The COOK Report on Internet Protocol
Technology, Economics, and Policy
© Cook Network Consultants

Does Verizon Have a Social Responsibility to NJ or to Any of the States it Serves?

In NJ, State Government Has Abrogated its Regulatory Responsibility Leaving Verizon to Act as Economic Predator

Volume XVIII, No. 3
June 2009
ISSN 1071 - 6327

Introduction

In this report we invite our readers to consider what our society should ask of a huge corporation engaged in providing telephone and other kinds of telecommunication services to the communities in which it operates. What should be the corporation's role within those communities? Does a company like Verizon exist primarily to extract every possible penny of capital from the community and return maximum profits and salaries to its executives and shareholders? That is the mantra of the past 30 years of free market fundamentalism.

I contend that with the global economy reeling from highly leveraged economic excess, it is time for a fundamental reset of the terms and conditions under which the Verizon's of the world operate. Such a reset would realize that is it more desirable for the overall financial well being and economic strength of our communities for a mega-corporation like a Verizon to be operated along the lines of a staid utility of the types we had in the 1960s and 70s. One that is tightly regulated. One that is required to give details transparently to the community and its regulators about its financial decisions and the reasons for them. One that is regulated, in short, as a utility. Do the issues of rights-of-way and economics of fiber dictate that only a single set of facilities to homes and businesses within the community make economic sense? Is it in the interest of the inhabitants of such a community to control a company like Verizon as it would an electric or water utility or as it would road and highway systems?

Or should Verizon be owned and operated by the community for the benefit of the people therein? Does an all IP network that is run on open access fiber have fundamentally different economies of scale than a hundred-billion-a-year mega corporation run on the century old premise of telephone company command and control?

With the recent frenzy of market fundamentalism Verizon has been able to reassemble itself as an all-encompassing monopoly in-

On the Inside

Time for a New Public Purpose for Telecom?

Please Read Explanatory Note page 68

cumbent. But what is worse is that it has succeeded in abolishing the local regulatory structures built up since the Rooseveltian New Deal. Instead it has established the kind of symbiotic relationship between New Jersey government (and presumably the governments at of the other states in which it operates) that James K Galbraith describes in his 2008 book *The Predator State*.

In his book Galbraith describes the emergence of a new class of corporate chieftains in the decade of the 1980s. It was a class that came to maturity in the 90s. His central chapter: The Rise of the Predator State begins by asking what occupied the new class of corporate chieftains? In his own words: "What did the new class --. . . . -– set out to do in political terms? The experience of the past decade permits a very simple summary explanation: *they set out to take over the state and to run it – not for any ideological project but simply in the way that would bring to them, individually, and as a group, the most money, the least disturbed power, and the greatest chance of a rescue should something go wrong.* ***That is they set out to prey on the existing institutions of the American regulatory and welfare system.***" p. 126

The language of such a summary may be rather shocking to the reader who may not be familiar with the analysis of Thorstein Veblen, expressed in his *The Theory of the Leisure Class* published at the end of the gilded age of the 1890s. According to Galbraith, Veblen wrote that "predation is a phase in the evolution of culture, attained only when… the fight has become the dominant note in the current theory of life. The relationship between those who work and those who fight is a central distinction of organized society – and one completely absent from the benign ideas of self-organized social harmony that emerge from thinking of economics and society in terms of [rational] markets."

Veblin described a society composed of two classes. The industrial orders are the underlings of society and "they alone perform what in modern societies is called work. Only for them therefore is it appropriate to think of wages and salaries as compensation for the drudgery of toil. Those who are higher up in the pecking order take a different view."

The nonindustrial orders comprise the leisure class about which Veblen wrote. Namely "warriors, government, athletes and priests. Captains of industry are an outgrowth of the warrior caste which explains the organization of much business along military lines. The leisure classes do not work. Rather they hold offices. They perform rituals. They enact deeds of honor and valor. For them, income is not compensation for oil and is not valued mainly for the sustenance it makes possible. Income is, rather, a testament by the community to the prestige it accords the predator classes, to the esteem in which they are held. It is a way, in other words, of keeping score."

Under Nixon Galbraith finds that a progressive regulatory balance between what his father had written about in his *The New Industrial State* and the politicians of society emerged. However with the emergence of the new class of corporate chieftains in the late 70s and early 80s, "the basis for collaboration between comparatively progressive elements within business and a broadly progressive state tended to disappear. Instead, **business leadership saw the possibility of something far more satisfactory from their point of view: complete control of the apparatus of the state**. In particular, reactionary business leadership, in those sectors most affected by public regulation saw this possibility and direct to their lobbies – the K Street corridor – toward this goal. The Republican Party, notably in the House of Representatives under Newt Gingrich and later Tom Delay became the instrument of this form of corporate control. The administration following the installation of George W. Bush became little more than an alliance of representatives from the regulated sectors – mining, oil, media, pharmaceuticals, corporate agriculture – seeking to bring the regulatory system entirely to heel. And to this group was added another, overlapping to some degree, of equal importance: those who saw the economic activities of the government and not in ideological terms but merely as opportunities for private profit on a continental scale. Jack Abramoff became, for a moment, the emblem of this class."

"**This is the predatory state. It is a coalition of relentless opponents of the regulatory framework on which public purpose depends, with enterprises whose major lines of business compete with or encroach on the principal public functions of the enduring new deal. It is a coalition, in other words, that seeks to control the state partly in order to prevent the assertion of public purpose and partly to poach on the lines of activity that past public purpose has established.** They are firms that have no intrinsic loyalty to any country. They operate, as a rule, on a transnational basis, and naturally come to view the goals and objectives of each society in which they work as just another set of business conditions, more or less inimical to their free pursuit of profit. The assuredly do not adopt any of society's goals as their own, and that includes the goals that may be decided on, from time to time by their country of origin, the United States**. As an ideological matter it is fair to say that the very concept of public purpose is alien to and denied by the leaders and operatives of this coalition.**" pp. 130-31

I contend that, given the pillage visited on the United States by the predator class and its captured state apparatus, it is now time, with the arrival of the new administration, that market fundamentalism be buried and the intelligent principles of a new New Deal be resurrected.

Mark Cooper has been publishing many position papers that describe what must be done. As Mark recently said on arch-econ "Capitalism without bankruptcy is like Catholicism without hell. It lacks a sufficiently strong motivational device to ensure good behavior. A lengthy analysis of the collapse of market fundamentalism in the financial sector, including a discussion of moral hazard ("Too Big to Fail") can be found at:

http://www.consumerfed.org/pdfs/FinancialMarketReformReport.pdf See also Broadband in America: A Policy of Neglect is Not Benign http://cyberlaw.stanford.edu/node/6138

And finally:
http://www4.gsb.columbia.edu/rt/null?&exclusive=filemgr.download&file_id=70142&rtcontentdisposition=filename%3DCooper.pdf

In the midst of the economic chaos of post-meltdown America it is nearly impossible for the average citizen to understand how predatory corporations like Verizon are abusing their relationship with his local government in order to run basic communication services. These services were judged a century ago by the public policy process in the United States to be vital components of economic development in the ways that the abuse their customers in order not to provide the best service but rather to extract the most money from the customer and the community in which the customer lives. Only by understanding what is happening can we demand that the predation cease.

Only a few what used to be called consumer advocates have survived the three decades of market fundamentalism where government is presumed to be the problem and not the solution. We talk now with one such person who has spent the last 20 years as an advocate for local citizens against the unchecked power of the incumbent phone companies in the Northeast and in New Jersey. This lengthy discussion will catalog the abuses of Verizon as a Galbraithian predatory corporation from the point of view of its operation in the state of New Jersey. Our premise is that until the public and its appointed policy-makers understand what is being done to them there can be no corrective action taken.

COOK Report: Tom Allibone is Director of Audits for Teletruth. Tom: introduce yourself to our readers if you would.

Allibone: I'm a former telephone company insider having started to work for New Jersey Bell in the 1970s. My involvement in the industry has always been in technical marketing with an emphasis on the design of networks and telephone systems. When the industry was broken up in 1984 I went to AT&T as a technical consultant. I left AT&T and went into my own private practice in 1989 where I specialized in the area of forensic analysis of telephone bills.

COOK Report: Were you catching the same skepticism regrading industry developments that Bruce Kushnick was getting around this time? What caused you to go in that direction?

Allibone: I was in the middle of an investigation that involved the improper destruction of billing records. My investigation led me to the Federal Communications Commission after exhausting my efforts locally trying to get the New Jersey Board of Public Utilities to work with me. As a result of going to the FCC I found my way in a roundabout way into what used to be known as the accounting safeguards division. When I explained to them I was investigating these billing issues, they were reluctant to help at first because they didn't think they had jurisdiction. They told me they thought that matters which were not either interstate or international did not fall within their purview.

But after I explained to them that, as a result of the break up every phone bill in America has an interstate component and that I was, in part, investigating that component they agreed to listen, and after they heard my story they asked me: do you know a gentleman by the name of Bruce Kushnick? I said no I've never heard of him. And they said you two need to talk. And of that is how we met.

COOK Report: Okay let's go then to the regulatory changes that happened in New Jersey and other states in the late 1980s -- changes interestingly enough that started with New Jersey and were migrated by the Deloitte Touche study to other states.

Early 90s -- New Jersey Bell Aided by Deloitte BPU Study Gets Deregulated

Allibone: In the 1980s, before the breakup, regulation was done under rate of return. There was a very clearly established accounting structure and the phone company was allowed to charge its customers for the cost of its service plus a small percentage profit. Every time that the phone company wanted to introduce a new service or a price change they would have to go through a rigorous process to justify the pricing of those services based on their actual cost plus their allowed profit. This is pretty much the way they had to operate for many many years. That is until the advent of deregulation and the so-called competition was thrust upon us and life. all of a sudden. became much more inventive.

Increasingly the phone companies were allowed to shift to a new regulatory regime called "alternative regulation." Under this regime, they were pretty much free to price their services to meet their own needs with the assumption that since after all there was competition. They couldn't go crazy or they would price themselves out of their market.

COOK Report: How did they establish the arguments that, if you just deregulate our services and free us from rate of return, we can be more innovative, then offer more new services, without really needing to raise prices significantly since the costs of running the network, as things became more digital ,was beginning to decline?

The argument was made that they would make more money but they would take their increased income and invest in the infrastructure of each state by modernizing the system by means of installing fiber optics to the customers. Witness of course the Deloitte & Touche fiber study that I remembered in 2006 as having read 15 years earlier while at OTA an 85 page executive summary of which I found in a rusty file cabinet in my basement. Within a very few years back then, they promised the New Jersey Board of Public Utilities that if it loosened its regulatory regime they would bring fiber to every corner and in doing so would make New Jersey more competitive and increase the economic well-being of everyone in the state. And of course when this came up in 2006 in our discussions, it was painfully obvious that nothing had been done.

I did however remember reading at OTA in 1991 that the State of NJ was going to get fiber and found in my files the 64 page executive summary the first page of which is shown below. I understand that that the BPU

I. EXECUTIVE AND PROJECT SUMMARY

I-1. EXECUTIVE SUMMARY

BACKGROUND

In recognition of the potential impact that telecommunications can have on New Jersey's changing economy, the New Jersey Board of Public Utilities (NJBPU) commissioned this study of the telecommunications infrastructure in the state. As the state's economy has shifted from a strong manufacturing base to more of a service-based economy, the telecommunications infrastructure has grown in importance to the economic development and overall vitality of the state. Innovations in telecommunications technology can be harnessed by local exchange carriers to help meet the increasing need for the state's growth industries to access "Information Age" resources. Similarly, trends in the use of information technology and video communications in the home indicate the need for the citizenry of the state to have access to new telecommunications capabilities. This study provides a framework to better understand the various impacts of telecommunications on the state, both now and in the future.

In addition to exploring the relationship between telecommunications and the state's economy, the scope of the study included an assessment of whether the state's traditional regulatory policies governing telecommunications should be modified to reflect the evolution of the role of telecommunications in New Jersey. Historically, the NJBPU's overall goal in regulating this industry has been the achievement of universal service - the extension of telephone service to every home and business in New Jersey. Since New Jersey residents already enjoy the lowest rates for basic telephone services in the country and approximately 96% of the residences in New Jersey have basic telephone service, the traditional goal of the universal service concept has been effectively achieved in New Jersey. In view of the increasing importance of telecommunications to the state and emerging trends in the demand for more advanced telecommunications capabilities from all consumers, the study was structured to provide additional perspective on whether changes in the universal service concept might be advantageous for the state of New Jersey and its citizens. Thus, the study provides the foundation to assess and modify, as appropriate, telecommunications regulatory policy to reflect the changing communications needs of the state as well as the demands for telecommunications services and capabilities in the "Information Age," and the opportunities presented by communications technology.

The consulting firm of Deloitte & Touche and its strategy consulting division, Braxton Associates, were engaged by the NJBPU to perform the study. The study was funded by the state's three local exchange carriers (LECs) - New Jersey Bell, United Telephone of New Jersey, and Warwick Valley Telephone Company - the companies charged with providing universal service in New Jersey.

OBJECTIVES

The specific objectives of the study, as developed by the NJBPU, were structured to identify what would be required for the state's policymakers to chart a new course for telecommunications regulatory policy. More specifically, these objectives included the following:

- Assess the current telecommunications network in the state.

I-1

Deloitte & Touche

has turned down your request for a copy of the complete study on numerous occasions,

Allibone: Yes. In a study paid for by NJ taxpayers Deloitte explained to the regulators that, by the installation of fiber in the network to replace all the copper, it would create a foundation for a modern productive telecommunications system for the state and its people for the 21st century.

On the basis of their understanding of the fiber technology alone everyone in telecommunications understood that eventually fiber had to replace copper. It was regarded as a very expensive and long-term task and it was suggested that it would not be complete in New Jersey before the year 2030. One of the promises that was made at the time was that New Jersey Bell would advance the deployment of this fiber technology by 20 years. As a result New Jersey Bell agreed in exchange for a more favorable regulatory regime to run 45 Mb symmetrical fiber throughout the entire state by the end of 2010.

COOK Report: We're getting there real fast now, aren't we?

Allibone: That's true and the only fiber they've put in my township of West Amwell is a strand or two to tie their switching stations together. Consequently they have an awful lot to do by the end of next year. The planning in New Jersey was called Opportunity New Jersey and in this plan they said they would spend billions of dollars above and beyond their normal operating cost of what they would have spent in maintaining the copper network throughout the state.

COOK Report: And indeed the stated intent of the discussions was that, with a change in regulations, they would indeed make more money but they promised that by building out the fiber they would invest the additional income earned by creating a superior telecommunications and economic commerce infrastructure for the state itself?

Allibone: That is true. Under the new plan the ceiling on how much profit they could make was removed in 1992. It was done under the authority of a document called the plan for alternative regulation one.

COOK Report: So the idea of getting them out from under the terms of price regulation outlined in the original Deloitte & Touche study for New Jersey in roughly 1989-90 was implemented in a somewhat changed form in 1992 Did they change it yet again?

Allibone: Yes, The Plan for Alternative Regulation One and was replaced in around 2002 by a Plan for Alternative Regulation Two. This first plan actually defined in dollar terms how much they were required to spend on infrastructure in the state above and beyond business as usual. Our research indicates that, as the years went by, under the first plan they did not spend the amount of money on infrastructure that they were legally obligated to do. I think they were required to spend $1.6 billion during these years above and beyond expenses as usual and that they actually spent 1.1 billion or some $500 million less.

COOK Report: And when the state instituted "part two "what changed?

Allibone: The carrier was required to provide the state Public Utility Commission with an annual infrastructure report of sorts. Reading through these reports it becomes pretty clear to me that what they proclaim does not match what is going on in the real world. Because quite frankly even though they were granted this rate increase to enable them to increase their profits and thereby advance the deployment of their fiber network, the record shows that they continued to fight the requirements coming out of the FCC after the 96 act.

Those required them to share their new Facilities-based network through offering unencumbered network elements (UNEs) for resale to competitors. It seems they were especially reluctant to employ any kind of fiber that they might have had to share.

COOK Report: If this ever came to trial in New Jersey, their lawyers would probably tell the State of New Jersey that the reason they ignored their local legal requirements is their concern about the unfair requirements coming out of Washington that might have force them to share their networks with competitors?

Allibone: Quite true. But it's interesting to note that, while they stuck to their tightly controllable copper, the cable industry did deploy a hybrid fiber coax infrastructure that enabled them to begin to offer by 1999-2000 broadband service that was vastly superior to Bell Atlantic's copper-based DSL. And not only in the New Jersey but in many other states around the country the cable operators by going full steam ahead ate the ILEC's lunch while they were playing regulatory politics in Washington DC.

And before going ahead and talking about what happened when Verizon started rolling out FiOS, let me make another point or two regarding the failed promises under Opportunity New Jersey. At the time of the order in the state of New Jersey the technology that they were talking about was fiber to the curb.

Buildout Promised Increased Revenue and Employment – The State Did Not Enforce

There were two other significant promised benefits of the Bell Atlantic and then Verizon buildout. The first was that they promised that their project would result in increased tax revenues for the State of New Jersey. *The second promised benefit was that the company itself would also increase its number of employees within the state.*

In giving Bell Atlantic what it asked for in Alternative Plan for Regulation version 1 in 1992, the Board of Public Utilities of the state of New Jersey went out of its way to stress that it was granting the Bell Atlantic request and because **the company had given reasonable assurance that acquiescence to the request would result in increased tax revenues for the state and increased employment.** The BPU did leave the back door open by asserting that, if the plan did not work as advertised, and the citizens of the State of New Jersey did not receive the promised benefits, the Board could reopen the order and force the company back under rate of return regulation.

It sounded good but it didn't happen. They simply did not enforce their own regulation. The state rate payer advocate in the second year of the plan took them publicly to task and alleged that they were not meeting the requirements of the plan. What she was able to do was not force them back under rate of return but rather get them to agree to bring fiber to all New Jersey schools under a plan called Access New Jersey.

She was satisfied at that point that as a compromise they were willing to advance the deployment of fiber to all New Jersey schools. *Of course you give the phone company in inch and they take a mile, because they then began to advance the position that Access New Jersey, far smaller in scope, superseded the original agreement.*

COOK Report: Would it be reasonable to say that under Christie Whitman, the Republicans gutted the Public Advocate's enforcement operation? That certainly is my memory - and it seems to be the operational synergy between the predator Corporation and its symbiotic relationship with Republican government.

Allibone: I would say that's not an unfair way to characterize it. Certainly they have not enforced any of the provisions of the final order.

COOK Report: I shall never forget Senator Doria's cavalier attitude during the March 2006 hearing when Professor Simon Wilkie from USC documented the fact that these agreements existed and had never been enforced by the state only to be greeted with a statement well that was 15 years ago what you expect us to do about it now? Again in my mind it's another example of the symbiotic relationship between New Jersey government and the predator Corporation.

My very detailed summary of the charade may be found at http://gordoncook.net/wp/?p=6 Didn't they abolish the Public Advocate?

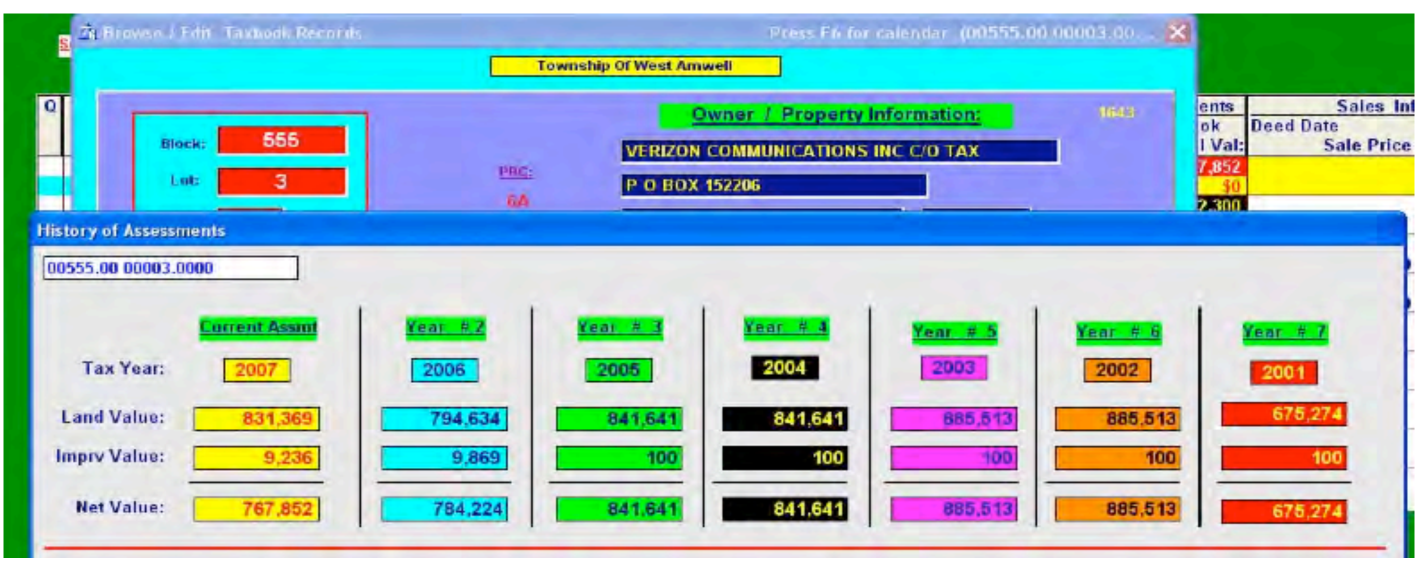
Allibone: No it still exists, but its most recent appearance was hardly impressive. Recently Verizon petitioned to completely deregulate everything. And the public advocates claimed success in this case by getting Verizon to modify its petition and leave primary residential lines and primary business lines as regulated services. But in return, in early 2008, they gave Verizon a roughly 75% increase in its rates to be phased in over the next three years.

