Consumer Federation of America

DOMINANT WIRELESS BROADBAND PROVIDERS OVERCHARGE U.S. CONSUMERS BY $15 BILLION PER YEAR

Consumer Group Debunks Effort to Mislead Policy Makers by Phoenix Center and Information Technology and Innovation Foundation

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Washington, DC -- The Consumer Federation of America (CFA) today released a report demonstrating that the recent analyses of broadband prices and services from the Phoenix Center and the Information Technology and Innovation Foundation (ITIF) are fundamentally flawed and purposefully misleading.

"CFA's comprehensive, fact-based analysis stands in stark contrast to the error and bluster we've seen from the Phoenix Center and ITIF," Dr. Mark Cooper, Director of Research at CFA and author of the report, said.

CFA's latest report was filed as an *ex parte* supplement to the record in several ongoing Federal Communications Commission (FCC) proceedings that are that are vital to broadband policy and on the agenda for the Federal Communications Commission Open Meeting on January 30, 2014.

"The FCC prides itself on being a data-driven organization, and in these proceedings seeks an accurate picture of the status of prices and product offerings in broadband Internet access service to inform sound broadband policy," Cooper said. "However, there is little factual data to be found in the Phoenix Center/ITIF reports. Indeed, by simply correcting their math, we show that the dominant incumbents actually *overcharge* customers by about $15 billion per year for wireless service."

"Utilizing data from the New America Foundation (NAF) global survey of rates, terms and conditions of wireline and wireless service, CFA found that U.S. providers charge more, offer slower speeds and, in the case of mobile broadband, have lower caps and more onerous penalties for exceeding those caps than their non-U.S. counterparts," Cooper added.

The report, entitled *Abuse of Market Power for Broadband Internet Access Service: Blind Theory and Bonehead Analysis Can't Hide the Problem,* presents the following evidence of errors in the Phoenix Center and ITIF's analyses.

The Phoenix Center: An Error of Commission

By using an erroneous number from a FCC report, the Phoenix Center purported to show that the capital expenditure (CAPEX) data in a recent FCC report demonstrated how the two dominant incumbents (AT&T and Verizon) were supposedly investing more to deliver a higher quality service than their competitors. In fact, the numbers that the Phoenix Center refers to as CAPEX are clearly labeled as earnings (EBITDA) *minus* CAPEX in the FCC's report. EBITDA minus CAPEX is cash flow and high cash flow demonstrates exactly the opposite of what the Phoenix Center concluded. Using a model of competitor finances to correct the Phoenix Center mistake shows excessive cash flow for AT&T/Verizon of about $6 per subscriber per month.

"CFA's earlier analysis had put the figure for excessive cash flow for the previous five years at $5.50," Cooper said, "We have also provided evidence that confirms the extremely high level of concentration in the wireless market as well as spectral inefficiency of the dominant incumbent wireless carriers."

To evaluate broadband products and prices from the consumer point of view, CFA analyzed the product attributes that are important to consumers as reported in a global survey of rates, terms and conditions for wireline and wireless broadband serviced conducted by NAF.

- In its initial study, NAF examined six service characteristics that define the consumer experience: monthly bills, cost per megabit, download speed, upload speed, presence of a data cap, and type of data cap.
- In all analyses CFA/NAF controlled for a basic set of factors including: service type (e.g. broadband only, triple play, wireless), population density of the municipality, number of competitors, and nature of competitors (municipals, Baby Bells, other).
- For cross-national comparisons, in addition to the above variables, CFA/NAF also controlled for the following: national income per capita, level of wireline or wireless broadband penetration, and national population densities.

The Information Technology and Innovation Foundation: An Error of Omission

Today's CFA filing also rebuts a critique leveled by ITIF of CFA's previous analysis. "ITIF completely ignores the careful definition of variables and econometric analysis we utilized," Cooper said. "They assert incorrectly that differences we observe in pricing and product traits can be explained by omitted variables. Since we included the important variables, this is a glaring error; they cannot explain the outcome."

"The claim that the underlying NAF data is biased is also refuted by a recent survey from Ofcom, the communications sector regulator in the United Kingdom, which yielded results quite similar to the NAF survey results," Cooper noted.

"The evidence overwhelmingly points to the existence and abuse of market power in the U.S. wireline and wireless broadband markets," Cooper concluded. "Stale theory and bad analysis can't hide facts. If this is a teachable moment, then there are two lessons to be learned."

"First, with respect to process, the Phoenix Center and ITIF have to learn that there are too many serious researchers working on these important issues to get away with incanting myopic theory, fudging the data or regurgitating stale empirical arguments that have been thoroughly refuted."

"Second and even more importantly, with respect to substance, the FCC must recognize the current level of competition does not effectively protect consumers, and much more needs to be done to promote competition. Only with true competition in the wireline and wireless marketplace and responsible policies to promote the goals of the Communications Act where competition falls short can we promote the public interest under the Communications Act."

Links to the CFA analysis filed at the FCC can be found at:

http://www.consumerfed.org/pdfs/comparing-apples-to-apples-11-2013.pdf
www.consumerfed.org/pdfs/CFA-Rebuttal-of-Phoenix-Center-and-ITIF.pdf