BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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In the Matter of	)	
	)	
The State of Mobile Wireless Competition	)	WT Docket No. 10-133
	)	

EX PARTE COMMENTS OF THE INSTITUTE FOR LIBERTY

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January 17, 2011

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I. Introduction

The Institute for Liberty ("IFL") would like to submit the following *ex parte* comments into the record of the above-named proceeding. By way of background, the Institute for Liberty is a non-profit 501(c)(4) membership-based advocacy organization which focuses on policy issues that affect small businesses and entrepreneurs in the United States. IFL believes that small businesses are the engine of the American economy, and that the Federal government's role is to promote, and not hinder, the creation and growth of these small businesses.[1] Given the importance of wireless telephony and wireless broadband to American small businesses, IFL has a keen interest in the outcome of this proceeding.

II. Submission

The IFL is compelled to submit these *ex parte* comments because on October 21, 2010, the New America Foundation's Open Technology Initiative (hereinafter "New America" or "NAF") submitted into the record an *ex parte* filing containing, *inter alia*, a report entitled: *An International Comparison of Cell Phone Plans and Prices.*[2] In this study, New America purports to show that United States has among the highest prices for mobile phone services in the world. This conclusion, which controverts evidence presented in the latest *Annual CMRS Competition Report*[3] published by the Federal Communications Commission, is based on a comparison of crudely measured "prices" for voice, texting, and data, across eleven countries. The New America Survey concludes that prices are lower in countries they describe as "more competitive" and "more regulated" than the United States,

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[1] To learn for about the Institute for Liberty, please visit our webpage: http://www.instituteforliberty.org.

[2] http://fjallfoss.fcc.gov/ecfs/document/view?id=7020918255.

[3] *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services,* Fourteenth Report, FCC 10-81, __ FCC Rcd. __ (rel. May 20, 2010).

yet the Survey fails to provide any indication as to the level of either competition or regulation in the sampled countries, making such a conclusion impossible to confirm.

To provide a full exegesis of the numerous fatal analytical flaws in the New America study, we are attaching to this *ex parte* an analysis entitled PHOENIX CENTER POLICY PERSPECTIVE NO. 10-06, *Be Careful What You Ask For (Redux): A Comment on the New America Foundation's Mobile Price Metrics* (November 11, 2010) by Phoenix Center Chief Economist Dr. George S. Ford. As Dr. Ford amply demonstrates, the New America Survey represents a giant leap backwards in the effort to compare mobile telephony prices in an international context.[4] In particular, Dr. Ford shows that New America's methods are consistently crude, often invalid, and inconsistently applied. As Dr. Ford concludes, "perhaps NAF's conclusion that the U.S. has high prices because U.S. carriers are insufficiently regulated matches their political interest, but once most of the analytical defects of the NAF Survey are remedied, U.S. carriers are shown to offer very low prices to U.S. consumers." Indeed, given simplistic (and indeed amateur) approach taken in the NAF Survey, Dr. Ford explains that "NAF's final 'price' is unacceptably sensitive to the choice of the researcher" and, as such, "the potential for researcher bias to drive the results is very high."

III. Conclusion

Chairman Genachowski has repeatedly reiterated his desire to promote a "fact-based" and "data-driven" process at the Federal Communications Commission. However, data–in the absence of correct and proper analytical techniques–mean absolutely nothing and can present a misleading picture for constructive policymaking. As noted by the attached two documents, both the New America Foundation and the Organisation for Economic Cooperation and Development fail miserably in this regard when it comes to providing a meaningful and technically correct analysis of international wireless pricing.

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[4] The New America study is, by far, more defective than the faulty mobile price survey conducted by the Organization of Economic Cooperation and Development ("OECD"), which is saying a lot. *See, e.g.,* G. S. Ford, *Be Careful What You Ask For: A Comment on the OECD's Mobile Price Metric*s, PHOENIX CENTER PERSPECTIVE NO. 09-03 (September 16, 2009), also attached for inclusion into the record.

Respectfully submitted:

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Attachments:

G. S. Ford, *Be Careful What You Ask For (Redux): A Comment on the New America Foundation's Mobile Price Metrics,* PHOENIX CENTER PERSPECTIVE NO. 10-06 (November 11, 2010).

G. S. Ford, *Be Careful What You Ask For: A Comment on the OECD's Mobile Price Metric*s, PHOENIX CENTER PERSPECTIVE NO. 09-03 (September 16, 2009).