Verizons' Tax Obligations to NJ Municipalities - The Business Personal Property Tax

COOK Report: What about your auditing then that the documents you've sent me relates to? How did all that come to pass?

Allibone: A few years ago I was doing a lot of auditing in the small business field as well as working with municipalities in county and state government. This also hit home with me because I live in Hunterdon County and in West Amwell Township. In 2004 my township was hit hard with a substantial tax loss that prompted me to kind of poke around. As it turned out, it was due to something called the Business Personal Property Tax.

This tax is levied against the infrastructure of the telephone companies in New Jersey -- that is to say their telephone lines, cables, poles ducts and associated physical equipment - including the several hundred central offices containing the switches that process the phone calls -- in other words the physical property on which their network runs around the



state. That equipment is considered to be the personal property of the phone company and is taxed just as real estate is. The amount paid for all of these taxes is a public record as is the amount paid for real estate taxes.

When I looked at the personal property tax paid by Verizon in my own township of West Amwell, I found that it was in the $15-$16,000 range -- not a terribly substantial amount of money. This was a tax on the value of all the network infrastructure of Verizon located within my township. **Because I know a bit about the cost of equipment and infrastructure what I found amazing was that the total value of the equipment housed in my township was listed in the range of $800,000.** This meant that they were paying less property tax on their infrastructure than some of the nicer homes in the township.

COOK Report: Does the state legislature research report that you have given me maintain that the intent of this tax is to establish that the private corporation that makes money from the citizens of the township pays a tax on the infrastructure that enables them to do that in the same way that residents are required to pay taxes on the homes that they own?

Allibone: Yes. Now here's the way it works. Every municipality receives a very high level form called a PT-10 once a year. The form- shown below - is something like a W-2 form.

The form is sent at once a year to each municipal tax assessor and the form states the value of Verizon's taxable personal property in the township. Each assessor then takes the townships municipal tax rates and applies it to the value of the property as stated on the form. Now this total personal property tax value for

Jun. 25. 2007 28PM WEST AMWELL TWSP No. 565.

C: Tom Allibone
David Gill

verizon

Richard R. Masching, ASA
Vice President-Taxes

Verizon Communications
Post Office Box 152206
Irving, TX 75015-2206
750 Canyon Drive
MC: SV1E5002
Coppell, TX 75019
214-285-3095

June 19, 2007

Lora Olsen
West Amwell Township Municipal Clerk
150 Rockton Lambertville Road
Lambertville, NJ 08530

Dear Ms. Olsen:

This is in reply to an Email dated June 8, 2007 sent to Mr. Terry Goodwin of my staff from Tom Allibone.

Mr. Allibone is requesting a "physical inventory" of the personal property located within West Amwell Township. As you know, each year Verizon New Jersey Inc. ("Verizon") is required to file a PT-10, Return of Tangible Personal Property used in Business, with each municipality in which it has taxable personal property. The PT-10 schedule requires Verizon to report the original cost, depreciation reserve and net value of taxable tangible property used in business as of January 1 of the assessment year. Verizon reports its original cost in each municipality, uses federal tax depreciation as allowed by the Internal Revenue Service and by statute, and uses "group" accounting for its assets with the consent of the Director of the Division of Taxation. Verizon is not permitted to, and does not depreciate its taxable personal property further than 80% of original cost. Verizon files approximately 540 PT-10s on an annual basis with each of the various municipalities in which it has taxable property.

The taxable tangible property that is included in the PT-10 includes all personal property that is required to be reported, by statute. The taxable personal property includes the major categories of support assets (tools and work equipment, computers, office equipment and furniture), central office equipment, terminal equipment and outside plant (poles, aerial and underground cable and fiber, and conduit). Verizon has complied in all respects with the requirements of the New Jersey statutes in regard to filing its taxable personal property by municipality. New Jersey law does not require taxpayers to file an itemized physical inventory of taxable personal property, by municipality. To require Verizon and the other taxpayers to file such an inventory in each municipality would greatly increase the compliance burden of the PT-10, which is already quite onerous. I would also like to point out that Verizon is one of the very few taxpayers who pays property tax on personal property, a tax bill that exceeded $47M this year.

If you have any questions regarding this issue, please contact John Williams at 908-559-6476 or Ernie Evans at 214-285-3106.

Sincerely,

Richard R. Masching

Richard R. Masching
Vice President – Taxes
Verizon New Jersey Inc.

JUN 25 2007

Jun. 6. 2007 8:28AM WEST AMWELL TWSP No. 5304 P. 1/1

As I See It

The Forgotten Ratable: Telephone Poles

By Tom Getzendanner
Council Member, Summit

Ever wonder about the taxation of utility poles, whether they're a legitimate ratable or not?

In our six square miles there are 2,097 of them, mostly owned by Verizon. This infrastructure cost over $35 million to install, yet today it's barely worth $3 million according to our tax assessor.

That's because it's classified "6.A" on our grand list, an obsolete category known as "personal business property" comprised of just one thing today.

In 1999 the state Department of Treasury allowed Verizon to use an IRS "accelerated" depreciation table instead of the BPU's traditional (slower) schedule. This dropped Verizon's property tax liability in Summit this year to under $100,000.

This occurred at a time when two important changes in Verizon's business model should actually have caused wooden poles to increase not decrease in value. First, when competitors like Comcast, 4Connection, JCP&L and others share the same network they each pay $6.01 per month per pole to Verizon, creating extra taxable value. Present assessment methods ignore this new profit center. Secondly, statewide FiOS video privileges will double if not triple the economic value of Verizon's sunk cost infrastructure. The replacement of copper with fiber optic cable in effect restarts the depreciation clock.

There are no such things as "local exchange telephone companies" any more. Technology has made a dinosaur out of that animal, and New Jersey's tax code ought to recognize it.

Amendments are needed in 54:30A-49 et seq and in 54:30A-16 et seq in order to change the way local exchange telephone companies are assessed. For example, depreciated net book value of equipment should not then also be subject to the so-called "Directors Ratio" adjustment for real property sales comparisons.

THIS INFRASTRUCTURE COST OVER $35 MILLION TO INSTALL, YET TODAY IT'S BARELY WORTH $3 MILLION ACCORDING TO OUR TAX ASSESSOR.

Ideally these statutory changes would have been a condition for granting Verizon their new statewide video franchise. The same legislation that enlarged business freedom could easily have updated the New Jersey State Treasury's method for depreciating utility pole assets too.

Twenty years ago Bell Atlantic was among Summit's top ten taxpayers, contributing $242,000 annually to our local property tax levy. Somehow we were lulled to sleep and let this support slip away. If the state Legislature does decide to address this anomaly, any revised method of taxation should deliberately create an economic incentive for Verizon to remove abandoned stubs from the ground whenever a broken pole is replaced.

Today there is no correlation between the number of poles actually in place, and how much Verizon pays in property tax. As a result we have over 200 euphemistic "double-woods" around town, where a repair job was never completed properly—leaving drivers' visual sightlines needlessly obstructed.

Lastly, we do think it's important to keep collecting local property tax directly from Verizon and not revert back to a "gross receipts" approach levied at the state level. Reimbursement or revenue-sharing procedures don't always trickle down to municipalities in a timely and whole fashion.

I look forward to debating this proposal at NJLM's next annual Conference, and will propose a Resolution endorsing a legislative solution. Compared to some other property tax reforms kicked around last summer, telephone pole depreciation methods seem pretty innocuous. Yet, the boost to local taxable ratables would be good news for every municipality.

Verizon's billion dollar investments in ultra-fast Internet service and interactive television programming should in fact benefit taxpayers as well as customers. ▲

NEW JERSEY MUNICIPALITIES JUNE 2007

each township is established not by the township's assessment of the phone company's personal property. ***Such an assessment doesn't exist. It is established in a dark room by whatever agreement is made between the New Jersey Division of Taxation and Verizon New Jersey.***

COOK Report: Then this enables the local tax assessor to say it's out of my hands. I'm just doing what Trenton tells me to?

Allibone: I've talked to a good many of them and, believe it or not, they're actually rather unhappy with the administration of the law. They would like to have control of the situation and are not pleased that the matters been taken out of their own hands.

COOK Report: So how has this evolved over the last several years? You showed me some evidence that sometime back the total for the state of New Jersey was on the order of $140 million a year and that this has been whittled down now about 75% and eventually, according to other documents you've given me, it's going away entirely – again the Predator Corporation.

The State of NJ Unable to Question Verizon's Compliance with its Own Tax Law

Allibone: They are very clear that they will stop paying it.

I asked a lot of questions and eventually wound up at Verizon's tax office in Texas. I had gotten the support of the Mayor and the West Amwell Township Committee to find out what was happening inside of Verizon. Under the signature of the Mayor, we went directly to the Board of Public Utilities and corresponded with the President of the BPU a woman by the name of Jeannie Fox. **After some months we got a response back that to me was shocking because it said that New Jersey's Regulatory Authority did not have the expertise to monitor what Verizon was doing and work with us on this issue. Their basic job is to see that the companies they regulate are complying with New Jersey State Law. But in this case lacking the expertise to do so, they sent us to the New Jersey division of taxation.** Ultimately, after a many month journey through the BPU and the NJ Division of Taxation I ended up with the Verizon tax folks down in Texas.

I requested from them a physical detailed inventory of the infrastructure on which their personal property taxes and West Amwell Township were based. They denied my request for this information on the basis that it would be a lot of work and it was really unnecessary because they assured me they fully complied with New Jersey State Law and with all Federal rules and regulations. Now they did go on to assure me that under the legislation Verizon does not depreciate to the original cost of the infrastructure by more than 80%. (See letter of June 19 2007 on page 9 above.)

I have another article from Tom Getzendanner in Summit, New Jersey called the Forgotten Ratable: Telephone Poles. (See page 10 above.) He found out that the original cost of the infrastructure implementation in Summit was $35 million. Verizon's PT-10 claimed that the inventory was worth 3 million. What is important is not the year of the original cost but ***the amount of the original cost itself because under the State of New Jersey statute you are not allowed to depreciate in value of the inventory on which you are paying the personal property tax by more than 80% and as you can see in this case in Summit they have depreciated in at my more than 90%.*** This person documented that 20 years ago that Summit was receiving $242,000 in personal property tax and that it had dropped down now to under 100,000. And he is asking why, if the inventory is being changed from copper to fiber which is a much more valuable and productive infrastructure, does the Personal Property Tax not reflect this? (**Editor** – as we shall see below likely because Verizon is turning itself into a tax free "information services" company with FiOS.)

I started this investigation in the 2005-2006 time frame when we sent a letter off to BPU. In the letter above you can see that they are almost bragging about the fact that in 2007 and paid 47 million dollars in personal property taxes. An impressive figure but when I started my investigation I acquired another document that was passed out as a conference of mayors then purported to be a complete list of the personal property tax that Verizon had paid municipalities in 2003 a total of about $65 million. You can see then a drop of about 30% between 2003 in 2007 in the amount of money that Verizon has paid in personal property taxes in the state of New Jersey.

PPT and the 51% Opt Out Clause

What has also become apparent over the past year is that the state statute on personal property has a provision that Verizon is interpreting to mean that, if they lose 51% of a market share in a particular municipality, they

Honorable Marcia A. Karrow
Page 4
September 5, 2008

> subject to tax as of April 1, 1997 under P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, ... As used in this section, "local exchange telephone company" means a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange."

The assertion in the memo is a novel argument for which we find no support in the available legislative history to the 1998 statutory changes. We are not aware whether the assertion has been made in any local taxing district and we do not believe that the Division of Taxation has taken a position or made an interpretation in such a case. Our understanding of the above language and the legislative intent in 1998 was to describe only NJ BELL (and the two smaller ILECs) and to grandfather their business personal property into the local property tax base. Any change in their dial tone and access/ local exchange business after the 1997 grandfathering was not meant to change whether their property was in or not in the local tax base. An interpretation that the language was meant as an ongoing and currently necessary condition to taxation likely would have been so stated in the full first clause. In addition, we would assume that such an ongoing annual test would have had to provide some statutory authority to allow a local tax assessor to measure and audit the dial tone and access business of all carriers within the local taxing district. Otherwise, the that taxpayer in a taxing district could unilaterally decide that they were no longer a defined taxpayer because of their annual loss of competitive business or a competitors relative gain of business, the records for which might be proprietary to their and their competitors businesses.

I hope this background review has been helpful and addresses your concerns. If you have any further questions on this matter please do not hesitate to contact me.

Sincerely,

Howard K. Rotblat
Principal Staff Counsel

no longer have to pay the Personal Property Taxes.

I have provided you with a copy of the research memorandum provided by the state office of legislative services to Assemblywoman Marcia Karrow of Flemington on September 5 of 2008. As you can see on its last page above, the memo takes the position that the legislative intent is at odds with the Verizon's interpretation that if its wireline share dips beneath the 51% threshold, such event means they pay no PPT.

The legislative services report to Assemblywoman Karrow on its fourth and final page shown above states "the assertion in the memo is a novel argument for which we find no support in the available legislative history to the 1998 statutory changes. We are not aware whether the assertion has been made in any local taxing district and we do not believe that the Division of Taxation has taken a position or made an interpretation in such a case. Our understanding of the above language in the legislative intent in 1998 was to describe only New Jersey Bell (and the two smaller ilecs) and to grandfather their business personal property into the local property tax base. Any change in their dial tone and Access/local exchange business after the 1997 grandfathering was not meant to change whether their property was or was not in the local tax base. An interpretation that the language was meant as an ongoing and currently necessary condition to taxation likely would have been so stated in the full first clause.

In addition we would assume that such an ongoing annual test would have had to provide for some statutory authority to allow a local tax assessor to measure and audit the dialtone and access business of all carriers within the local taxing district. Otherwise, the taxpayer in a taxing district could unilaterally decide that they were no longer a defined taxpayer because of their annual loss of competitive business or a competitor's relative gain of business, the records for which might be proprietary to their and their competitors businesses. I hope this background review is been helpful

PRELIMINARY STATEMENT

1. In or about the Fall of 2006, Verizon New Jersey, Inc. ("Verizon" or "Defendant") began offering to residential and business customers in the State of New Jersey ("State" or "New Jersey") television, internet and telephone service over fiberoptic cables (hereinafter "FiOS Service"). At that time, Verizon began an extensive advertising campaign for FiOS Service through television, radio and internet commercials, as well as print advertising and direct mailings. In addition, Verizon deployed teams of individuals to sell FiOS Service door-to-door in municipalities where FiOS Service was available or would be available soon. Beginning in 2006, Verizon also launched a series of promotional offers to consumers who signed one (1) or two (2) year contracts for FiOS Service, which included free LCD televisions and gift cards.

2. In its advertisement, door-to-door solicitation and sale of FiOS Service, Verizon, among other things, failed to provide consumers with accurate information regarding packages, promotions and prizes. Additionally, consumers who were induced by promotions into signing up for FiOS Service experienced long delays in receiving the promotional gifts, and in some cases were denied the gifts based upon requirements of which they were unaware. Moreover, once consumers contracted for FiOS Service, Verizon, among other things, charged consumers inconsistent amounts for the same service. Finally, consumers experienced difficulty contacting a Verizon customer service representative in order to address or resolve issues as to promotions, services and/or billing. As detailed below, such conduct is deceptive and in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and related regulations.

2

and addresses your concerns. If you have any further questions on this matter please do not hesitate to contact me."

I have to say that I find it pretty outrageous that Verizon's position is that competition is here in New Jersey and that they claim to be losing 35,000 lines a month to "heavy competition". See http://www.newnetworks.com/Accesslines.htm

COOK Report: What percent of these 35,000 wind up with FiOS phone service while what percent wind up with Verizon wireless service which from the point of view of the average member of the public is certainly the same overall corporation? And, as staff counsel points out above, how can any tax authority say to the business: sure I trust you and take your unaudited word as the gospel truth?

Allibone: Precisely and ***there is no one except Verizon who has any means of validating their assertion that, even if you accept these claims as legitimate, their line share is dropping beneath 51%.***

Is the Word of Verizon Credible? Ask the NJ State Attorney General

When you think about what credibility, if any, they have left in the State of New Jersey, you need to be aware of the March 19 State Attorney General filed a class action lawsuit against Verizon for the deceptive marketing across practices of the kind that your son encountered last summer.

COOK Report: And for detailed documentation of those practices see my blog entries from last August

FiOS Hard Sell D2D in NJ Leaving Some Customers Angry and With Little Recourse http://gordoncook.net/wp/?p=270 August 9 2008 and

FiOS as an Information Service - Deregulated - Consequently We Have No Rights http://gordoncook.net/wp/?p=271 August 13 2008

I have contacted the AG's offices with so far no return phone calls but my intent is to make sure they understand that Verizon's treatment of FiOS as an independent company is put into the overall context of its complaints about loss of lines and its statement that it no longer needed to pay municipalities any personal property tax where FiOS sales had been successful and it now had less than 51% market share.

COOK Report: Tell me more about the nature of the Attorney General class-action.

Allibone: I don't have it right in front of me but one of the complaints I remember is that people who signed up were promised free high-definition television sets within 6-8 weeks and never received them. I had done an investigation for a client who was entitled to one of the TVs but because he was improperly billed, he fought the improper billing and because he fought he didn't pay the bill and became delinquent and was told that he had lost access to the promo because he didn't pay this bill.

Allibone: I invite you to think about this situation. In this case when it suits its financial interest, Verizon is saying that competition is very bad that it's being hurt by competition and therefore does not need to pay taxes to the state that have been required to be paid for decades. Verizon has said that in 1998 it paid approximately $108 million in personal property taxes in the state of New Jersey. Under the conditions of regulatory reform for which it lobbied with the assertion that competition would increase employment in the state and increase the amount of taxes the state collected, it now tells us that competition is proving harmful to such an extent that, in the case of this particular tax, it will soon not be obligated to pay it at all.

We have in other words a situation where, the new regime is causing municipalities lost tax revenue. This lost revenue is occurring under the alternative regulatory regime that was aggressively lobbied for by the carrier in 1992 where it promised to install a state of the art fiber-optic network throughout the state -- one that would increase tax revenues and one that would also increase employment in the state of New Jersey. ***The carrier has ignored its legal obligations and successfully defied the State of New Jersey to do anything about it.***

None of these promises have been kept. After all the dust is settled not only is the fiber network not built, but ***we find that many of the employees that were allegedly in New Jersey in reality are not.***

Carrier Tax Revenues Are Disappearing As Well as the Jobs the Carrier Promised to Maintain

The reason I know this is because of my municipal auditing work that I've done. For years I have dealt with their account teams which were always based in New Jersey. Suddenly I found they were working out of Maine and New Hampshire. In turn, the reason that we know this is that when Verizon, over a year ago, decided to divest itself of its northern New England operations and sell them to Fairpoint, the New Jersey-based account teams were terminated.

Many of the municipalities and school boards with whom I have been working and know firsthand suddenly were no longer able to reach their account team representatives. When they called they would get messages to the effect that as of this date I am no longer with Verizon and you may find my replacement at a number that happened to be in New England.

COOK Report: In other words, if a school board finance office person has a question about a Verizon bill that person would call an account team counterpart to get it worked out. But apparently Verizon did a reorganization as a result of which these jobs were exported to lower paid Fairpoint employees in Maine and New Hampshire? Fairpoint now is in trouble and on the verge of bankruptcy. Where do the school boards call to get their bills adjudicated?

