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Press Release

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PHOENIX CENTER FINDS DIGITAL DISCRIMINATION POLICIES MAY END DISCOUNT PLANS FOR LOW-INCOME CONSUMERS

Low-price plans targeted to low-income consumers are explicitly discriminatory against protected classes and thus are incompatible with the requirements of the Infrastructure Act and the FCC's Proposed Rules

WASHINGTON, D.C. — Section 60506 of the Infrastructure Investment and Jobs Act of 2021 prohibits “digital discrimination of [broadband] access based on the protected classes limited to income level, race, ethnicity, color, religion, or national origin,” including requiring services to be offered on “comparable terms and conditions.” While the Commission’s own deployment data, as well as Census data, do not reveal any differences in broadband availability by race or income, the statute and the Commission’s proposed rules embed a serious unintended consequence.

In a new analysis released today entitled *Will Digital Discrimination Policies End Discount Plans for Low-Income Consumers?*, Phoenix Center Chief Economist Dr. George S. Ford details how Section 60506 and the Commission’s draft final rules appear to prohibit discounting of broadband prices based on income. These discount plans tied explicitly to income are nakedly discriminatory and violate both the differential treatment and differential effects standards proposed by the Commission. While past discounting is unproblematic, the continued use of income-based discounts, even for customers already on these plans, poses risks for broadband providers as they violate both the statute and the Commission’s proposed rules. The Commission requires “pricing consistency [] between different groups of consumers” and that providers cannot “freely engage in discriminatory policies and practices with regard to the ongoing provision” of broadband service. In comments to the FCC, several public interest groups argue strongly against such price discrimination, with some arguing the prohibition of such discrimination should be the loadstar of the digital discrimination rules.

“All legislation and regulation come with unintended consequences,” says the study’s author Phoenix Center Chief Economist Dr. George S. Ford. “Since the FCC’s data shows a lack of digital discrimination in broadband access, it seems that all that is left is unintended consequences, including the end of discounted prices for low-income households.”

A full copy of PHOENIX CENTER POLICY PERSPECTIVE NO. 23-04, *Will Digital Discrimination Policies End Discount Plans for Low-Income Consumers?*, may be downloaded free from the Phoenix Center’s web page at: <https://www.phoenix-center.org/perspectives/Perspective23-04Final.pdf>.

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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 the digital age.