending the Wrong Signals to the Market*

WASHINGTON, D.C. – In a new analysis released today entitled *What is the Effect of Regulation on Broadband Investment? Regulatory Certainty and the Expectation of Returns*, the Phoenix Center examines the effect of regulation on the investment decisions of Broadband Service Providers. Since broadband distribution networks, both wireless and wireline, require large levels of capital expenditures on long-lived assets, a Broadband Service Provider's incentive to invest in modern broadband infrastructure is influenced not only by current regulation but also by expectations regarding future regulatory interventions. Thus, argues the Phoenix Center, "the effective stimulus of broadband investment requires regulators not only to make prudent decisions today, but also to signal to investors that the future is a favorable investment climate and, if possible, to make inter-temporal commitments to particular regulatory paradigms."

Using an economic model of "regulatory certainty," the Phoenix Center demonstrates that investment levels are determined not so much by the level of certainty and uncertainty, but rather by what broadband providers are certain about. If providers become more certain that regulation will reduce the returns on investment in the future, then this signal of "strong" regulation curbs investment. The Center then compares the heavy-handed record of the current Federal Communications Commission with recent statements by senior European Union officials who signal a more "relaxed" regulatory touch going forward. The Phoenix Center concludes that given "the respective regulatory postures of the U.S. and E.U. regulators, the theory predicts, *ceteris paribus*, that broadband investment in Europe will rise relative to U.S. investment levels." Accordingly, the Phoenix Center argues that "[i]f the U.S. hopes to stay ahead in the mythical broadband race, then a change in the mentality of its regulators is required."

Finally, the Phoenix Center updates earlier research and again demonstrates that arguments for more regulation of Broadband Service Providers because of purported "high profits" in the sector have no empirical support. Using publicly-available data, the Phoenix Center shows that the profitability of Broadband Service Providers is below that of the average for S&P 500 firms, and well below that of other firms in the broadband ecosystem (i.e., Google and eBay).

~ more ~

“Looking at current levels of investment as a bellwether of how regulation affects the behavior of firms misses the point” said study co-author and Phoenix Center President Lawrence J. Spiwak. “The correct question to ask is how much more would firms invest ‘but for’ the current aggressive regulatory environment in the United States.”

“The FCC frequently claims that reducing regulatory uncertainty improves investment incentives, but the agency is wrong. The question is not just about certainty, but what are providers more certain about?” said study co-author and Phoenix Center Chief Economist George S. Ford. “If providers become more certain that regulation will reduce future profitability on network infrastructure, then regulation reduces investment incentives. Unquestionably, the FCC’s aggressive regulatory approach has signaled an unfavorable climate for network investments.”

A complete copy of the study, PHOENIX CENTER POLICY PERSPECTIVE NO. 12-05: *What is the Effect of Regulation on Broadband Investment? Regulatory Certainty and the Expectation of Returns* may be downloaded free from the Phoenix Center’s web page at: <http://www.phoenix-center.org/perspectives/Perspective12-05Final.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.*