Allibone: The school board and government account people are now based in Atlanta Georgia. The folks in Atlanta Georgia who are supporting the New Jersey municipalities and school boards on behalf of Verizon are actually MCI employees brought over to Verizon after the merger. They call themselves Verizon Business. Because of what I have to do in my day-to-day work, when I deal with these people, it is important that I know which version of Verizon they represent. **It turns out that not all of Verizon's are the same.** I'm reading from one of their bills: "Verizon long-distance services are provided by MCI Communications Inc." doing business as Verizon Business Services. And local service is provided by MCI Metro Access Transmission Services. LLC doing business as Verizon Access Transmission services."

COOK Report: No wonder their senior lawyer recently retired with a $10 million golden parachute. It is lawyer heaven and just you try to audit their cash flow and expenses and any other financials. There is an implicit "dare".

Allibone: Exactly. The reason this is intriguing and I am reading it to you off the fine print is this happens to be involved with a bill that I am negotiating on behalf of a school board to get that school board telephone service from Verizon Long Distance. The negotiations contract, the proposal, in short every single document was labeled only Verizon - until the bill came in. We now see all these fine details.

COOK Report: At one time was it the case that if the school board had a question it knew exactly what Verizon official it could call and that official would probably even be in the same township or certainly in the same county within New Jersey?

Allibone: Absolutely. As recently as two years ago that school board could count on its Verizon account team being located in New Jersey. Getting through would be an easy matter. But before the merger, bills were generally more accurate and the school board had less difficulty in trying to reach their account people. Since the merger two years ago Verizon has not been able to render that school board a single accurate bill.

COOK Report: So they bill whatever they choose and if the school board doesn't pay what happens?

Allibone: They threaten to cut off the service for nonpayment. In this particular case I've escalated it to the president's office (Dennis Bone) and he doesn't seem to have the power or authority to get the situation resolved.

This gets a bit technical but I think it's important to bring it into the record. With the merger of MCI into Verizon, the service that the school board had is the one that is a common type of service for large corporations with lots of phone lines. But these guys can not figure out the difference between a regular dial tone phone line, a POTS line (in other words what you have in your home or business) from a telephone number. Now in the type of technology I am talking about, you buy blocks of numbers called Direct Inward Dial numbers. These are known as DID numbers and the billing guys in Atlanta for over a year now have applied a regular POTS surcharge to these blocks of DID numbers. This particular school system had a block of 400 DID numbers and they were billed for a POTS surcharge on each of those numbers that should not have been applied. It turned out to be an overcharge of about $900 a month.

They could not figure out how to fix the problem. Finally someone was able to do a manual override to both billing systems to make the charge disappear. Meanwhile, because the charge was so high, the school board was receiving dunning messages from another part of Verizon saying that if you don't pay the bill, you will be shut off, and these messages continue to the present moment.

COOK Report: In other words you finally educated in one part of Verizon how to properly bill for the surcharge but at the same time even when they finally executed a manual override of the billing system, the fact of that execution has been apparently not been communicated to Verizon's external billing operations on behalf of this customer?

Allibone: That's a fair way to put it.

COOK Report One has to wonder how many school boards just pass off this kind of the billing situation to the School and Libraries Corp and say "pay?" Do they do that? Can that be an outcome?

Allibone: Yes it can. By the way, when these improper fees are tacked onto the bill, taxes get added that never should have been billed since the services never should have been charged for. And the reason for this is that school boards are tax exempt; they are not subject to either state or federal excise taxes. But when they get into the wrong part of Verizon's billing systems, they are charged.

This falls into the category of an FCC controlled surcharge. This surcharge, if billed in a legitimate business environment would also have been taxed. In the case of the school the surcharge should not have been taxed, but because of the way in which it was billed, taxes were added on to the total. You have a cascading effect here of any improperly applied surcharge on top of which you get an improperly applied tax. An improper charge triggers the application of the tax and the two together increased the bill with the result that even higher taxes are added and should not be there because the school is tax exempt.

Access New Jersey is Ignored by More Savvy School Districts

Allibone: If you look further at the situation you'll see that many school systems which, in theory, benefit from the relationship with Access New Jersey find it more reasonable to try to install their own fiber to connect their own buildings and avoid having to buy services from the Verizon monopoly.

Note that the schools, of course, participate in a universal services fund called the E-rate program. Now eligibility for the E-rate program is based on a school district's eligibility for the federal subsidized lunch program. Consequently, depending on where you are, your district may or may not be eligible for significant E-rate funds that come with a significant discount from the retail rate.

COOK Report: When Dave Hughes and I went to see the Ewing school superintendent about five years ago, he pointed out to us that the average income in Ewing was so high because of million-dollar houses along the Delaware River as opposed to hundred thousand dollar houses along Ewing's border with Trenton that Ewing was eligible for very little in the way of the E- rate funding.

Consequently it was more advantageous to the district to lay some of its own fiber and buy Cisco voice over IP equipment for its telephone service.

Allibone: that's one kind of situation you run into **but you also run into situations where schools swap their E-rate eligibility with the other districts. A wealthy district will do a swap with a poor district to get the discounts that the poor district was entitled to.**

COOK Report: Can you document this?

Allibone: Not easily because of course people don't talk about it openly. However, not long ago I was in a wealthy school district where I was quite surprised to hear that they were eligible for somewhere between a 28-35% discount on the cost of their telephone and Internet services. This was one of the highest discounts you can get and they explained to me that it was because they were using a lunch program from a different school district to justify what they were doing And for one reason or another apparently the other school districy was just not applying for the E rate discount. But let me tell you about the school districts use of fiber that I experienced. This particular school district did what it did because it was cheaper than buying services under Access New Jersey. Under ANJ fiber optics are supposedly deployed to every school district at no cost to the school district. School districts were then told they could buy the old time division multiplexed circuits at heavily discounted prices.

I was amazed to see that even with the fiber deployed for free and heavily discounted ATM TDM circuits, it was still cheaper for the school district to deploy its own fiber and run its own voice over IP applications on that fiber so that it did not have to deal with Verizon's predatory practices. Now having said all this and watching them decide to deploy their own fiber optics from school to school, they realized that they would have to attach the fiber to telephone poles. *Consequently they found that Verizon collected a tariff anyway in the form of pole attachment fees for the district's privately purchased fiber.*

COOK Report: And the predatory corporation is so huge with no incentives to hear complaints and bill properly that customers like this find themselves without recourse? **There is no one who can exert any authority over them**.

Deregulation Eliminates Tariffs and Leaves Customers at Mercy of the Predator

Allibone: That is correct. It used to be the case that someone on the receiving end of this treatment could appeal to his or her local public utility commission. This is another important point to consider in evaluating the impact of all of this on their customers be they individual subscribers are small businesses or municipalities or school boards or even large businesses.

In the days when they were a regulated monopoly the state public utility commission had a lot of power over them. I can remember back in the 70s when I first started. If I was unable to make customer happy, and that customer threatened to go to the public utility commission because of my performance or my company's performance, this was considered to be an extremely serious matter. Now you can no longer even threaten to go to the BPU because they no longer have any authority in most of this stuff because everything has been deregulated.

COOK Report: The only thing that is still regulated is a $20 month POTS line charge, correct?

Allibone: That's right -- the single subscriber line for home or business. And the next time they make a pass at it they will probably get that deregulated as well.

In the old regulatory regime you would have a formally filed tariff that would have all the terms and conditions of the service's pricing. What many people don't realize is that a tariff is even more powerful than a contract. A tariff has the full force and effect of a law.

COOK Report: And so **when you get rid of regulation you get rid of tariffs and you enable an environment between the carrier and its customers where the customers essentially have no legal protection? The feudal landowner in effect can make its own laws. And to further their own predatory relationships with the corporate power structure Wall Street titans like John Corzine finance their own elections. New Jersey's very own *Theory of the Leisure Class.***

Allibone: That's correct. ***What used to be created by the carrier and formally filed with the regulator as tariffs are now created by the carrier and called service guides and handed as fait accomplis to the customers.*** These service guides lay down the terms and conditions that are so one-sided that I contend they can be legally interpreted as contracts of adhesion. The situation under which we are currently operating is one where most customers do not understand the difference between the rights that tariffs gave them and the rights of basic business contracts, which rights can very greatly, depending on the company with whom they are dealing.

The service guides are in effect what the customers now have as "contracts." One example of the conditions with which they are faced is a statement like "you, the customer, by paying the bill, acknowledge that all charges on the bill are correct." Of course all charges are likely not correct but if you try to dispute them and you don't pay the bill, you may find you have no service. Other typical language says that if you do not bring a billing dispute to us within 90 days, then charges are deemed to be correct. And there is language about binding arbitration. What we don't find is language about a subscriber being harmed to the point where a representation of consumer fraud could be maintained.

COOK Report: And there are boundless ways for people to abuse the system. As you saw in my basement in Mrach 2006 I have the hundred pair terminal on the basement wall with 50 pairs wired and an unknown number of them live. The terminal installed in April 1995 by Bell Atlantic was left unlocked. Three years ago you and I tested the terminal with a five dollar Wal-Mart phone to see if there was dialtone. There was dialtone indeed and, if I were an unscrupulous person, I could go down to my basement hook into that terminal and make calls anywhere in the world that would appear on someone else's bill. This is another gaping hole like that broken phone pole a couple hundred meters down the street from my house, (see pages 27-28 below), a hole that Verizon had evidently has no incentive to fix.

Allibone: That's true and in the picture you just painted, that hundred pair cable is feeding most of the people on your street and probably many people blocks away and it is absolutely correct that anyone with access to that terminal and who is willing to break the law could tap into any of those lines and get a free ride. I have conducted many investigations where someone gets a phone bill and says I did not make these calls and, man, that customer better be a tenacious because most of the time the phone company will take a hard line, beat the

Source for picture of Dennis Bone: http://www.njbiz.com/weekly_article.asp?aID=75236664.1775171.995137.1643902.5459951.812&aID2=76540 [Steven J. Dundas]

customer up and force him to pay the bill very likely stating that the customer must have made the call because after all it was on the customer's private line. Most customers have no idea about the possibility of what is known as a bridge tap which is the technical term for the situation you just described.

The Competition Smell Test

COOK Report: so where does this take us vis-à-vis the effort with the cable franchise tax and the effort to get rid of the personal property tax entirely because of alleged competition?

Allibone: Let's start with their interpretation that once they lose 51% of the wireline connections in a municipality, they can rely on that statute to bail them out so that they never have to pay taxes on their network infrastructure to that town again. They claim that due to alleged competition they are losing 35,000 lines a month. My preliminary investigation into this area shows that their allegation doesn't even meet the basic smell test. I cannot think of any municipality in the state of New Jersey where Verizon could've possibly lost over 50% of the market share.

One must ask them how they are coming up with the numbers? We must point out that no one has verified how they are doing their accounting.

COOK Report: Are there any numbers on the part of the MSO's, Comcast for example that state how many people have taken their telephone service?

Allibone: Numbers are very sketchy. When they feel safe that they are not giving up any competitive information about what is going on, they will release a few numbers.

COOK Report: they being of course Comcast because only Comcast has its numbers? They are not after all required to report them to the Board of Public utilities or presumably to the FCC in Washington.

Allibone: That's right. Even if Comcast is making some inroads into the residential market place, their penetration into the business marketplace is very rough. If my business depended on good rock solid POTS service I'd be very skeptical about putting those eggs in to a cable TV basket.

COOK Report: Does anyone have statistics on wireless provider market share in the state of New Jersey? How much for example is Verizon; how much AT&T; how much T-Mobile?

Allibone: I am not aware of useful carrier specific statistics or whether the Board of Public Utilities in Newark would have them. I am not certain but I think if they do, the BPU will most likely treat the information as proprietary. Regardless, you may have some trouble getting any details out of the BPU.

Bruce Kushnick has spent some time trying to rip the alleged "35,000 lines a month lost" apart and find out what it really means. Our conclusion is they are not counting the lines that had gone to Verizon Wireless. And that they are also not counting lines that were no longer needed when people adopt Verizon DSL service. See http://www.newnetworks.com/Accesslines.htm But most significant is the fact that we believe they are counting the lines that have been lost to Verizon FiOS because Verizon FiOS is suddenly considered to be a competitive company.

The first Verizon FiOS clue surfaced when I attempted to intercede on your son's behalf last August after he had his problems with the door-to-door FiOS salesman in July, I felt that the best approach at that time was to go directly to Dennis Bone's office. His picture appears above.

I had worked with one of his governmental affairs guys in the past on some other very critical cases and had some good results. He was receptive enough to take my e-mail and respond but what I'm getting at is what he said in his response. He said that that he would like to help us **but that your son had switched to a competitor and therefore he was powerless to do anything.** Now, if I were willing to give him your son's phone number, I was told that they would at least try to call your son to find out if they could win him back.

As I understand it, your son was approached by a door-to-door salesmen representing himself as a marketing agent for Verizon FiOS. He agreed to take the triple play for a promised contractually binding reduced price. However when the bill came in the price was far higher than he had been led to expect. As a result he decided that he wanted to go back to his original set up because the Verizon FiOS representative had told him that Verizon was not willing to stand by what the outsourced commission based salesman contracted for. Because he'd followed your advice and insisted that the copper line not be taken out he could in theory at least go back. However the FiOS people refused to reinstall his copper service.

COOK Report: That is correct. He had no phone service at the time, not even a cell phone and if he wanted service he was told FiOS could be turned up immediately.

Allibone: And if you put two and two together you will see that when the POTS line side of Verizon lost your son to a so-called competing company named Verizon FiOS, Verizon FiOS in effect is treating itself as a CLEC. In other words what Verizon was telling me that in losing your son to its FiOS operation it was losing your son to a competitor and therefore his POTS phone line is counted amongst the alleged 35,000 lines a month Verizon was losing and would move them one line closer to being able to stop paying Personal Property Taxes to Bordentown, New Jersey.

It would seem that when it suits its purpose is to do so, Verizon treats FiOS as an independent entertainment information services company, but to the average person and, one would hope, that to the law it is still part of the overall Verizon Corporation.

COOK Report: Is there any independent verification? I suppose we are required to trust Verizon's reporting?

Allibone: No verification at all. Verizon claims in public statements to be facing competitors all over the place but never identifies the competitors themselves. I have however one other independent piece of verification that it is representing FiOS as a competitor when it suits its purpose to do so.

Another clue surfaced when I was talking with a Verizon employee who was working on one of my projects. The employee mentioned that many of his fellow Verizon employees received a benefit called a concession telephone plan that is free or nearly free telephone service. Some employees would like to subscribe to FiOS to get the TV and high-speed Internet parts of the service. However they were told if they do that they lose their telephone concession service. Why did they lose it? Because they were told ***Verizon FiOS is a completely different company -- namely that FiOS is an entertainment broadband company that provides an unregulated information service.***

COOK Report: Of course, while everything is kept under the same roof, everything is also rigged to avoid any accountability or responsibility. It reminds me of what you said about the school board's billing situation where instead of being handled by their local people they are now sent to former MCI employees in Atlanta Georgia.

Allibone: Exactly.

Bone Enlists the Legislature and the League of Municipalities to Overthrown the PPT

COOK Report: So where do we go from here about the League of Municipalities apparently being willing to accept Verizon's refusal to pay the personal property tax an action which of course hurts those municipalities.

Allibone: As you can see from the document of the Trenton-based lobbyists calling themselves the Government Process Solutions LLC, Michael Turner is alleging that

01-12-'09 15:27 FROM-Gov.Process Solution 16093932475 T-728 P001/005 F

GPS GOVERNMENT PROCESS SOLUTIONS LLC

FAX COVER SHEET

Date: January 12, 2009

To: Mayor
Council Members

From: Michael P. Turner

Fax Number:

Pages (including cover): 5

Subject: Municipal Revenue Restoration Act

COMMENTS:

This telecopy transmission contains information from Government Process Solutions LLC, which is confidential and/or privileged. Such information is intended for use only by the addressee indicated above. If you are not the intended recipient, please be notified that any disclosure, copying, distribution, use or the taking of any action in reliance on the contents of such information is strictly prohibited; and that any misdirected or improperly received information must be returned to this firm immediately. Your cooperation in phoning us to advise of such erroneous receipt is requested, and arrangements for us to pick up such material will be made.

IRS CIRCULAR 230 DISCLOSURE: Pursuant to Treasury Regulations, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used or relied upon by you or any other person, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax advice addressed herein.

101 S. Warren Street, Suite D, Trenton, New Jersey 08608-2303 Telephone: (609) 393-2400
www.gpsnj.com Fax: (609) 393-2475

“due to increased competition and strained market conditions, the cost of communications property has steadily declined over the years and is no longer a stable tax base that New Jersey municipalities can depend on, . . . the Municipal Revenue Restoration Act proposes to replace the current funding system with an expanding sales tax. . .”

01-12-'09 15:28 FROM-Gov.Process Solution 16093932475 T-728 P004/005 F-

[Date]

Dear [*Legislator* _____, *or League of Municipalities*]:

As mayor of [*NAME OF TOWN*], I urge your support for the Municipal Revenue Restoration Act of 2008. Municipalities throughout New Jersey are facing hard choices of cutting services to our residents or tax increases due to devastating cuts and unfunded mandates. The Municipal Revenue Restoration Act will help towns and cities around the state not only by increasing revenue to municipalities but also by eliminating inequities in the current tax system.

As you may be aware, the current municipal funding system relies on the assessment of certain personal property taxes (PPT) and franchise fees. Specifically, the law authorizes municipalities to impose a business personal property tax on local exchange telephone companies that service 51 percent or more of the voice market in a particular community. The problem is that, with the introduction of competition in phone and video services, only three providers – *Verizon, Embarq* and *Warwick Valley* – are subject to the tax. Cable companies, VoIP and satellite providers do not pay a single penny in PPT. While competition is a great thing in bringing more choice and lower prices to consumers, it has revealed yet another outdated and inadequate provision in our current system.

Due to increased competition and strained market conditions, fewer providers are meeting that 51 percent test, and municipal revenues collectively have experienced an aggregate loss of $440 million since 1997. Verizon, one of the biggest providers here in New Jersey, has already fallen below the 51 percent threshold in five communities and estimates project that it will fall below the threshold in some 50 more towns and cities in 2009 and in 150 communities in 2010. With the all the calls on the state budget, it will be challenging at best for municipalities to make up this lost revenue.

The Municipal Revenue Restoration Act counteracts this problem by raising some $99.5 million in revenue – 40 percent more than the $70 million currently generated by the PPT. This is done by replacing the current funding system with an expanding sales tax, already applicable to telecommunications services and digital goods sold by communications companies, by simply including video services. This approach would ensure that all video service providers within a market that offer the same “product” are taxed at the same rate. It also would reverse the declining tax revenue trend by replacing current taxes with an equitable and stable funding system tied to the growing – consumer driven - use of video services in our state.

This proposal will reform a system that currently is confusing, out of date and inconsistent with a competitive market that forces many service providers to pay more taxes than their competitors even though they provide the same service. But most importantly, this proposal addresses a problem that needs to be corrected quickly to help many municipalities in the state avoid a devastating funding crisis.

The Municipal Revenue Restoration Act of 2008 is a sound proposal. On behalf of the citizens of *[NAME OF TOWN]*, I ask for your support in passing this important measure.

Sincerely,

COOK Report: I also see the following on GPS website: In 2006, *The Star-Ledger, New Jersey’s newspaper of record*, characterized Mr. Turner as being “on the business side of nearly every high-pitched environmental battle in the state.” It seems to me like a good recommendation for Verizon but not for the welfare of the citizens of the state of New Jersey.

I would certainly like to find out the relationship between Michael P. Turner and Verizon but in the meantime, thinking about what you said, the argument of Verizon is clear. We loose lines by adding to the FiOS side of our business on which lines we pay no taxes because we chose to rely upon our unaudited statements of alleged competition and loss of market share in New Jersey municipalities. And the lobbying efforts of this friend-of-business Michael Turner offer the legislature a very nice predatory solution that shifts the tax burden from Verizon to its customers. Namely pass a sales tax on all video services that, according to Turner’s astro-turf efforts, will more than replace lost revenues from the Personal Property Tax. Two different approaches that are pointed toward the same conclusion. Verizon charges whatever it wants, engages in deceptive marketing practices for FiOS in order that it can claim competition and pay less taxes and the merry game of predatory extraction of revenue continues

I'm wondering how many of the executives of Verizon New Jersey are paid salaries the amount of which are on the public record? I was told that Dennis Bones's salary is on the order of $1 million a year. The high handedness that we see on every level reminds me of the New York bankers where, when you become a member of the privileged Wall Street order, you are entitled, no matter what, to your income and bonuses and associated perks because once you become a member of this feudal estate you get essentially a free ride because if your bank didn't give it to you a competitor would.

