Press Release

PHOENIX CENTER FINDS T-MOBILE CRITIQUE UNCOMPELLING

T-Mobile Expert Witness, Like the Department of Justice, Refuses to Define "Foreclosure Value"

WASHINGTON, D.C. – Pursuant to the Middle Class Tax Relief and Job Creation Act of 2012, the Federal Communications Commission ("FCC") has instituted a proceeding to design a voluntary incentive auction aimed at repurposing broadcast television spectrum to mobile communications services. After the initial pleading cycle closed, the United States Department of Justice ("DOJ") filed an ex parte presentation in the docket which encouraged the FCC to use the auction as a tool to manipulate industry structure. In particular, the Department called for the Commission to equalize competition in the industry by placing limits on the ability of the largest and most spectrum-constrained mobile wireless providers—AT&T and Verizon—to acquire additional spectrum in the auction. Given the significance of the DOJ's proposed intervention into the incentive auction's design, the Phoenix Center recently authored a paper entitled *Equalizing Competition Among Competitors: A Review of the DOJ's Spectrum Screen Ex Parte Filing*, where it provided a thorough assessment of the DOJ's legal and economic arguments (or lack thereof) for manipulating the auction. Among other points, the Center criticized in detail the Department's claim that the mere presence of its undefined and unanalyzed concept called "foreclosure value" justified its proposed interventions.

Recently, T-Mobile (one of the intended beneficiaries of the DOJ's policy proposal) had its economic expert, Professor Jonathan Baker, file a formal comment on the Center's paper in the incentive auction docket at the FCC. In a new PERSPECTIVE released today entitled *The Economics of Bidder Exclusion Rules: A Response to Dr. Baker,* Phoenix Center Chief Economist Dr. George Ford addresses Professor Baker's comments.

To begin, Dr. Ford addresses Dr. Baker's two primary critiques of the Center's earlier paper, namely: (1) that the Center allegedly assumed away issues of foreclosure value; and (2) that the Center argued that new spectrum must be awarded to the largest wireless carriers. As Dr. Ford explains, however, the Center did no such thing, and for Dr. Baker to argue otherwise is a gross mischaracterization of the paper.

More significant than Dr. Baker's inaccurate critiques, however, Dr. Ford shows in great detail that Professor Baker's analysis relies upon nothing but speculation and assertion to support his positions. As Dr. Ford explains, "Like the DOJ, Dr. Baker has yet to define the concept of

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foreclosure value upon which his argument rests, much less subject his proposals to the discipline of a formal economic model." Quite to the contrary, the Phoenix Center's paper is the first and only effort to define foreclosure value and assess its implications for the spectrum auction in the context of a standard economic model of competition.

"The burden is on those promoting auction participation limits to demonstrate that the benefits to society are more than sufficient to offset the losses," said Dr. Ford. "To date, no one has."

PHOENIX CENTER POLICY PERSPECTIVE NO. 13-04: *The Economics of Bidder Exclusion Rules: A Response to Dr. Baker,* may be downloaded free from the Phoenix Center's web page at: http://www.phoenix-center.org/perspectives/Perspective13-04Final.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.

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