Note the very interesting sentence in the third paragraph of Turner's letter on page 2 of the fax where he says that New Jersey municipalities have experienced an aggregate loss of $440 million since 1997. Is this not 440 million in taxes that Verizon's predecessor company Bell Atlantic was legally obligated to pay during the highflying days of the dotcom boom and could it not be argued that they have used the deregulatory atmosphere of the last decades to eliminate? We see that the whole idea of any kind of service in the public interest or service as a public utility rather than a corporation that exists to pursue the highflying rewards of Wall Street is long gone.

Allibone: Exactly. These guys have painted a picture that it is not a matter of when, or if, but is a fait accompli these taxes are going away.

COOK Report: And you have an effective very well hidden private lobbying effort replete with undocumented assertions that the Municipal Revenue Restoration Act as proposed in June 2008 will raise $99.5 million in revenue, 40% more than the $70 million currently generated by the personal property tax. Again Turner, a lobbyist, uses figures that are utterly undocumented, stamps his faxes confidential and proprietary and they go on to claim that this is to be done by replacing the current funding system with an expanding sales tax.

We get a replay of the same assertions used in the March 2006 hearing we attended that it "would reverse the declining tax revenue trend by replacing current taxes with an equitable and stable funding system tied to the growing consumer driven by the use of video services in our state."

Allibone: We see this Trenton lobbying firm hired we know not by whom working very hard to convince the league of municipalities that it better get on the bandwagon and support the so-called Municipal Revenue Restoration act to rectify the problem by enacting a statewide tax on all video services with the completely undocumented claim that the additional income charged to Verizon customers will replace the taxes that Verizon should no longer have to pay to the municipality.

But I would maintain in this is not true because the phone companies have the monopoly and built the infrastructure and have been for decades required to support the communities in which they operate by paying taxes on the infrastructure that enables them to gain revenue from those communities.

COOK Report: And what is the difference between the Verizon infrastructure and the electric lines, the gas lines, the sewer lines, that are basic economic utilities involved in the functioning of these municipalities, for which the municipalities either charge their residence for service or allow a private electric company to charge? I would contend that it is simply a matter of the private utility Verizon using public rights of way and being obligated to give something back to the community for access to the physical environment owned by that community without which they would not be able to provide their service. In short under the scheme that Michael Turner advocates there is no private interest and the predatory phone company puts itself in alliance with the local government in building a relationship designed to increase the amount of rent extracted from their customers.

The Personal Property Tax (PPT) is Exhibit A in the case for comprehensive tax reform in New Jersey.

This is a tax left behind by time and technology, a tax that applies only to three telecom companies: Verizon, Embarq and Warwick Valley. The PPT is no longer the dependable source of revenue that it once was and has been consistently generating less money for New Jersey's municipalities with each passing year. It's unfair to the telecom providers who are subject to this tax and to the state's 566 municipalities, whose continuing dependence on PPT revenue is the equivalent of clinging to the side of a sinking lifeboat.

New Jersey's fiscal crisis and the deepening national recession underscore the need to reform taxation of communications services as a prelude to cleaning up the hodge-podge of laws that make up our tax code. That's a goal Verizon supports and apparently shares with League Electric Deregulation Counsel Joel Shain.

Mr. Shain's article last month and the November League resolution were largely based on a strong case for the legislature to eliminate the PPT and enact new tax legislation based on the reality of today's communications market. Verizon agrees and stands ready to help.

The PPT was created back in the days when Verizon, Embarq and Warwick Valley were the exclusive or dominant providers of phone services in the New Jersey areas they served. Today, consumers can buy phone service in a competitive market that includes phone companies, cable-TV companies and Internet phone providers.

None of these newer competitors is required to pay any money in PPT, not even the two cable companies that have become a major source for phone service. This free ride for our competitors is costing municipalities millions of dollars a year in lost revenue.

Expanded competition and investment in new broadband networks has been great for consumers and good for the industry, even though it has inevitably cut into Verizon's market share. When our market share drops below 51 percent in any municipality, the law makes it clear that we are no longer subject to the PPT in that community. We reached that point in five municipalities in 2008 and expect more this year.

No municipality wants to hear that it's losing a source of tax revenue, especially not in an economy like this one. So Verizon's cessation of paying PPT in the affected towns triggered some angry, inaccurate charges that a corporate giant was somehow wiggling out of paying its fair share of taxes, charges repeated in Mr. Shain's article.

This indignation is misplaced. It should be channeled into support for tax reform that would replace the PPT with a more equitable tax that applies to all competitors in the communications market. Other states are updating their tax codes as it relates to the communications business and New Jersey should do the same. No one is benefiting by keeping the status quo. Municipalities need a stable and equitable source of tax revenue which cannot be achieved by maintaining the PPT.

As New Jersey's second largest employer, Verizon has 18,000 men and women working in New Jersey. We live in the same municipalities as the League's members and worry about the same property taxes. Our kids go to the same schools and our families depend on the same public services that support the quality of life in New Jersey.

We want to partner with New Jersey's municipalities for a healthy fiscal future. Working together for tax reform is an important step in that direction.

This article was originally published in New Jersey Municipalities magazine. Vol. 86, No. 3, March 2009

Allibone: So getting back to the personal property tax situation what the carrier has done is push for is total elimination of that tax. Back in 2006 I sat in a league of municipalities meeting (Mayor's Conference Lawrenceville,NJ) where Dennis Bone proudly told the municipalities that if they supported Verizon's statewide video franchise proposal, he would increase significantly the amount of revenue that they would get from it. But now three years later he is saying that it is absolutely necessary for Verizon to no longer pay the personal property tax on the infrastructure that has nothing to do with video services, but rather for the state legislature to install a brand-new tax on all video services that Verizon's customers will have to pay as part of their bills, and that the municipalities should not worry because Verizon will shift the burden from a corporate tax that it used to pay and place that burden on its customers giving the municipalities the ability to extract revenue not from Verizon but from Verizon's customers - the citizens of each municipality. This tax will be levied on video services that currently are sales tax exempt in New Jersey and they are implying that the total revenue generated will be according to the above-cited lobbyist 40% greater than that generated by the franchise fee for the multiple system operators and by the soon-to-be defunct personal property tax.

Let me explain what concerns me about the League of Municipalities positions in this case. It appears now that they are legitimatizing Verizon's contention that the personal property tax places Verizon on a so-called unlevel playing field. I have seen nothing in the record where Verizon told the BPU or Legislators that robust competition would mean a loss of municipal PPT revenues exceeding $444 million dollars since 1988.

Among other things, I will maintain if this proposal were to become law, the New Jersey Division of Taxation will oversee it. They would become responsible for taking the tax revenues from Verizon and allocating them back to the municipalities after of course first taking their cut. There would be no guarantee whether any control would be placed upon this in the future. In other words the municipalities would lose control of their own revenue stream and likely would not receive as much money as they have been led to believe they would get.

On the other hand if they took the customer's phone/cable bill and determined by the ZIP code and street address, subscribers could be identified by municipality so that taxes could be levied and sent directly to the municipality, I have a feeling in the league would be very supportive of such an outcome.

Editor: Fred Goldstein comments: But the Amwells like many other munis have no ZIP codes of their own, so they'd have a real task of geocoding each address!

COOK Report: What is the purpose of the League's existence?

Allibone: The League is a non-profit voluntary association of municipal governments. And provides a number of services. As stated on its website, the League has a long history of urging a more equal tax treatment in the telecommunications industry and appropriate resolutions have been passed.

COOK Report: You seem to be saying that the League of municipalities will support the imposition of a 7% state sales tax on all video and not complain about the elimination by Verizon of the personal property tax?

Allibone: What I am saying is that it seems likely that, if the concerns of the League about how the sales tax money would be collected and disbursed are met, they would indeed favor that outcome. Verizon has cleverly characterized the tax as being unfair to them but if the PPT tax was eliminated, they would be getting away with a free ride using the municipal right of ways. The franchise fees we pay on our cable bills is revenue to the municipality for use of the right of way.

The Dennis Bone OPED headline reads "don't preserve the personal property tax but replace it." It states that municipalities continuing dependence on PPT revenue is the equivalent of clinging to the side of a sinking lifeboat and its sites with approval and article by League Electric Deregulation Council Joel Shane stating the existence of a so-called strong case for the Legislature to eliminate the PPT and enact tax legislation "based on the reality of today's communications market." It claims that consumers can buy phone service in a competitive market that includes "phone companies; cable TV companies; and Internet phone providers." Nowhere does it say that Verizon is both the largest phone company in the state and the largest Internet service provider in the state and that, with the exception of phone service offered by Comcast or another MSO, **Verizon effectively is the only company to offer phone service.** Verizon trumpets the argument that none of these newer competitors including Verizon's FiOS service is required to pay any money in PPT, and then go on to allege that public indignation should be channeled into support for "tax reform" that would replace the PPT with a more equitable tax that applies to all competitors in the communications market, never stating that what they are lobbying for is the imposition of the state 7% sales tax on to all video services including the video services of their cable TV competitors. And let's not forget, the proposed tax reform would also include the elimination of cable tv franchise fees, the same fees that Dennis Bone promised to increase with his statewide video franchise. Just another bait and switch tactic.

COOK Report: The presence of the electric utility deregulation specialist is suspect to me. Despite the crash in energy prices this winter my bills were 25% more expensive than a year ago. Nevertheless the energy utilities in New Jersey are generally private and not municipal and apparently they do not pay the PPT tax?

Allibone: That is true but they do pay a very sizable gross receipts tax used by the local community. And of course charged to each customer. These gross receipts franchise taxes you will still see on long-distance phone bills today. Pennsylvania just introduced a gross receipts franchise tax on their customer's long-distance phone bills.

Part of the problem here is that Verizon has the cost recovery of the personal property tax buried in the rates that they charge all of their customers. I suspect that Verizon wouldn't have a single complaint about the personal property tax if they were allowed tomorrow morning to start putting a surcharge on every bill called the PPT. I also find it ironic that even with Verizon having to recover the PPT taxes by including the costs in the service offerings, they have made nice profits and tout that we have the lowest rates in the country.

Sentinel
2-27-09

www.gmnews.com

South River hits pay dirt after utility pole inventory

BY KATHY CHANG
Staff Writer

SOUTH RIVER — Since 2,329 telephone poles were inventoried last spring, the borough has collected $528,000 in unpaid rental bills from AT&T, Comcast, Verizon and Wawa.

It all started with an inquiry by borough Business Administrator Andrew Salerno last spring.

"He was looking into how much collection in power costs the borough was receiving, whether or not these companies paid the borough the correct amount or not paid the borough anything at all," Eppinger said.

The borough hired six college students during last summer to take inventory of the telephone poles in the borough. Richard Dudas, revenue collector for the borough, said the total number of poles counted was 2,329.

"Some were municipal poles, totaling 1,611, and some were Verizon telephone poles, totaling 718," he said.

As a result of the inventory, the borough has collected $367,000 from Comcast, $31,000 from Verizon, $100,000 from Wawa and $30,000 from AT&T. It is awaiting payment of $100,000 from AT&T, Mayor Raymond T. Eppinger said.

South River is one of eight towns including Lavallette, Milltown, Seaside Heights and others that operate an electric utility as part of a co-op Public Power Association.

"The money collected will go into the general revenue utilities fund," said Eppinger, who added that as the budget process begins for the 2009 year, the funds will be factored in.

Since the telephone pole project is considered to be a success, the town has developed another project for this summer, he said.

"We will gather a group of college students who are interested, to inventory every building in the borough and make sure they have electric and water meters," Eppinger said. "It will depend on how large the project is to see how many students we will hire."

The mayor said nothing in particular caused the borough to act on the project.

"We don't know what else is out there … The telephone pole project was a complete success," he said. "We want to make sure people are paying for their electric and water service."

Pole Audits and Tax Avoidance

COOK Report: What about the issue of pole audits in South River New Jersey that you sent me a clipping of?

Allibone: The reason that that is of interest is that my day-to-day work includes a lot of auditing, - investigating billing discrepancies aind improper allocation of charges between interstate and intrastate operations. ***On the basis of what I've seen over the last few years I am of the opinion that one reason Verizon may be so eager to get rid of the personal property tax is that if it were ever possible to do an accurate physical audit of their personal property one would find that much of it cannot be reconciled with the books.***

If we did accurate inventories I believe that municipalities would recover hundreds of millions of dollars in back taxes. Now the South River the article that ran on February 27, 2009 pretty much validates what I've been saying for several years about the underreporting of these inventories.

This is an excerpt from a note I wrote on March 6 to a client: "On the personal property issue, the South River article is just the tip of the iceberg. I think if we did the telephone pole inventory statewide, it would generate huge revenues for the muni's without the need to raise or create new taxes.

The South River findings justify a request for a full investigation and PPT audit. Verizon claims that the PPT is going down because of changing technology and lower values but it is actually happening because the many billions in fiber optic cable investment is being 100% allocated to broadband video at the expense of the public switched telephone network.

In my opinion, this is fraud and our muni's are being harmed.

Don't forget about the FCC continuing property record audit from 2000. The FCC could not find or verify $18.6 billion in central office equipment. **We are looking at the biggest tax scandal in the history of American business with its roots going back to the 1984 breakup of AT&T.”**

South River stands out because they did the easiest parts, they only counted the telephone poles, which resulted in a $528,000 windfall for the township in unpaid taxes and fees. What this implies is that a solid personal property tax of the poles is only the tip of one iceberg. There is such an iceberg in every municipality. Furthermore since those poles are located in the public right of way, they have an obligation to maintain them in a safe manner.

COOK Report: What you just said reminds me of the situation at the end of my own street. Three or four years ago a car crashed into a phone pole, breaking but not severing it. Verizon came out and placed a Band-Aid of ropes on the break and some time later replaced the pole with a new one perhaps 18 inches away, leaving the broken stump of the old pole still lashed at the break and with the freshly severed top lashed to the cabling infrastructure. It has stood there for years. The ID number on both poles is the same. See the photo this page and next.

Allibone: What you observed at the end of your own street is a problem that is going on across the entire state of New Jersey. I would be prepared to argue that the broken pole that you described is still a working pole on which they should be paying taxes until it is removed. And this brings me to another point. I have heard about this problem from a number of municipalities.

These unremoved broken poles are a safety hazard and they certainly are an eyesore. There is a statute that says they have 90 days to remove the old pole. It is safe to assume that if they do not remove the disused pole, it should be considered in use. Non compliance with this statute has substantial fines and in this day of municipalities starved for revenue sources, it would seem to me that it would be worth their while to inventory these old broken or abandoned poles and send Verizon notice of non compliance. The fine for not removing these poles within 90 days and ignoring the statute totals about $35,000 per pole per year.

West Amwell's PPT Data

COOK Report: How does the annual valuation of the Verizon personal property tax inventory fit into the five years' West Amwell data that you sent me and I've reproduced at the beginning of this article? (See page 8 above.)

Allibone: Just a reminder, the tax records are taken from public records and anyone can look them up if they choose to do so. You will notice an interesting fluctuation in the numbers from year to year. There are a number of reasons you would see these fluctuations. Some examples might be the addition of new plant, new switching equipment or poles or cables to the infrastructure. We both know that new investment is in fiber not copper. They do something with copper only when they need to get a working copper pair out to customers with high incidents of repair problems. So why any of those values would fluctuate we simply do not know. There is no transparency. The only way to find the answer is to do the audit.

COOK Report: What you are looking at in the $831,000 is a statement of the current value of their entire embedded infrastructure in the township of West Amwell, New Jersey. And this form says that the value of their plant decreased by about 8% while their total improvements on the plant for several successive years was a total of $100 spent in the entire township. Correct?

Allibone: You got it. Of course, without any inventory details, how does any municipality know if the numbers are real or just made up?

COOK Report: OK. In 2001 they invested $100 and yet between 2001 and 2002 the value of the plant went up by about $210,000 from $675,000 to 885,000. How is that possible? And then if you look at the entire chart you see that the valuation in 2003 was unchanged that it went down nearly 40,000 in 2004 stayed the same in 2005 went down nearly 50,000 in 2006 and in 2007 somehow one up nearly 40,000. It shows over $9000 of improvement in 2006 and 2007 but that 9000 in no way equates to the sudden and mysterious increase in total valuation. How do they do this? This comes from the state Division of Taxation?

Allibone: **No one knows how they do it. That's part of the problem. It comes from the New Jersey Division of Taxation in Trenton working with confidential and proprietary information provided by Verizon to them. The Division of Taxation allows Verizon to use group accounting, which could allow Verizon to use very creative bookkeeping. In my day to day phone bill audits, I see lots of misallocation going on with bundled services. Its ripe for abuse and fraud.**

COOK Report: And there is no one then who can go down to the Division of Taxation and demand any further information on the subject?

Allibone:That's correct. When I first started this investigation, I was told by the league of municipalities that my Chief Financial Officer received a detailed inventory each year. But when I went to my CFO, she looked at me and said, what in heaven's name are you talking about when you say inventory? There is no such thing. Verizon is now taking the position that any service that runs over fiber is an information service, so they are not including the fiber in the PPT inventory, the contents of which the municipalities are never allowed to see.

COOK Report: That's pretty fascinating especially if you wonder whether there might have been a grand legal strategy behind it all over the last 15 years or so.

Consider **Bob Atkinson's** evaluation written on March 26 to the arch-econ mail list "I have no love (but a good deal of respect) for Bill Barr: He was an aggressive "take no prisoners" opponent during my days at TCG and one of the few telecom executives to "push back" at the FCC. He's a former Attorney General of the United States so he would have made big bucks--probably more than he made with Verizon--anywhere, both on the merits and because of his connections. He has been with Verizon and predecessors for perhaps 15 years.

The best investment a regulated company can make is in regulation and litigation, not infrastructure or new products. Barr was one of the fiercest and most effective opponents of UNEs and the UNE-P and should get a lot of the credit for killing them. What was that worth to Verizon and its shareholders? A billion dollars in market cap? Two?

(***COOK Report***) And then we have a final piece of icing on the cake from Jon Corzine where, with New Jersey virtually bankrupt, he creates a law that gives Verizon a $2 million tax credit per year to keep its Newark New Jersey office open something that analysts point out that they would need to have done anyway.

http://www.northjersey.com/news/northernnj/NTowns_may_be_left_holding_the_bag_if_Verizon_gets_its_way.html
and
http://www.njbiz.com/weekly_article.asp?aID=75236664.1775171.995137.1643902.5459951.812&aID2=76540

"NEWARK — The state is touting the first success of its new Urban Transit Hub Tax Credit program, citing it as a key factor in keeping Verizon New Jersey — and hundreds of jobs — in its largest city after the corporation announced plans to relocate. But some policy experts suggest the company may have stayed even without receiving tax breaks, especially considering the uncertain economic climate."

"The New Jersey Economic Development Authority announced late last month that Verizon would be the first company to receive tax credits under the program, which Gov. Jon S. Corzine created in January to boost private investment and create job growth in urban centers. The corporation will receive tax credits of about $2 million annually for 10 years to invest more than $25 million and employ more than 700 people at its Newark headquarters at 540 Broad St., according to the EDA. To date, Verizon is the only company that has applied for the program."

"The program was a "valuable instrument to help us make the decision to remain in Newark," said Dennis Bone, president of Verizon New Jersey, a subsidiary of New York-based Verizon Communications Inc. "This certainly makes the business case [to stay in the city] much stronger."

"But critics, including Jon Shure, president of New Jersey Public Policy Perspective in Trenton, said companies "game the system" by announcing plans to relocate in order to gain leverage with the state.

"They see what statements will get the state to make offers," he said. The state has a history of awarding incentives to Verizon, most recently, a grant in 2005 to relocate 1,700 positions from 20 states to the Basking Ridge section of Bernards."

"Verizon announced last fall that it planned to sell its headquarters building and move some 600 jobs out of the city, as the company aimed to consolidate its northern New Jersey operations. In an apparent reversal, however, Verizon in May said it had made a tentative decision to remain in Newark, agreeing to a 10-year lease with Fairfield-based Accordia Realty Ventures, which said it would buy the building in February."

"After announcing its intention to sell, Verizon considered a dozen locations within a 30-mile radius of Newark, and found "there was a pretty substantial gap between staying in Newark and going to a suburban location," said Timothy Lizura, EDA senior vice president of business development. He said the cost of doing business in Newark was several million dollars more than it would be in the suburbs, because of parking, higher rents and other operating expenses."

"The company approached the agency late in the first quarter about participating in the program to offset some of the costs of staying in Newark, Lizura said; the tax credit "was a very meaningful piece of the equation."

Allibone: I would contend that there's been a consistent record of Verizon threatening to move jobs out of the state of New Jersey and going to the governor and to the legislature and demanding tax relief in order to keep jobs in New Jersey - jobs that they would have no other reasonable choice than to do regardless. I remember just a few years ago, Verizon stopped deploying its fiber optic network claiming New Jersey was not business friendly and Mr. Bone said that Verizon was diverting monies to states more friendly to the parent company.

COOK Report**:** The Newark New Jersey tax gambit in other words was yet another way to increase their parasitism off the people of New Jersey and payback even less to the customer base that supports them?

Allibone: Absolutely. But in this case, note that Bone said we are not moving out of New Jersey but only perhaps moving the Newark headquarters to Basking Ridge so, in this case the only people to be ill-affected would be Newark but not the entire state of NJ. And let's not lose sight of the bigger tax picture when you include the PPT taxes paid to Newark. Back in 2003, Newark received $2.5 million in PPT taxes. It has dropped to $1.7 million and will go to zero according to Verizon.

COOK Report: In other words they can come up with the excuse that they're moving some people from one part of New Jersey to another and tell the state that unless you take over the property taxes for the area from which we would move them, then we will do the move and tough luck.

The deck chairs are presumably being moved from one part of the Titanic deck to another and the overall economic effect within the aggregate likely balances out, but all Verizon has to do is go to the governor and say if you don't want us to move, exempt us from paying yet more taxes. Never mind the near bankruptcy of the state of New Jersey?

Allibone: I look at it this way. Verizon has a monopoly courtesy of the state of New Jersey and they are not content to continue to operate it under present law. It is not lucrative enough. Consequently even after the current economic debacle, Verizon looks for ways to increase the amount of money they extract and decrease the money they pay the society that supports them.

The People Must Demand Change

COOK Report: In mid November Verizon continued its full court predatory press in the pages of the the *Newark Star Ledger*.

There Verizon company spokesman Rich Young bragged to Jim Lockwood on November 15, 2008: "Verizon also expects to stop paying the same taxes in as many as 50 towns in 2010, and perhaps another 100 towns in 2011, as the firm's customer base drops below 51 percent in those towns, Young said.

"We're seeing this same situation unravel nationally, in Ohio, North Carolina and Virginia. It's not unique to New Jersey," Young said. "We fully expect this trend to continue as competition flourishes."
http://www.nj.com/news/index.ssf/2008/11/verizon_plans_to_halt_certain.html

So while we have presented a rather exhaustive picture of Verizon's predation in NJ it seems unlikely that Seidenberg has singled out just New Jersey. Verizon's own spokesman points above to three other states: Ohio, North Carolina and Virginia.

If the citizens of the United States are to take back their own lives they must pay attention to the critiques of people like Mark Cooper who on March 17 testified at the House Judiciary Committee:

"There is much to do to restore effective antitrust oversight in America. I suggest four critical steps.

(1) Federal antitrust authorities should take their own guidelines more seriously, challenging mergers more consistently in highly concentrated markets. The theory of the dynamic duopoly has proven to be just as wrong headed as market fundamentalism.

(2) Antitrust authorities must return to the fundamentals of head-to-head competition as the foundation of antitrust action. Intermodal and potential competition have simply not provided the effective disciplining force that head-to-head competition provides.

(3) Over the past several decades antitrust has given far too much deference to efficiency at the expense of competition. The assumption that private actors will be perceptive and well-intentioned in their pursuit of efficiency and efficiency gains will be passed on to consumers even where competition is feeble, never made sense and, in light of the collapse of market fundamentalism must no longer be relied upon. Private actors are at least as likely to be myopic, misinformed and maleficent. Competitive market structures should take precedence over claims of efficiency gains.

(4) The digital economy of the 21st century is very much an economy made up of platforms in which layers of complementary products and services sit atop one another and their close interconnection, frequently through technological dependency, renders the threat of exercise of vertical leverage much greater than was the case in the physical markets of the 19th and 20th centuries. Tying, anticompetitive bundling and exclusionary conduct take on much greater significance.

The need for reform does not demand a radical new experiment. Rather, it demands a return to the traditional values, institutions and practices of progressive capitalism that served us so well in the half century after the New Deal. The market fundamentalism of the past thirty years was the radical experiment and it has failed miserably. It is time for us to abandon the market fundamentalism view that sees the *ex post* clean up after the regulation and antitrust as occasional market failure, and to return to the New Deal view which was based on the understanding that regulation and antitrust are the *ex ante* prophylaxis to prevent market failure. The genius of the New Deal was to use regulation to direct the powerful forces of capitalism to socially productive endeavors. That is what we lost in the last decade and that is what we must recover if we are to rebuild our economy on a sound basis."

Conclusion: the Problem is Systemic

COOK Report: The lessons of New Jersey are not just about New Jersey or about Verizon. They, along with their fellow incumbents, are masters at regulatory and political gamesmanship. Rules are interpreted and re-interpreted in whatever manner gives them the best results in any particular case.

They employ droves of lobbyists to get legislation to defang state regulators and impede competition, often relying on decades of public relations and strategic pricing to establish goodwill. They cite both real and potential competition as a basis for deregulation, and as we have seen here, will even claim themselves as their own competitors, if it makes the statistics more favorable. Telephone company facilities are still an essential public utility, often a monopoly, and they to be be regulated as such, not treated as just another player in an imaginary free market.

There are large public interest issues at stake. Robert Solow brings them into focus at the conclusion of his *NYRB* essay on Richard Posner's *Failure of Capitalism* when he writes:

The financial system does have a useful social function to perform, and that is to make the real economy operate more efficiently. Some human institution has to collect a nation's savings and put them at the disposal of those who have productive ways to use them. Risks arise in the everyday business of economic life, and some human institution has to transfer them to those who are most willing to bear them. When it goes much beyond that, the financial system is likely to cause more trouble than it averts. I find it hard to believe, and I suspect that Judge Posner shares my disbelief, that our overgrown, largely unregulated financial sector was actually fully engaged in improving the allocation of real economic resources. It was using modern financial technology to create fresh risks, to borrow more money, and to gamble it away.

Posner writes: *As far as I know, no one has a clear sense of the social value of our deregulated financial industry, with its free-wheeling banks and hedge funds and private equity funds and all the rest.*

That is already a hint that he thinks its social value is limited. As Posner sees it, talk about greed and foolhardiness is comforting but not useful. Greed and foolhardiness were not invented just recently. The problem is rather that Panglossian ideas about "free markets" encouraged, on one hand, lax regulation, or no regulation, of a potentially unstable financial apparatus and, on the other, the elaboration of compensation mechanisms that positively encouraged risk-taking and short-term opportunism. When the environment was right, as it eventually would be, the disaster hit." Complete article at http://www.nybooks.com/articles/22655

COOK Report: Now the disaster that is staring at us in the actions of the predatory incumbents won't be of the same magnitude as the financial meltdown, but I would still like to hope that **responsible social advocates could summon enough policy wisdom to grab the Dennis Bones (President Verizon NJ) by the scruff of the neck and say the purpose of the incumbent is much more broad than maximum extraction of capital from society with minimal social returns.**

Symposium Discussion March 18 - April 14

Data Traffic Growth and Associated Financial Strategy

Editor: On February 11, 2009 *Network World* published an article based on a Cisco report on data growth. http://www.networkworld.com/news/2009/021109-cisco-mobile-data-traffic.html

On March 18 Andrew Odlyzko: Even at the growth rates projected by Cisco, mobile data will be very small compared to wireline. But there are serious questions whether the Cisco projection of 131% annual growth is sustainable.

I have a few pointers to various studies in the latest news item on the MINTS web site, http://www.dtc.umn.edu/mints/news/news_21.html

Rood: T-Mobile in the Netherlands has reported a sevenfold year-on-year data traffic growth for the month of Dec 2007 to Dec 2008.

The difference has been the iPhone 3G (launched together with the iTunes App Shop last July). T-Mobile is now also heavily promoting G1 Android developer weekends, next to iPhone developer camps etc. Markets do have only minor handset growth, due to saturation, so this is mainly a traffic effect. What makes you think 131% is unsustainable for a few years when mobile is very small compared to wireline?

OIdlyzko: Hendrik,

Here are a few observations:

(a) When I take the Cisco estimate for US mobile data today, it appears to be comparable to US mobile voice. (For voice, I am taking the approx. 25 minutes per subscriber per month, and assigning 10 Kbps for mobile voice.)

(b) For the Netherlands, if we assume 10 minutes per subscriber per month (you might have the exact figure available, I have not looked for it, but this is an overestimate for most of Europe), we get for that subscriber, at 10 Kbps, mobile voice traffic of

10 minutes/day * 30 day/month * 10^4 bits/sec * 60 sec/min = 1.8 * 10^8 bits/month =~ 20 MB/month

But Rudolf van der Berg reported on this list recently that Dutch T-Mobile iPhone users generate 640 MB/month of traffic. (For US iPhone users, I have heard a figure of 100 MB/month, but I don't know how reliable that figure is.) So if everybody in the Netherlands upgrades to the iPhone or some other smart phone that offers comparable facilities, mobile traffic would jump 30x, compared to just the voice service.

(c) Estimating the capacity of various 3G and 4G technologies is a hard problem, given all the parameters that surround it, not just the transmission technology, but cell density, spectrum allocation, business models, etc. that can be varied. But I have not seen any credible case that we can grow at 131%. If you look at the AT&T presentation,

http://www.3gamericas.org/documents/03_Hank%20Kafka.pdf

Growth rates that are assumed there, even in the most optimistic scenario, are under 100% per year. And if you look at the cost projections in that deck, it seems that a large increase in revenues is being assumed.

About a year ago, **Rod Hall (who is on this list,) wrote a JPMorgan report, estimating that without any major increases in capex, European wireless operators could provide about 500 MB/month per subscriber by 2012 or 2013. But Dutch iPhone users are already over this mark!**

The bottom line is that we may be running up against capacity limits very quickly.

Coluccio: Those are some interesting metrics. I presume the 10 minutes per day represents the sum of times when syllabic activity is present (time to detect, transmit and receive), while omit any inclusion of listener-waiting and pause times between spoken words. Kindly correct if I'm mistaken.

Also, you noted:

"The bottom line is that we may be running up against capacity limits very quickly."

The main bottlenecks, in your opinion, being where?

Odlyzko: The 10 min/day (and this was just a wild guess for the Netherlands, I don't know the precise figure) would be that infamous "billable minutes," which include pauses, etc. In systems like GSM, when you are in the middle of the call, you get a full slice of the spectrum allocated to it, whether there is any real traffic there or not.

Now there is some ambiguity, in that in fact you get two channels set aside for you, each of about 10 Kbps, the downlink and the uplink. So one could in fact claim that voice calls amount to twice as much as I put down. But then the same thing would also apply to data traffic, I expect.

Coluccio: Andrew, thanks for the clarification. Perhaps there are other mitigating factors you are also taking into account that I'm not aware of, but 10 mins per day seems like a very paltry number for cellular billing purposes. Is this merely an arbitrary number you're using for comparison's sake? Or are you suggesting that the 10 mins per day represents actual daily traffic usage by an individual?

Ah... maybe measured over a larger field where many users don't use the device at all, but still ...

Goldstein: It varies by country, but 300 minutes/month seems sensible for some European countries. US *average* usage is much higher. But then the price per minute in the US is *much* lower. European carries still use that ridiculous "calling party pays" scheme in which the terminating monopoly (every cell company) attempts to extract monopoly rents for calls to its own numbers. Hence the rate to call a mobile is very high. In the US, it's just a phone number, and the price for heavy users is low.

Now that MetroPCS has come to New York and Boston with unlimited-use plans starting at $35/month (plus fees, taxes, etc.), I wonder if there'll be more price pressure on the biggies. Metro doesn't have much spectrum, though (10 MHz, 5/5, in the 1700/2100 MHz AWS-1 band, and in some areas 12 MHz in the 700 MHz band for post-DTV-transition use).

Rood: In the Netherlands there are all kinds of TV-fragments and in particular relevant "radio stations" that have developed players listening too AAC+ encoded streaming audio. As T-Mobile offers a flat rate subscription (at a surcharge of €10 per month) one of the reasons this is attractive for them, is they do not offer flat-rate data over mobile for pre-paid users.

So it does give a boost in ARPU to lure all those adolescents and students away from their pre-paid mobile to a post-paid flat rate service, as ARPU for pre-paid is ca

€10 pro month and total ARPU for their post paid subscription is more around €40 per month. [This is still considerable lower than the ARPU for a typical business user of a cell phone in the NL which is around €70 pro month, all figures are excluding VAT)

With respect to 640MB per month. I think this figure is credible. My own research in the 2000-2003 period showed that a transition from dial-up internet to cable modem and ADSL resulted in an increase from about 60 MB per month (dial up, metered) to 600MB (usage after upgrading to broadband / flatrate).

Considering that listening to the radio while computing online was also then one of the more hidden "bandwidth hogs" and this online-radio consumption has now gone on to an average of about 2 hours a week (mainly via fixed still, but thus moving to mobile) per person above 12, you may get the point where all this traffic is really coming from.

[And **to Coluccio**] - Frank,

In the early 1990s the typical European household had traffic of around 12 - 16 minutes per day for a fixed PSTN line. So operators already observe that the total call volume of the residential market has gone up around 3 fold in one-and-half decade in voice minutes. The business market is a bit different, but fixed-to-mobile is by far their main voice traffic cost component, as many contacts are on mobile.

Americans were well know to have far larger monthly usage volume on their PSTN landlines (local flat rate, anyone). A habit that has been transplanted more or less to mobile.

With mobile broadband there is however a change, due to that the fact that high-performance flat rate broadband behaviour in Europe is more common and now those users are moving to their mobile flat rate subscriptions, with expectations from their fixed experiences.

So changes in behaviour and different offerings are: **Europe**: from " average rationed metered but cheap local fixed voice" + "prolific cheap flat rate fixed broadband" usage to "average rationed metered expensive mobile voice" + "prolific flat rate mobile broadband usage". **USA**: " high non-rationed unmetered fixed voice" + "averagely expensive flat rate fixed broadband" usage to "high non-rationed unmetered mobile voice" + "average flat mobile broadband usage"

Now I do know there are still many mobile operators who think one should meter broadband. But most of them tend ultimately to look after ARPU vs **Return on Capital Employed (ROCE)**.

In general the USA got a higher ARPU for their non-rationed fixed voice networks than Europeans got for their metered fixed-voice networks. As capacity investment in the USA was a bit higher, but not that much higher (I recall a 1:10 concentration in Europe for residential PSTN compared to 1:8 in the USA residential market, but access lines and line cards were always a far more expensive cost driver compared to trunking since roughly the advent of digital trunk carriers in the 1970s.) **The bottom line was that US operators were more profitable compared to their investment per customer.**

And that is the whole point of what ARPU vs ROCE is about.

If you observe these points, then you also start to grasp why Net Neutrality is an issue in the USA while it is not in Europe. Most of Europe gets a far higher ARPU boost from going flat rate/broadband than an investment hit. In many countries without extensive cable networks (Italy and Greece have 0% CATV, think twice about why Fastweb in Milan was so successful!!) see TV as an investment opportunity with a new associated revenue stream.

Even cable operators see many opportunities to push up revenues as analog TV is rather cheap in quite some (but not all) EU countries.

In the USA current CATV already bring the largest fixed revenues in ARPU. So massive digital audio/video streams is no easy new source of revenues at the subscriber side.

As long as T-Mobile proceeds as they do now with mobile broadband under flat rate schemes and pushing iPhones, G1 Androids etc. and do observe their ARPU increase vs incremental investment (current state of affairs), then Vodafone will experience a major problem pushing for metering mobile bandwidth and will be competitively forced to provide a mobile flat rate subscription as users want those plans, while competing operators see better ARPU.

For mobile operators the current key issue is to get bandwidth (read fiber and high-capacity microwaves) to all these base stations, as most mobile base stations are today still supplied with 2 x 2 Mbit/s and LTE launch is now sped up with one year (original plans were for 2010 to launch the LTE tech for pilots, but it now will be this year and the 2.6GHz auctions this year are when technology is concerned about HSPA/LTE vs WiMax).

The Financial Metrics of Iliad versus Orange

March 25 **Felten**: I have subtitled the third video from Iliad's Q&A last week.

The way Iliad's CEO describes Orange is fruity to say the least.

http://www.fiberevolution.com/2009/03/free-releases-2008-results-part-iii.html

There have been rumours in the press that Orange is actually considering suing Niel over this. it is well worth watching to understand the dynamics of their fiber investment as well as the way they see the incumbent.

van der Woude: Benoit, have been and am watching. [I find the following especially illuminating.]

Owner Niel to press: ***"There is really something you don't seem to be grasping: investing in optic fiber will make our margins explode. Today an unbunbled customer is 50% margin or thereabouts. When we migrate the customer to optic fiber, we move to 85 or 90% margin."***

van der Woude: Awesome - and thanks very, very much for the subtitles!!!

COOK Report: Is the great increase in margin because the OpEX of fiber is so much less than copper?

Felten: No, it's because Free would no longer have to pay unbundling costs to Orange.

Rood: Gross Margin is just what you receive reduced with direct cost of sales. For renting an unbundled local loop, the cost of line rental is in that first subtraction, as is the direct cost of sales (Customer acquisition cost, customer retention schemes against churn).

When you start door-to-door sales-squads by going around neighbourhoods, or account for the negotiators with landlords, that will often also be accounted for as direct cost of sales and influence Gross Margin.

When you go down from Gross Margin to EBITDA, your bookkeeper starts to subtract the other OPEX, like the cost of network operations and maintenance (OPEX), general management, administrative and marketing spending.

Because OPEX of fiber is much less than leasing copper lines, they will probably also see EBITDA growth. However, that figure is less straight forward to distill as that is buried in the other OPEX. So increased spending on marketing to promote FTTH tends to hit EBITDA.

When you run generic brand campaigns for multiple ways of delivery of your services, it is difficult to extract direct FTTH marketing cost etc. out of your generic OPEX bills. That is more the concern of the internal accounting department and their activity based costing exercises.

Goldstein: I love these financial metrics; they're the modern-day Lewis Carroll.

Building your own FTTH raises your profit margins quite a bit, if you ignore the cost of capital needed to build them. Outside plant construction is very expensive. Overbuilders have largely gone belly-up in debt. The EBITDA might be good (and thus it's a nice bankruptcy asset to buy after the fact), but it's hard to justify the CapEx.

"Other than that, Mrs. Lincoln, how did you like the play?"

Felten: [With regard to] Free, I suspect is very aware of these issues. They're targeting their fiber deployment in areas where they have high take-up on DSL. That's the real reason why they're not changing their price. It allows them to migrate DSL customers to fiber without needing their approval. They have announced that they would only deploy in areas where they had over 15% market share. At 15% share and Paris-like deployment costs, the payback is 6 years.

There are areas in Paris where Free has over 50% market share. The payback as you may guess is a lot less than 6 years. In these circumstances, fiber can indeed become a fast cash machine.

I was very skeptical about their plans, but I have to say that I'm pretty convinced now it can work. I'm just impatiently waiting for the big thrust from a sales/marketing point of view which I suspect will happen this year, maybe around September...

van der Berg: Also don't forget the costs to roll out in Paris are among the lowest in the world. Somebody with a bit of foresight decided to build sewage tunnels in Paris. Real, proper tunnels you can stand in and walk around in... These are now the default route for fibre and other infrastructures in Paris. So there is no need for expensive digging. The biggest problem is getting into houses in Paris as these are all in apartment buildings and you need to convince the association that owns the apartment buildings to allow you in.

Cole: Also, I suspect the "overbuilders" expenses were (or could have been) dramatically affected by ROW issues/costs, in addition to raw physical items like putting up (or digging in) the stretches of fiber. So an entity "overbuilding itself" where it already has control of/access to polls, conduits, etc. might have CAPEX waaaaaay lower than a newcomer.

And, while perhaps not declining at CPU/RAM rates, it appears to me that advances like "bend-insensitive" fiber and narrow trenching and more experience with deployment are in fact pushing down the physical costs. Both of these are true.

The issue with the ROW duct/pole owners is that they are often the copper owners as well (ie. incumbents). In that case, there's a big elephant in the room which is the desire to maintain your current revenues, a huge disincentive to invest.

That's why the only incumbents who are seriously investing are those who feel threatened by cable and/or alternative fiber (KPN, Orange, Telenor, Telia Sonera, maybe BT someday...)

The Ladder of Investment Theory

Rood: The economic approach behind the investment strategy Free-Iliad is using is dubbed "the Ladder of Investment".

I have done empirical research on this in 2000/2001 in a series of working papers written for DGTP and OPTA. It was in a revised version later published in *Telecommunications Policy* in 2003.

The lead authors of that series of working papers Martin Cave and Ingo Vogelsang, who coined the term in their concluding paper.

The "Ladder of Investment" theory has become a staple in European Telecommunications policy since.

As it is partially inductive theory (we observed a series of facts in the case studies (my part) along several theoretical papers (Valetti, Cave and Vogelsang) and econometric study (Majumdar)), it still attracts regular fire. On various occasions I get articles for peer review that attack it. Quite a lot of them tend to be scholarly research funded by incumbents [surprise ;-)].

I recently wrote a small note to Robert Crandall, of Brookings Institution, as I observed from one of the papers I reviewed lately, he also was sinking his teeth in it and denouncing the "Ladder of Investment" based on some general inference from econometrics he did.

From the econometrics done by Sumit Majumdar it was however already clear, that regulatory policies tend to change to fast to be able to control for them as a variable. So called significant results that refute the "ladder of investment" tend to be incompletely specified econometric models e.g. they do not control for (too) low wholesale prices of network elements.

The gist of the ladder of investment is rather simple.

1. *Companies that enter the telecoms market start to invest first in assets that are easy to enter.*
2. *They then expand by selling services and building assets into complementary areas with partially leased network elements.*
3. *When successful, they follow it up by creating a deeper asset base to serve their customer base and get rid of the costs of leasing.*

The main cases are:

1. Tele2, a long distance telephone company that gradually expanded from national to local levels, first by selling services over incumbents networks, then overbuild it when that was cheaper. **2**. Cable operators, expanding local cable to broadband and voice and gradually expanding by overbuilding leased long distance lines and networks between their nets **3.** Home owners, expanding into local loops that served their property (this is "homes with tails" or "household financing of the first mile")

What Iliad is doing, overbuilding with fiber in areas where they successfully acquired broadband customers with their DSL based offerings, is a genuine example of "Ladder of Investment".

The point is, that many new entrants in broadband have been shunted from creating substantive market share on commercial grounds by obstruction efforts of incumbents, as opposed to commercial business acumen of incumbents.

Most incumbents search for economists willing to write arguments and position papers that enables them to obstruct an entrant with some market share but higher business acumen to climb the ladder of investment. Whether it is on interconnection policies (allowing vast incumbent telephone companies to rise origination and termination fees high above cost, to create a steep outflow of money and make retailing services unattractive), or on wholesale leasing of network elements that complements their asset base, or blocking home owners or soil owners (municipalities) to invest in the complementary loops.

The main argument tends to be that these competitors get a free ride, or they attempt to induce legislators and regulators to require entrants to engage in overbuilding assets before they do have sufficiently large market shares and profitability to justify such a move by simple business economics.

Crandall was recused, as his claim that the "Ladder of Investment" was not working was posited before the decision by Free-Iliad to enter FTTH. But if he sticks to his guns now, I might be induced to write a reply paper, as he did not take on all three main cases in his attempt to discredit the theory.

The key strategy point of the "ladder of investment" is that you enter a new market from a complementary asset base by leveraging your existing customer base onto your new assets.

Cases where the newly created asset base was far and remote from the original one e.g. creating non-complementary assets, tend to unravel rapidly, as it is extremely difficult to create synergies in a network and are easily broken up. Case on that point: Above.net and Metromedia Fiber networks. Hosting and intercontinental backbones were far to remote activities from constructing and operating metropolitan fibre rings.

I recall that I have send a few months ago slides from the ECTA 2008 regulatory conference, where I used some block schemes to show step schemes in the ladder of investment.

I then also included the network expansion / investment strategy of Google as a new case. Google started as a search-engine website, but is expanding globally with their assets and creating partially localised versions to serve different language markets while constructing their own backbone between the Googleplexes by acquiring IRUs on intercontinental cables and dark fibres.

Cowen: The best example of the ladder of investment is BT's international expansion. The facts are all public and it really underpins Martin Cave's work. The ladder of investment is also underpinned by inward investment into the UK cable business by US companies during the 1990s and is pretty much the story of all ECTA members. In many ways it is stating the obvious, but that does need stating. Let me know if you need any access to facts or materials.

Declining Costs Make New Frontiers Possible

Robert Atkinson: I don't see that "ultra broadband" of 2020 for 3-D TV, home telepresence, etc for high end consumers would divert from the near term mass market for basic BB. They are mutually reinforcing and symbiotic (I hope).

Cooper: Unfortunately, in the current environment there are those who say that 100mbs broadband is the only thing you should build, especially with public moneys. The result is that large numbers of potential subscribers would be denied basic broadband either because it is unavailable or unaffordable. If they prevail in their entreaties to policymakers, the former, high-end networks will be mutually exclusive with the latter, basic BB.

Coluccio: I haven't any argument with this observation, only with the foundational thinking over the years that spawned it. As a user community with techno-bents we here on this list ha've been accustomed to waiting for the state of the art to advance for each new upgrade in speed. This has been especially true with DOCSIS, DSL and wireless. Even where fiber is concerned, some of this had held (and still to a large degree continues to hold) true.

However, we're fast coming up on a time when incremental speeds will no longer depend on improvements in the transmission medium's state of the art, or in improvements in proprietary modems. Even today the same strand of glass is capable of supporting 5/2, 50/20, 100/100, 10G/1G, or even 10G/10G. And guess what... production levels resulting from Asian buildouts, especially, are driving the costs for endpoints down to price levels that only a year ago might have been thought erroneous. they have fallen so low. According to Craig Matsumoto of Light Reading, the price point for a 10 Gbps PON endpoint made by several manufacturers (capable of symmetrical Gb service) is now down to 80 bucks a pop. I questioned this, and he double-checked with his vendor sources. Yep, 80 bucks a pop. So what are the criteria that make this single strand of glass support 2/1 as opposed to 10G/10G? It ain't in the cost-plus, that much I know.

Electronic Medical Records

COOK Report: At http://www.nytimes.com/2009/03/26/business/26health.html?hpw=&pagewanted=print

The Obama administration's health technology plan, which is part of the economic recovery package, includes incentive payments for adopting electronic health records - more than $40,000 per physician and up to several million dollars for hospitals. The payments are spread over a few years and are based on "meaningful use" of "certified" records, although Congress left defining those terms to the Department of Health and Human Services.

The incentive payments, industry experts say, are enough to greatly accelerate the adoption of electronic health records. In the new survey of hospitals, the cost of digital record systems was cited as the single largest obstacle to adoption.
Dr. David Blumenthal, a professor at the Harvard Medical School, oversaw the hospital study. Last week he was named the national coordinator for health information technology in the Obama administration. In a conference call to discuss the study, Dr. Blumenthal declined to talk about his plans in detail.

But clearly, he sees electronic health records as a tool to reform health care, and the Obama administration intends to shift Medicare and Medicaid reimbursement toward paying for better health outcomes, which will be measured and monitored using technology.

"The goals are quality and efficiency, instead of just putting machinery in offices," Dr. Blumenthal said. "If we encourage better performance, then physicians are going to find ways to improve performance. And health information technology is one crucial way to do that."

Editor: So far so good but the *Times* points out that "only 9 percent of the nation's hospitals have electronic health records, based on a survey of nearly 3,000 hospitals." and that "two experts in health information technology at Children's Hospital Boston assert that spending billions of dollars of federal funds to stimulate the adoption of existing forms of health record software would be a costly policy mistake.

In the article, identified as a "perspective," Dr. Kenneth D. Mandl and Dr. Isaac S. Kohane portray the current health record suppliers as offering pre-Internet era software - costly and wedded to proprietary technology standards that make it difficult for customers to switch vendors and for outside programmers to make upgrades and improvements."

COOK Report: The June 1979 *Futurist* Magazine published an article I wrote on computerized medical records. Problem oriented medical records apparently are almost 30 years later finally beginning to be adopted ... but not yet the computerized form. That's even slower than economics advances being reflected in the law?

Is there was a business opportunity to develop open source records?

Harrowell There already is - see www.hardhats.org.

Editor: It turns out that the Veteran's Administration has a major open source efforts called VistA VISTA (Veterans Health Information Systems and Technology Architecture. http://www.hardhats.org/dhcptovista.html

Harold Feld adds excellent points of his own: Electronic Medical Records: Imagining the End Game Shapes The System, So Who Gets to Imagine the End Game? "When you have a hammer, everything looks like a nail." When you are a doctor, it is all about you.

According to Dr. David Kibbe, spokescritter for the American Assoc. of Family Physicians, the whole point of switching to electronic medical records is: "for doctors' offices and hospitals to be able to easily share patient information, something the vast majority can't do today. That would cut down on mistaken and unnecessary procedures and give doctors faster access to more accurate information about patients' medical histories and drug regimens."

But there are, in fact many other advantages to electronic medical records. One, for example, is to facilitate patient choice of doctor or specialist by making it easy for the patient to access, or provide access, to all medical records in one place. Right now, my ability to switch from my current practitioner to another practitioner is dependent on my collecting my medical info and moving it to my preferred doctor. The law requires my current Doctor to allow this, but it does not require them to make it easy for me.

Electronic medical records with easy patient access would make it possible for me to change doctors easily, or consult new ones. Mind you, I might make some foolish choices. And there are non-trivial privacy safeguard issues in building a system with such access. But I will not even get to think about the cost/benefit analysis if those designing the system do not consider this the "end game" or, possibly, even a desirable feature.

For an example of how imagining the end game shapes the outcome, consider the Internet. It was designed by people who thought the end game was making it possible to exchange all manner of information. This is the famous "end-to-end" principle, which became one of the foundational design feature for the TCP/IP protocol suite in the early 1980s. This design principle produced a network in which it became very easy to send anything to anyone. This had many good features - if you are reading this you are enjoying one right now - but also made the easy transmission of "malware" possible. Because those designing the system did not envision "secure transmission" as the end game but "maximizing the ability to transmit" as the end game.

But there are always trade offs in any system. The rise of TCP/IP and other packetswitched networks using "best efforts" and decline of the super-reliable "five 9s" (99.999% reliable) public switched telephone network (PSTN) demonstrates that, for all its flaws, best efforts has a lot going for it. Similarly, an electronic medical record system built to maximize patient utility rather than the narrow purposes conceived by family doctors and hospitals will have a very different set of benefits, costs, and vulnerabilities. But as a patient, I'd rather make that the end game.

As always, it boils down to who gets to be in the room when the decisions get made. While I have no doubt that room will include doctors, hospital administrators, health insurance reps, and probably some engineers, I hope it will also include a good selection of others people whom patients would like to give access to their medical information to facilitate treatment. This could include my pharmacist, the nurse taking care of a home-bound patient, a physical or occupational therapist, a nutritionist I wish to consult . . . .

Or perhaps it might be easier to let me, as the patient, imagine the end game and the desired outcome.

Incumbents (Like the Banks) Spurn Stimulus Funds

Eric Lee: I hope they continue being this stubborn and try to shun the USG.

Verizon, AT&T May Tell U.S. to Keep $7.2 Billion Stimulus Money By Molly Peterson

March 31 (Bloomberg) -- Verizon Communications Inc. <http://www.bloomberg.com/apps/quote?ticker=VZ%3AUS> and AT&T Inc. may have this response to the U.S. government's offer of $7.2 billion for high-speed Internet projects: Keep it.

Unlike the businesses that welcomed the $787 billion stimulus package approved by Congress last month, the two biggest U.S. phone companies have reservations. They're urging the government not to help other companies compete with them through broadband grants or to set new conditions on how Internet access should be provided.

"I don't think there's much for them to gain financially from going after this money," especially if the government attaches strings to it, said Rebecca Arbogast <http://search.bloomberg.com/search?q=Rebecca+Arbogast&site=wnews&client=wnews&proxystylesheet=wnews&output=xml_no_dtd&ie=UTF-8&oe=UTF-8&filter=p&getfields=wnnis&sort=date:D:S:d1> , an analyst at Stifel Nicolaus & Co. in Washington.

The companies have remained noncommittal as they lobby to shape rules for the grants. "We do not have our hand out seeking government funds," James Cicconi <http://search.bloomberg.com/search?q=James+Cicconi&site=wnews&client=wnews&proxystylesheet=wnews&output=xml_no_dtd&ie=UTF-8&oe=UTF-8&filter=p&getfields=wnnis&sort=date:D:S:d1> , AT&T's senior executive vice president, told reporters March 11. While the company is "open to considering things that might help the economy and might help our customers at the same time," he said AT&T's primary focus for broadband is its own investment program.

The $7.2 billion is intended to bring fast Internet service to "unserved" areas that don't have it and other regions the government deems "underserved," according to the stimulus measure. The Commerce Department's National Telecommunications and Information Administration <http://www.ntia.doc.gov/> will disburse $4.7 billion and the Agriculture Department $2.5 billion. Both agencies must decide what "underserved" means before awarding any grants.

Verizon and AT&T say if they seek funds, they are more likely to apply to NTIA because the law requires the Agriculture Department to give priority to rural carriers that have already participated in its loan programs for telephone service. [snip]

Estrada: Beware. They probably are rallying their jillions of state external relations specialists (lobbyists) to come up with new and nefarious ways to block stimulus "builds" at the state and muni-level. Just because they don't want it, doesn't mean they want the rest of us to have it either. Check out the final quote in the article - gosh, does she have it right! Best outcome for them - demand building in urban areas of low adoption - poverty, language, ICT skill-deprived. That way they have no investment, don't have to write any grant proposal but get the fed grantees to do their marketing for them. In California, that's 15M people - about 7 millionish residences. Not too shabby.

Lee: Absolutely no question that the name of their game is obstruction. It is extremely important therefore to identify instances in which are or suspected of being involved and reported to the Obama Administration.

Fiber Versus Wireless in the Rural Broadband Last Mile

Mark Cooper: David Isenberg convinced me to address the fiber v. wireless debate at his Freedom to Connect Conference (F2C), in response to a panel that was made up of muni fiber advocates. Having heard the analysis, I am more convinced than ever that the middle mile fiber/first mile wireless approach is correct.

At the F2C conference I offered 4 reasons stimulus dollars to serve the un- and under-served would be best spent funding an approach that combined support for middle mile fiber with cutting edge first mile wireless. I gave four basic reasons.

Goldstein: I agree with this position. It's especially suitable for the "unserved" areas, which tend to have a low subscriber density per square mile. One other benefit of wireless last mile comes to mind: The point of "stimulus" is job creation. When we normally talk telecom policy, we seek efficiency and cost-effectiveness. That often means an efficient, low-labor answer. When we talk stimulus, though, there's a new bias towards the approach that uses more people. And therefore the same money should have less devoted to capital purchases.

Fiber has decent one-time labor requirement; putting it in the ground is a nice thing for stimulus. Wireless local loop -- not CMRS, but the kind that delivers high-speed fixed broadband across wide, especially rural, areas -- tends to work best with an outdoor antenna at the customer site. A truck roll may be needed to install the subscriber radio. So that's a short-term stimulus to put up the base stations, and a longer-term job creation for radio technicians/installers. Plus, the cost of the subscriber radios is pretty low nowadays (<$200). And WLL base stations cost about an order of magnitude (or two) less than CMRS ones, but can still cover multiple square miles.

Cooper: You can serve many more households – by Tim Nulty's math twice as many, by most other people's math three or four times as many.

1. Cutting edge wireless technology is a "two-fer." It gives you mobile computing and basic broadband connectivity that meets the vast majority of needs for personal and governmental communications. The fact that the fiber advocates invoke HD TV as the killer application underscores our point that the vast majority of applications that people need for economic, social and political participation are supported by cutting edge wireless.

2. Middle mile fiber and mobile computing are “future proof.” I prefer the term “no regrets” because they will certainly part of the 21st century communications technology [basic infrastructure.].

3. While the members of the F2C panel all represented publicly owned systems that are accountable, this approach is a very small niche, which is not likely to scale up to serve the vast majority of the un- and under-served. The prospect of a massive public subsidy without public interest oversight is a major concern.

4. As a questioner from the floor, it was difficult to have a dialogue, but after hearing the argument, there are **four other reasons** [5-8] that the middle mile fiber/ first mile wireless proposal better achieves the goal of “adequate facilities at reasonable charges.”

5. The argument for fiber rests on the claim that even though the cost is twice as high, the average revenue per user will be four times as high, so it makes more economic sense. This suggests that the economics of the fiber build rests on the same big bundle strategy that the incumbent cable and telcos are pursuing. We will have the same affordability problem that we now have, with the 40 percent of households that have access to broadband not subscribing because of cost.

6. The claim that doing fiber first gives you backbone and back office on which to piggy back wireless works both ways. Middle mile fiber/first mile wireless gives you the same backbone and back office.

7. The suggestion that technology will increase the capacity of spectrum in the glass, works for all spectrum, including radio spectrum; that is what LTE is about.

8. If we are looking for policy changes and near term developments to make broadband more affordable, opening the 700 mhz band and white spaces in rural America would cut costs by two thirds, making fiber between five and ten times as expensive as wireless.

All eight of these points were made in generally in our comments to the FCC. **While everyone agrees we want both fixed and wireless broadband, the reality is we don't have enough money in the stimulus to do either. Getting the biggest bang for the buck is crucial and middle mile fiber/first mile wireless wins that competition by a miles.**

COOK Report: I'd like to add however that while from a technology point only - I agree with JAAP that fiber - all fiber - is the goal, I am in Mark Cooper's camp.

Why? Because after talking with Mark in some considerable detail, I have come to realize that there are political, procedural and economic issues in the current US situation that make his approach strategically much more sound.

Goldstein: Note that the Netherlands has a population density roughly equivalent to New Jersey, one of the most densely-populated states. There are few farms left in New Jersey (basically a farm belt in the southern tip of the state). The rest is sprawling suburbs dotted with decaying older cities, like my home town.

Atkinson: Now, go to: http://broadbandsearch.sc.egov.usda.gov/ and select "search tool" and then "By States & and Counties" and then select New Jersey. You will see that RUS is funding "rural broadband" in Atlantic City and environs, wealthy NJ shore and lake communities but not the last really agricultural parts of New Jersey. Then select, for example, West Virginia. Nothing.

Mary Beth Henry: George Bernard Shaw famously said that "All generalizations are wrong - including this one" so **I think we must accept that there is no definitive answer to the Fibre (note the proper spelling) versus Wireless debate. The focus must be on how we martial whatever resources we have in whichever part of the world we are in to give the greatest socio economic benefit**. There is little doubt that in an ideal world we should have fibre connections to every premises and that there would be unlimited capacity over that fibre. If we accept that - we can accept that everything we do takes us in that general direction.

This then allows us to think of how we can use the resources we have to drive us in the direction we want to go - or more importantly - to ensure that whatever we do does not detract from that direction. In that context a middle mile fibre with a wireless edge is definitely progress on the road to our objective. That is subject to a couple of things

1. That the fibre is genuinely open access so that competition and market forces are allowed to flourish and drive newer and better solutions

2. That public policy ensures
a. that all physical interventions in infrastructure (new housing, new roads, new utilities) include a fibre connections. **b** that all state investment is made in solutions that support the development of this vision and not in sustaining technologies that act as a barrier to such investment.
c. that fiscal policy supports private sector investment in open access technologies.

3. The owners of the wireless solutions are not in a position to act as monopolists and create bottlenecks.

In this context, with clear policy and planning between public and private sectors each market can use whatever resources it has at its disposal to drive towards a vision at a speed that befits the resources available.`

Broadband Mapping:

Perils, Promise and Politics

Mapping

Lee: *Congressional Daily* on April second: "House Energy and Commerce Communications, Technology and The Internet Subcommittee ranking member Cliff Stearns, R-FL., and others at a hearing warned about the need to complete a national broadband inventory map, which the Commerce Department's National Telecommunications and Information Administration is charged with completing, before distributing the federal broadband grants. The funding is aimed at expanding broadband deployment, particularly in unserved and underserved areas.

The United States has fallen to 15th place in broadband adoption, according to the Organization for Economic Cooperation and Development. Rep. Anna Eshoo, D-CA., argued that "restoring our competitive edge in this area is a must." But she and others warned that "if this $7.2 billion is bungled, I don't think Congress and the American people will have confidence to take even deeper steps." Former FCC Commissioner Rachelle Chong, now a California Public Utilities Commission member, touted her state's efforts to expand broadband access. She urged states to conduct broadband mapping before applying for federal broadband funds. "If we had undertaken the broadband initiative before mapping, I think we would have misspent the money," she said.

Estrada: Ms. Chong is misspending "her" CASF broadband fund now, even with the mapping. The mapping California did "smoothed" the provider data so areas like where I live/work and have no freakin broadband shows that we have more than 10 Mb combined.

Mapping has its place - mostly as a community organizing tool to create collaborations between local communities and local providers. **There is a LOT more analysis that needs to take place about a region that is way beyond a simplistic, distorted mapping of combined upload/download speeds that will drive sensible spending of the ARRA funds.**

So, please, those of you kids that hang with the DC crowd, can you point out how silly Sterns argument is (or will I just read a Brodsky piece tomorrow that tells me that it's all a Connected Nation ploy?)

Wedeman: I just went to the home page Broadband Census.com where right up at the top is an invitation to "take the census." OK, there's the first blot on the 'census's record: it's not a census. Example: just for the heck of it, I took the "census" survey. First thing I noticed: if you don't have high speed connectivity, or any other connectivity, how on earth will you be able to fill the thing out? The fact is that it excludes a lot of people simply by requiring that the survey be filled out online (pause in astonishment at how anyone could imagine that such an effort would provide anything accurate or useful).

Second, the site is filled with ads: it's a for-profit site. This is a major no-no; unethical and in violation of all normal standards of measurement. **Census taking is a serious scientific exercise, not a business. There is also no way the site can limit an individual to one survey,**

which means that anyone who so chooses and has the ability to log in from different places, can essentially stuff the ballot box.

Third, after having taken the "census," which, by the way says it can be completed anonymously, sans an e-mail address but requires an e-mail address for the data to be submitted and the 'speed test' to be completed, I went to see my own results and then those for my zip code. This was the best part of all. I live in 19118. The 'report' told me four people had filled out the 'census.' Note: as of 2000, the population of this zip code was over 9,600.

Here's the information I got back: 4 people in my zip code have filled out the census. Small problem: all 4 of them were me!)

James Enck: It gets worse. I just took the test, here are my results - except that I actually am in the UK.

Promised Downstream Speeds: NA Actual Downstream Speeds: 3.75299 Mbps Promised Upstream Speeds: NA Actual Upstream Speeds: 0.444 Mbps Go to your ZIP code: 38117 Go to your provider's page: Comcast

Atkinson: I don't think Broadbandcensus.com has any connection with the California task force mapping project or the California task force. I would certainly hope not.

Estrada: You are correct. The California mapping project was done strictly under the auspices of the CPUC and is not associated with Broadband Census.

But, Sara's experience with Broadband Census, the known issues with the California map, the continuing saga of Connected Nation vs. North Carolina, all point in one direction - mapping, while a handy tool if you know what to map and you have verifiable, reliable data sources, is like any other data base - garbage in leads to garbage out.

Or, in the alternate view, one can make a map say anything they want. The question really boils down to where the data comes from --what I think Sharon Gillette posited very succinctly in her Roundtable remarks and what Sara Wedeman. is talking about in her posting - **publicly accessible, verifiable data is the most reliable way to build the maps and the only way the government should spend our tax dollars.**

Atkinson: It is probably too late to change the upcoming Decennial Census to include a house-by-house, street-by-street survey of what people actually have and use. The Census Bureau could probably make a great broadband map if they asked the right questions without any input from the suppliers. Hopefully, census info can be a useful cross-check on very mapping program.

Wedeman: Where to begin?

First, this is not just a mapping issue. It is a competence in research design & data collection issue as well. Anyone who knows anything whatsoever about the meaning of the word "census" knows that it means everyone. (Obviously, this silly so-called census is anything but). If it were an actual census it would include everybody, not just people who have computers, and - moreover, are able to run recent versions of java - which happens to be required for the speed test. This is NOT " only as good as any user data." It is substantially worse, and when I say that it is after I have already set the bar quite low based on the generally poor quality of reportage on data by people who know little-to-nothing about research design, statistics, and/or data analysis.

The U.S. Census is a very scientific* effort and is far better constructed than any commercial product I have ever seen (and I have seen a lot of them, believe me). The people who design and execute the Census are incredibly skilled and highly qualified--far more qualified than anyone associated with most market research studies and certainly than whoever designed this "survey." In my experience, when one calls to ask them questions about where and how to get information, and even to plug for adding or rephrasing items, the people at the Census Bureau are helpful, knowledgeable, and -- most of all -- thrilled to hear that anyone at all is interested in what they are doing.

Note that the census qua census is about counting: counting people in various categories, demographic and otherwise, then totaling them. The input data for this is called the "short form" and every last person living in the U.S. will be measured using this form. Sometimes, if a sub-population is reluctant to participate (e.g., illegal immigrants, who are afraid of being deported, homeless people, who are hard to track, or homebound old people-who may not speak very good English), they will adopt other methods for reaching them.**

Based on what the Census researchers learn about the population as a whole, they then pull together a scientifically selected sample for completion of the "long form" of the survey. The long form is designed to ensure a level of accuracy and predictive power that will make projections from the sample to the total population solid as a rock. Thus, it is not necessary for anyone to go to each and every residence in America asking about broadband access.

* What do I mean by 'scientific?' Among other things, I mean random selection within the groups in question (age, gender, education, race or ethnicity, and more), and care to include enough people in each "cell" (that is population subgroup) to enable analysts, when it comes time to generalize from the sample to the population as a whole, to produce solid numbers, which will be accurate within a known band of random error (AKA the confidence interval).
* What do I mean by solid? Among other things, each and every question (e.g., access to broadband) must be both valid (=measures what it intends to measure) and reliable (=measures it consistently and accurately across time, place, and population group). Any results that are reported must meet rigorous standards for statistical significance (upwards of 95% unlikely to have occurred by chance alone), Type I and Type II errors (= the measures are sufficiently sensitive to pick up real differences, yet discerning enough to prevent "false positives" and "false negatives.").

Adherence to the clearly established, written standards for sampling methodology, adequate levels of validity and reliability are the bedrock quality measures that must be achieved to render results that can be generalized from a smaller group to a larger one. These measures are quantitative, rigorous, and have been tested for effectiveness for over fifty years (they passed ;-).

By the way, re: Bob Atkinson's comment:

It is probably too late to change the upcoming Decennial Census to include a house-by-house, street-by-street survey of what people actually have and use. The Census Bureau could probably make a great broadband map if they asked the right questions without any input from the suppliers. Hopefully, census info can be a useful cross-check on very mapping program.

In fact, it is not too late to change the upcoming Decennial Census. As of sometime this week, they were still soliciting comments. (The last time I checked, they did have questions about computer use, broadband, and etc. They had quite a few of these in the 2000 census as well.) I'll be glad to go to the comments section, check it out, and get back to you. If I see glaring omissions, I'll add some comments. I'd like to add any you might have as well (note: this is directed at the whole list).

In the mean time, the best thing we can all do is to lobby in any way we can for abundant funding for the U.S. Census. It was totally gutted during the Bush years, despite its importance to all. The Census is not just about redistricting and who gets how much money: businesses depend on it for information needed in almost everything, from product development to site selection, to marketing communications, and on and on and on....

I swear, someone should organize a research "truth squad" to assess the quality of "analyses" being presented to the Congress. So many things that look like fact are anything but, yet they are being presented to lawmakers as a viable basis for making hugely important decisions.

In my field, looking like a research product is called "having face validity." Sounds rather official, doesn't it? Actually it means exactly this: it looks like what it claims to be. Hey, if I get a really good Halloween costume, I'll look like the Queen of England, but that won't get me crowned!

Enck: I didn't attempt to drill down into the political aspects, but I did blog my experience with the site first thing this morning UK time, if it's of any use to you in documenting how easy it is to game this site from outside the US. Three hours ago I had a hit on this post from http://www.house.gov/ and it looks like the link was emailed to the recipient. Looks like it struck a chord with someone, somewhere. Maybe it's just the comedy value of such a naively designed site.

Atkinson: Regarding the Census and whether it can be a vehicle for the required "broadband mapping," while I was at the Dept. of Commerce moderating four days of the NTIA-RUS public meetings, I asked a number of Commerce Dept. people (but not Census Bureau) about whether the Census could be the best source of unbiased information for the "broadband mapping" and the general reaction was "no, it's too late." On the Broadband Mapping rountable, John Horrigan of the Pew Internet Project seemed to support the idea of greater Census involvement and he, like you, recalled Census involvement in previous years.

It may be that one silo in Commerce isn't talking to another silo or some other bureaucratic reasons, but if you can file comments with the BTOP program advocating the use of census data, etc. I would strongly recommend that you do. I know that the BTOP managers at NTIA would welcome all the expert advice they can get and this mapping requirement seems like a difficult decision for non-experts to make. Comments can be filed at: http://www.ntia.doc.gov/broadbandgrants/form.cfm by April 13.

Wedeman: I don't doubt that the Commerce people you spoke with knew little about the Census. I'm confident that your hypothesis is part of the story, but my experience tells me there is an additional element as well:

The Census web site is incredibly complicated. The Bureau catalogues a huge amount of information and makes it available, free, to the public (I know, because I have several times downloaded the entire Census data site...it's quite large). Moreover, it is linked to the Bureau of Labor Statistics (BLS), the Mapping bureau, and more than 100 other statistical sources within the U.S. government. This is not to mention all the other information sources, such as the O*Net Consortium, which has incredibly detailed, high quality information on occupations, the relationship between occupation and personality (in immense detail and very high quality, for over 900 occupations and 900 industries, from 2-6 digit NAICS codes. And then there is the Economic Census, conducted every 5 years, which is a treasure trove of fantastically valuable information.

Best of all, each of these sits on the same common denominator(s), in the form of standard units of measurement. This means that one is able to analyze high quality, highly granular data across multiple databases. In other words, it contains everything needed to a source of the Mother of all Mashups.

The main reason I know this is that I have used it to great effect, repeatedly, in my consulting work. It has enabled me to do things others thought impossible and/or for which they were already paying third-party 'translators' an arm and a leg (cognitive dissonance alert: who wants to be made aware that they are paying millions for free data of the highest quality?)

Data are intimidating, and to handle them properly requires skill, training, and a comfort with numbers. I believe this is one reason so many companies and large non-profits buy barely analyzed, extracted versions of these very same data from commercial vendors for astronomical prices. [Snip]

That's my take, FWIW. Now I'll proceed to test my hypothesis by going to the various sites and see whether I can find any evidence of current connectivity measurement. I'll also do my best to find out whether they are still taking input (I was on the site yesterday and got the distinct impression they were). Finally, will enthusiastically accept your and Susan's advice and file a comment once I've got my facts nailed down. I'll probably run it by you before submitting it (that means, before April 13), for editorial and/or any other kind of advice you might have to offer.

Editor - and later

The latest "news," such as it is, is that I just read the "methodology" section of the research that was the basis for Ms. Chong's maps. My observations follow.

Professionally, I would call it a joke---that is, if it were actually funny.

To start with, they asked the wrong question. Theoretical availability does not connectivity make. The relevant question is not whether it can be plausibly argued that the service is available, but rather a tangible measure showing that it is (example: a count of the number of customers--especially. retail customers--the provider has in a particular area, compared to the known population count).

It appears that during the course of the research, not one single datum was gathered from a living person, unless that person was the employee of a provider handing a pile of digitized data to whoever subsequently crunched the numbers. The upload/download speed data they used did not even require the presence of a person to collect.

Moreover, a concept like under-served, which is by nature intangible and subject to interpretation, needs to be operationalized, by which I mean made tangible -- without distorting the effort's original intent. The process of choosing, defining, operationalizing, and testing such variables is demanding but at least we know how to do it. The known methods for developing sets of measures have been carefully developed, tested, adjusted and refined over many decades. I use them myself in practically every project I undertake.

Believe me, it's worth the effort!

Just off the top of my head, some of the items I would want to include in a definition of "level of service" would likely be:

Whether the service was accessible--physically and financially, to the entire population or just a subset.
Whether people had the equipment they needed to use it, and
A very precise, granular *series of measures* of adoption.
Obviously, none of these were present in Ms. Chong's "study." I'm attaching the Methodology page for anyone who wants to review it.

Goldstein: I met Drew Clark today; he led the panel I was on at the National League of Cities webcast on the broadband aspects of the stimulus bill. He is trying to put something useful together, but faces the same problem as everyone else. The phone companies won't let their coverage data out. DSL coverage varies block by block, and they have it all, but if they released it, then competitors would know where the unserved areas are. Instead, they give lip service to letting others try to figure out where they do and don't cover, while hiding the real answers, and the government tries to figure out which proposals really do address the unserved. So Uncle will spend $350M or some such to figure out something that the Bells (and MSOs, but they don't have the loop-qualification problem) already know.

COOK Report; Fred thanks for your response. Your impression in the first paragraph about Drew is pretty much what' mine is

Gregory Rose: At the risk of sounding surly, I wonder why we are even bothering with these half-arsed mapping projects instead of demanding that the FCC require all providers to submit regular reports on availability and subscribership at the most granular level under penalty of perjury. The argument that this is proprietary information is nonsense.

Goldstein: The FCC requires "broadband" providers to report customer location, by census tract, on the annual Form 477. More granular would be nice, but geocoding is a non-trivial exercise. Also, note that Form 477 has to be filed by ISPs who lease broadband, even though they don't own the loops. It's the wire owners that matter; the FCC's "level playing field" is a serious burden on small ISPs.

Rose: These providers operate on public sufferance under public licenses. If the providers don't want to provide the information, they can surrender the licenses they hold to the FCC.

Goldstein: When did you get an ISP license? In the US, there is no such thing. And phone companies operate under state license, not federal. The FCC can however fine anyone who doesn't fill out their FCC paperwork.

Rose: This is information necessary to determine sound public policy and private interests have no right to conceal from the public how they utilize public licenses. The only reason providers hide behind proprietary claims is to avoid regulation under the 70/70 rule.

Goldstein; I don't think the 70/70 rule comes into play -- the cable guys really don't hit the magic numbers yet. They keep coverage secret to make it harder to find unserved markets; they'd rather keep competitors out of potential new service areas near their current ones.

Estrada: An innocent question or two:

1. Does the US federal government mandate mapping of the electric grid and make it available to the public?
2. Does the US federal government mandate mapping of the water distribution system

and make it available to the public?
3. Does the US federal government mandate mapping of the wired telephone system and make it available to the public?
4. In the US, the 3G providers seem to do a fair job at mapping their coverage and make it available on their web site. Why is this not adequate?

I'm also curious about the mapping done in other countries for both broadband and the other public infrastructure mentioned above. I'm wondering if we could learn anything from those efforts.

I'm also wondering if we're confusing the mapping goal which should be *figuring out where the unserved are and how to get them service* with an alternate goal of *a public humiliation strategy for our beloved duopoly combos.* Personally, I'm not a big fan of getting data from the providers.

Rose: Susan, It is not about humiliation. It is about control. The private sector enjoys access to a national resource, the electronic spectrum, only on the sufferance of the public. Spectrum is a resource allocated by the state. The deregulatory madness which has gripped the American political economy has encouraged the private sector to ignore this basic fact and pretend to property rights in a public resource. Demanding full public access to broadband availability and subscribership data for all providers is a first, small step to restoring the proper relationship between public and private interests. It is only with the restoration of a regime of much tighter regulation that unserved and underserved areas can be accurately identified because it is in the economic interest of incumbent providers to conceal the information.

Market outcomes are largely determined by capitalisation and information asymmetries, and market actors operate accordingly. It is fundamental to a regulatory regime which protects social welfare and the public interest to reduce those information asymmetries as much as possible.

Fiber Buildouts in Australia and New Zealand

New Zealand Fiber Buildout

Budde: Also coming back to Geoff Daily's email (welcome Geoff) there is nothing wrong with companies such as AT&T playing a key play role as an incumbent in the role out of FttH - to the contrary - they would be ideally suited for such infrastructure projects and I would support that and cheer them on. BUT this needs to be based on open network principles (utilities based as Gordon mentioned) and not on a vertical integrated monopolistic structure.

Clark: In the plans NZ announced last week this issue [open networks] was tackled in a few of different ways:

First - forbidding any of the Local Fibre Companies [LFCs] from providing retail services.

Cecil: Agreed completely. There has to be complete separation. It has to occur at the corporate AND facilities level. Otherwise it's simply a very complicated accounting exercise as some of us learned from Section 272 of the 1934 Act in the U.S. (A different form of separation - i.e. between IXC and local, but illustrative nonetheless of the appearance of separation.

For example. company x "rents" - computers, time on billing systems, telephones, desks, pens, lamps, copiers, trucks, stamps - basically everything - from incumbent Y - but where the people sit, who pays the bills, what interests are really served, etc. is no different the day before the accounting change as it was the day after other than you'll need lots more accountants and a couple more lawyers to pull it off - or so it seemed the last time I litigated the issue.) I'll skip unbundling, which is simply accounting hell on the front end of the ordering process and a far less capable platform of change than sticking with the status quo as the latter saves money, time, and energy getting to the same place.

Clark: Second - limiting the Crown's contribution to application to wholesale dark fibre services only.

Cecil: Wise choice; this seems to be a very logical cut off. Were that cities and municipalities able to fund pure infrastructure in this regard without competing with and attempting to displace others, we'd see an incredible amount of economic activity - IOW, I'd rather see everyone kicked off of infrastructure & make the whole lot of them run very very hard. That said, relative to a world where there is such "competition' both communities and incumbents (of all stripes) face intense difficulties relative to settling validly competing interests in "triple play" space (and neither side seems readily able to recognize the legitimacy of the other side's claims, which, again, is an unfortunate accident of the machinations of regulatory design.).

Clark: Third - forbidding any Joint Venture partner in an LFC from having majority Board control if they also owned a retail operation

Cecil: Again, it looks as if NZ is on a rational glide path to success. As a result, I am certain we will continue to look upon their efforts with envy as they enable infrastructure rather than constrain themselves to competing between two or three more limited versions of what infrastructure can do relative to such associated business plans.

Clark: Thus while an incumbent, eg Telecom NZ, could be a minority Joint Venture partner, an LFC (up to 50%) of could spin-off its infrastructure arm [Chorus] which would be free to invest as a majority owner.

Cecil: How do you handle this where you have more than one incumbent in a particular market? Assume, for example, cableco v telco in residential space, but greater levels of competition in enterprise space. Would they all compete to buy shares of the LFC or would you simply grow the size of the pie so that more / better could be built?

Clark: Good question - we have this situation in some towns, eg Wellington / Christchurch, with TelstraClear having a solid cable DOCSIS network and Telecom NZ having a fibre/copper-dsl network AND also a dark fibre provider in the CBD (Citylink). The answer is - we don't really care. (!) There are no restrictions on how many partners can form an LFC (local fibre company) so there is an incentive to either chose to specialise in services (eg as TelstraClear did by using the local power company's fibre investment elsewhere in the country) or co-invest in the infrastructure along with other players.

Key point - Crown doesn't care - it has some dollars to co-invest up to 50% and expects in some places there will be competing bids to form the LFC, so of which may involve multiple parties.

Cecil: Lastly, what about cellular towers? That's always been a very difficult point of contention between industry and local governing authorities. Here, in typical American fashion, we've had no end of litigation between the two factions. Do LFC's in NZ also serve these towers? If so, how?

Clark: Towers are not in scope specifically, but the wireless industry is a natural large and increasing user of fibre to get to towers so I suspect they will be anchor tenants on many of the new LFC-invested routes

ALSO - the government is looking at a range of complimentary initiatives on two fronts:

A - align public sector demand and readiness - particularly in health and education as they have the largest footprint B - look to introduce National Standards and/or Legislation to enable pole access, micro-duct, shallow-trenching etc to lower the civil engineering costs.

Australian National Broadband

Craig Dobson: "Government to go it alone on FTTH NBN http://whirlpool.net.au/news/?id=1843" $43 Billion – Wow!

Geoff Daily: It's worth noting that even if the Australian government's only putting up $4.7 billion that's still a huge number.

The US's GDP is roughly 20x Australia's. So taking Bob's assumption that the $4.7 billion is Australian dollars into account, that would equate to the US government putting up over $65 billion.

Goldstein: It's staggering compared to the way the US spends money on this type of project. Oz is a rather conservative, market-oriented country, but they aren't bogged down by the same paralysis as the US.

Daily: Interestingly, if the current $7 billion in broadband stimulus funds are truly a down payment, then a number like $65 billion seems within the realm of possibilities for the next wave of government support.

I truly envy Australia for getting its act together around a coordinated strategy as we're likely at least a year or two from achieving the same (if we're lucky), meaning there will be yet another country ahead of us on the next-generation broadband curve.

Goldstein: I don't see the US doing anything like this with public funds. There are basically two approaches -- spend public funds and build it, or use regulatory means to achieve it with private funds. The Market Gods oppose both, but I hear that their pedestals are finally cracking. Maybe one of their big "no's" will fail. We can only hope.

Daily: Also, if a country as big and rural as Australia can set the goal of laying fiber to at least 90% of its population, why can't America?

Finally, Bob's extrapolation of costs is also interesting as while I'd been working under the assumption that it'd cost about $250 billion to wire America with fiber, I was recently chatting with Donny Smith of Jaguar Communications and his back-of-the-napkin estimation was closer to $400-500 billion.

Goldstein: This depends on what you mean by "wire America". Do you mean to the 90% mark, the 95% mark, the 99.3% mark, or the 99.9%-excluding-Alaska mark? As you get farther along, the price per drop increases. That's why some of us advocate using wireless for the last mile in rural areas -- in those areas, spectrum is less congested (of course this depends on a fixed regulatory model) and fiber costs more per drop.

I've done some GIS modeling here and I classify the US land mass into six categories, to provide sufficient granularity. In rough terms at the 5-digit ZIP code level (which is a bit too coarse for the final analysis, but it's handy), the percentage of the US population in each is, by my estimate,

Dense Urban: 12% (>7 k pop/sq.mi.)
Urban: 44% (>700 pop/sq.mi.)
Suburban: 30% (>70 pop/sq.mi)

Note that so far we have 86% of the population, and that is covering only about 15% of the non-Alaska surface area of the country...

Rural: 13% (>7 pop/sq.mi)
Rustic Isolates: 0.5% (<7 pop sq.mi. in ZIP area, but >2500 pop total in a town cluster)
Rustic: 0.4% (<7 pop /sq.mi.

Note that rustic (not even rural density) is about a third of the land mass -- desert, mountains, dry ranchlands, etc. Rural (farmland density) is about half.

This doesn't deal with "rural isolates", which are towns in rural areas. I haven't done a study of those (ZCTA5 ZIP data isn't adequate). Some of these have a high density, so they're cheap to cover. So if you fiber up the isolates, you get to around 90% without going crazy.

But if you want to fiber up that last 10%, the price per drop skyrockets. And the cost of that last 0.5% is insane -- even wireless doesn't go there. Satellite, anyone?

Daily: **While that may seem like an extremely high number, if you consider how much the cable-cos, telcos, and government have invested over the last 5-10 years in broadband I'd bet we're not too far off from the half trillion dollar level.**

What this says to me is that by pursuing a facilities-based broadband marketplace with multiple competitors each investing in their own networks it's caused us to dilute the quality of our broadband networks. Sure we have competition between pipes, but each pipe is less than what it could be if those dollars were concentrated on building a common infrastructure.

Goldstein: YES! That's the point I've been making in my "structuralist" argument -- if you really want the fiber, it has to be done by one utility.

Someone noted that the Australian approach towards incumbents. They can bid, offering their existing facilities. Or they can let themselves get overbuilt. The obvious answer is to sell their existing facilities, which will be cheaper than an overbuild. So structural separation happens not by fiat or regulatory restructuring, but by a sort of market-oriented "making a deal they can't refuse". Clever.

One last comment: Oz should thank Sol Trujillo for the fine work he did, making people so mad at Telstra that they were willing to adopt this instead. Yes, in a sense it's a re-nationalization of the infrastructure. Maybe too much was privatized after all.

Daily: What I like most about what Australia's doing is that they set their goals, explored ways to achieve them, and now they're enacting a specific, coordinated strategy for accomplishing them.

Here's hoping we can follow their lead in America in the not too distant future!

Budde: Paul's Analysis of the Australian NBN announcement is available at:

http://www.buddeblog.com.au/analysis-of-the-national-broadband-network-announcement-australia/

Felten: I'm eagerly expecting Paul's analysis, but I'm not quite as confident that this is only good news.

Am I correct in understanding that this means the government rejected every bid by private players ?

FTTP is amazing! 43bn is also astounding.

Being as I am as wary of public f*ckups as am I of private ones, I'll hold before passing judgement on the implications of this.

Van der Berg: Agree with Benoit. The proof of the pudding is in the eating and there are several elements that make me feel this will not be as easy as people seem to think.

- What to do with Telstra and it's competitors? Those guys will not sit idle watching the government build a third network next to theirs.
- Under what terms and conditions will the PPP money be spent. Does the government allow companies to do donations in kind and if so under what conditions?
- Will the government compete directly with companies if it deems this necessary?
- How easily is this challenged in court?
etc.

Unfortunately I have learned the hard way that plans like these are very difficult to get right for central governments.

Felten: http://www.fiberevolution.com/2009/04/australia-and-new-zealand-to-get-widespread-fttx.html

Cooper: **These two announcements signify the near disappearance of market fundamentalism from the global communications space. Virtually every national government, except the U.S., has recognized the need for a well regulated communications infrastructure that receives a substantial subsidy and is operated on an open basis.**

Communications networks are collective goods that produce massive, massive positive externalities, and the information that flows over those networks is a public good. Market failure is inevitable The U.S. continues to labor under the fiction that the market will deliver the infrastructure, confining its public policy to those few areas where the market is deemed to have failed (un

and under-served), rather than admit there is a pervasive market failure. As long as the U.S. clings to a failed economic ideology, its standing in the global communications race will continue to decline.

I have written at great length about the collapse of market fundamentalism in the ICT sector in the U.S.

http://www4.gsb.columbia.edu/rt/null?&exclusive=filemgr.download&file_id=70142&rtcontentdisposition=filename%3DCooper.pdf

and the financial sector, which is the central front in the current effort to restore sanity to the U.S. economy

http://consumerfed.org/pdfs/FinancialMarketReformReport.pdf

Robin Eckerman: I take my hat off to the Government for their success in keeping this a secret right up until yesterday's announcement - no mean feat! Even the most credible newspapers in the country were tipping very different outcomes on the morning of the announcement.

I also commend the Government for their outstanding vision - the plan goes beyond what even the most enthusiastic supporters of deep-fibre-based broadband had hoped for in this round, and there will be lots of flow-on economic, social and environmental opportunities for a nation equipped with communications infrastructure of this grade.

At the same time, there are lots of questions to be resolved - not the least of which is the financial model. Here's are two "back of the envelope" calculation people may be interested in:

8m homes in Australia
x 90% coverage
= 7.2 m homes passed
x 40% uptake (to be won over from an incumbent whose network is a sunk cost)
= 2.9m customers

$43b capital investment
x 10% cost of capital (optimistic!)
=$4.3b annual cost of servicing capital
/2.9m customers (from above)
=$124 per customer per month just to service the capital

This is simplistic - it ignores the non-trivial revenues that could be generated from business and other services. However, it highlights one of the issues that will need to be worked through. You can play with the numbers all you like, but its hard to escape the bottom line conclusion that this will be financially challenging! When you add operational costs etc etc, either the cost to the consumer could be very hard to swallow - or the providers of capital will need to be prepared for a less-than-commercial return.

Right now, about 50% of Australian homes have broadband - so 40% uptake would mean capturing 80% of today's market. Over the time period for deployment, the number of prospective broadband customers will continue growing undoubtedly, but there will always be some who prefer wireless - and others (eg: older couples) who are just not interested. So 40% represents a reasonably ambitious target. Remember that Telstra will be out there with its copper network, capable of modest performance upgrades in the most lucrative areas of the market for a fraction of the cost of building a new network. Its unlikely to sit back and allow its market grip to evaporate without a fight.

The other number that is obviously optimistic is a 10% cost of capital - any commercial investors would typically want a much higher return given that this is not a risk-free investment.

So - a great vision - but lots of details to be worked through in translating it into reality.

Poulos: One not insignificant detail: FTTP means (I suppose) not just FTTH but FTTO (office: from SOHO and SME to MNC) as well. That will considerably change any calculations.

Eckerman: Yes - thanks, Tim that's accepted - as mentioned in my original post these were just "back of envelope" calculations that specifically did *not* include business revenue.

To keep this in perspective though, the top end of the business market (CBDs etc) is generally already well-served by optical fibre to the premises, with multiple suppliers ensuring competitive pricing. So its really the SMEs and SOHOs (a variant of residential) which I omitted from the calculation. They will make a difference, but I believe that the essential nature of the financial challenge will remain.

The crude simplifications cut both ways. For example OpEx is a non-trivial additional cost that needs to be recovered - and with an estimated eight years to build the network, there will be heavy operational losses in the early years that will add to the overall funding burden.

Also - to address the excellent question Robert Atkinson posed - yes, I'm sure that there will be potential to roll some existing infrastructure into this network. It can easily be demonstrated that its not economically rational to pursue infrastructure-based competition in the every area of the network - in particular, in last mile residential access. **In the long term, the owner of a shiny new fibre network will have the "firepower" to win against an incumbent running aged infrastructure with significant performance limitations - and hopefully this reality might motivate a level of collaboration that historically has not come naturally to a party like Telstra.**

Please don't let the financial challenge that I'm highlighting detract from the enthusiastic support I have for this initiative - it "ticks every box" (and more!) on a number of issues that I have been lobbying for several years. ***The devil will be in the detail!***

Macaulay: A few NZ oriented notes in response to recent posts.

1) Older couples are good prospects. The grey network is growing more quickly than most other sectors. Seeing remote Grandchildren over Skype is one reason.

2) There is very low risk in investing in the network infrastructure. It doesn't go away, is still useful even if businesses using it to carry their services fail, and it has a useful life of >30 years. 10% is too high, look for 4.5%. Safer and better return than a bank! Drops the cost recovery equation to below $100/month. Even that is higher than reality based on the latest cost of connecting premises.

3) The incumbents aren't silly, just cash cow milkers. Telecom NZ has already indicated that it will rent access to community or gummint owned dark fibre. They can milk the copper until either their fibre or ours is ready and then switch over. Their typical customer retention models will help them through this with little pain.

4) The key to success in the NZ/Aus market will be the ability to get start-ups to focus on providing a wide range of revenue earning services over the network to make the cash flow hum.

5) Wireless and or satellite will be the preferred choice for the very remote users, and already is in many places - commercially successful too!

It is all working well in other parts of the world . Lets look and learn.

Ignoring market issues at our peril, the PPP model will result in faster roll-out and rapid growth of the network based service economy. A new market will evolve., because the old one is dead.

To my US friends, thanks for lending Sol to our Australian neighbours, you can have him back now he has successfully alienated enough people to allow the Aussie gummint to take real action.

Poulos: We shouldn't overlook Singapore in the trio of FTTH announcements from the Far East, see: http://telcommunicator.blogspot.com/2009/04/australia-goes-structural-separation.html

Fast-track Partial Loan Guarantees at RUS and NTIA

April 13 **Daily**: Today I filed comments to the NTIA and RUS on behalf of the Rural Fiber Alliance, an ad hoc coalition of rural fiber deployers, advocating for the creation of a fast-track partial loan guarantee program.

More specifically that RUS and NTIA should each carve off $500 million of budget authority to enable the distribution of partial guarantees, which allow them to leverage government dollars to get a big multiplier without taking on all the risk of a loan. Also, because these guarantees rely on private capital, you can rely on lenders to vet which projects are financially viable rather than going through the slow process of government decision-making.

You can read the language of what we submitted in a blog post I put up today available here:

http://www.app-rising.com/2009/04/a_proposal_for_fast-track_part.html

COOK Report: Folks help me understand why it would make any sense to do this?

Why should loan guarantees be involved? To me this sounds like Geoff's rural fiber alliance is bringing the securitzation process of Wall Street to stimulus build outs. I hope that I am wrong.

But why on earth after what we allowed unregulated wall street to do to us would we want to

“rely on lenders to vet which projects are financially viable rather than going through the slow process of government decision-making.”

Why? Many of us have emphasized that community backing and control of these projects is possible and desirable. Why are we advocating what sounds like a securitization process "to enable the distribution of partial guarantees, which allow them to leverage government dollars to get a big multiplier without taking on all the risk of a loan?"

Leveraging government dollars to get a big multiplier without all the risk of a loan???

Huh? sorry I don't get it. Where is the benefit, except to the private middlemen lenders?

Since when do you have "lenders" who are better qualified than the technical experts on this list to make judgements about the financial viability of rural fiber build outs? To me this language implies that we are saying the whole process is so tenuous that we need go blow it up by leveraging and getting lenders who can do better risk assessments than bad old government.

I thought Tim Nulty is a fiber build out guy. Or is he going to be the banker lender evaluator for the leveraging that seems to be advocated here? I hope I am wrong. But seriously why on earth is this being advocated? Who is standing in line to reap the benefits? Where is the need?

The whole point of what I heard in DC is that this would not be slow decision making, and besides, if you add layers of leverage by asking for loan guarantees, don't you add layers of complexity that slow things down yourselves? Where's the benefit - unless it is to the guys doing the leveraging? Why, unless we are trying to resurrect the dead spirits of market fundamentalism, would we want to rely on private capital?

Personally I would hope that Susan Crawford and other folk involved at at RUS and NTIA would not let the expertise of private lenders anywhere near this.

I have also been reading Geoff's much more detail explanation at his blog. I am reminded of Geithner's proposed public private leveraging to buy up toxic assets. Personally I am against adding layers of complexity to this.. no thanks. Let individual projects stand or fall on their own merit.

Daily: Gordon, The reason to pursue loan guarantees is simple: it could make tens of billions more in capital available to fund broadband deployment.

In particular, I know of at least $3 billion in shovel-ready fiber projects that would start moving immediately if there was money available to do so.

But there just isn't. Even if you're willing to pay crazy interest rates the credit markets are frozen. These partial guarantees can get credit flowing again to financially viable projects.

It's important to note that RUS already has an 80/20 guarantee mechanism in place, but it's never used. Why? Because it takes the same three-foot high pile of paper to apply and year to wait to have that vetted to get approval as a direct government loan, and that government loan will always be a lower rate than what's available in the private capital markets.

So what we're proposing isn't something radically new, it's simply adjusting two key parts of an existing mechanism so we can utilize the proven tool of government guarantees to incentivize private investment.

1 - Shift from a guarantee that splits the losses 80/20 from dollar one, to a guarantee where government covers 100% of the losses up to 50% of the value of the loan. We've spoken with a variety of capital sources who have confirmed that this kind of a guarantee will get them lending more money at lower rates. And overall we're actually limiting government exposure to 50-60% of the loan rather than the 80% of the current guarantees or loans.

2 - Recognize that if private capital's willing to put up all the money and take on half the risk then they must think the project's financially viable, and if they think it's viable then why does the government need to get in the way? To date it's proven atrocious at getting grants and loans out in an efficacious manner, especially at RUS. This doesn't mean government doesn't analyze applications, but now they'd only have to do so after the fact to score the project's risk.

Please know that I was in no way impugning the ability of anyone on this list to effectively and efficiently vet projects. In fact you mentioning that sparked the thought that we should really be coming up with our own way for trusted experts to step in and help government get through the wave of applications about to come crashing down on them. More thoughts on this and other matters related to implementing BTOP and other national broadband policy matters to come.

But back to guarantees. It's important to note that all loans and guarantees are budgeted using a multiplier as there's an assumption that a good portion of them will be paid back. Whereas grants count dollar-for-dollar against the budget. The numbers I've actually heard about how guarantees are budgeted is more like 4-6%. So that'd mean $1 billion in budget authority could potentially mean being able to distribute $20 billion in partial guarantees, which could be used to make $40 billion in private capital available for deployment. But I've stayed conservative in talking about a 10x multiplier.

Also, when I suggested that guarantees don't have as much risk that's because they're partial at 50-60% rather than the 80-100% of most government loans, plus with a loan when you write the check it's cashed, but with guarantees you write the check and stick it in the bank and if you're lucky you never have to cash it.

So let's consider two scenarios here:

Best Case - None of the loans default and we get a 25x multiplier so that would mean $1 billion in budget authority would've put $50 billion worth of private capital into broadband buildout.

Worst Case - All $50 billion worth of loans default and government has to pick up the full $25 billion.

(Other Worst Case - The guarantees aren't enough to get private capital off the sidelines and the guarantee mechanism continues to go unutilized in which case the budget authority can be converted back over to loans once the rest of the money runs out.)

I'd hope we could all agree that that best-case scenario looks pretty good.

And I can't help but see the worst-case scenario as a win too. Obviously depending on the country's financial state coming up with $25 billion may require cuts elsewhere, but given that there'd still be $50 billion more broadband than we had before, that doesn't seem too bad to me.

I'm working under the assumption that a failed network would be able to find a new reputable operator to take over operations quickly and hopefully seamlessly, which may be overly optimistic, but at this point I'm just trying to do what I can to get everyone who wants to deploy fiber as much capital as possible so we can get on with the task of wiring this big country of ours.

Gordon, I hope this email has assuaged some of your concerns. If not, please let me know what other questions of yours I can help answer or that I may have missed addressing from your initial response.

Sterling: As a graduate of the West Point of Capitalism (Wharton) I come to the defense of leverage ;-).

We want banks and others to lend money to build these networks. All leverage means, in this instance, is that the Feds are getting others to join the party. I breezed the blog link and won't comment on the specific proposal.

Securitization is not inherently bad either. What's bad is when these Wall Street guys turn the entire banking system into this weird casino. Like an Escher drawing, bankers had ways for the "house" to defy gravity and make money on the way up "loans" and on the way down "credit default swaps" without having to keep any skin in the game. Banks need to go back to "earnings portfolios" rather than fees and flips and hedges in a world gone mad.

We can prevent that in this case in a variety of ways. Like having loan orginators being required to keep a % of the project in their portfolio. Like encouraging the creation of "community technology bond funds" where investors in the bonds are socially responsible investors or community-based investors.

If you take a chance to read the UTOPIA financial reports of 2007-08 you will find that UTOPIA went to great lengths to qualify for RUS money, did qualify, anticipated delivery, and then got shorted. This led to trouble and eventually a total debt restructuring in 2008.

I have heard similar anecdotal stories about RUS funding in terms of the Byzantine nature of the process that made it not worth pursuing. A streamlined RUS process with community money at risk and banks keeping a stake in the project seems reasonable to me.

I am hopeful that funding real projects with real cash in real communities can be cool again.

EARLIER **Daily**: The Benton Foundation has just filed comments supporting the benefits of this program. And we had a chance to meet with Commissioner Adelstein back in January and recently got confirmation that he's a supporter of this concept.

So I'm cautiously optimistic that we're going to be able to move a billion dollars over to these guarantees, which would free up at least $10 billion in partial guarantees that could be distributed enabling at least $20 billion in total investment.

I'd love to hear any feedback you all have on this proposal, and if you feel like supporting it as well then please feel encouraged to submit comments to the NTIA today to have your voices heard. You can submit comments here: http://www.ntia.doc.gov/broadbandgrants/form.cfm

COOK Report: "Rural Fiber Alliance" Who are the members of this group?

Please help me out. I Googled and found Ap-rising stuff on a Rural Fiber Alliance. I did not find any details on who the members are? Did Ijust not look hard enough or in the right places?

Daily: You can go to ruralfiberalliance.org to see our temporary site.

Our first four members are:

Tim and Leslie Nulty, ECFiber
Donny Smith, Jaguar Communications
Gary Evans, Hiawatha Broadband
Jerry Baxley, Optical Networks

This initiative grew out of a rural fiber group I pulled together in the fall at the start of the talk about stimulus to figure out what we could do to get more fiber deploying. It includes a handful of other deployers, including Michael Johnston from Jackson Energy and John Andrews of US Sonet; consultants like Joanne Hovis of Columbia Telecommunications Corporation, Andrew Cohill of Design Nine, and David Chaffee of Chaffee Fiber Optics; and policy experts like Jim Baller of Baller Herbst and Chris McLean of Copernicus.

We're currently in the development stages of putting together our goals, a budget, and dues structure.

We may keep the Alliance as an ad hoc coalition for the time being so we can focus on positioning rural fiber projects for stimulus dollars, but eventually it will be an official non-profit representing the voices of fiber deployers on policy matters and facilitating collaboration between them.

Our main bent on policy issues will be to take pragmatic stances that maximize the efficacy of government resources while setting out to prove that ideals can be achieved so that we can add new wrinkles to policy discussions based in reality and not just rhetoric.

While we're still in the formative stages, if there are fiber deployers on this list that would like to discuss joining this effort or if there are consultants or vendors that want to support what we're doing, please feel encouraged to contact me.

Let me know if you have any other questions! **Editor**: I am not convinced this is good but include it to inform. (April 24, 2009)

Executive Summary

Verizon as Predatory Incumbent pp. 1-33

Our feature interview describes a multi year long streak of questionable practices by Verizon in New Jersey. We see the situation as a symbiotic relationship between politicians in state government who are happy to let Verizon continue to act as an unregulated free market engine that works to benefit its executives and the expense of its customers in a way reminiscent of pre meltdown Wall Street.

The predatory enablement of the telco incumbent in New Jersey began 20 years ago with the successful effort of the Deloitte Touché - NJ Board of Public Utilities funded study on New Jersey's telecommunications future. This study was used by the BPU and NJ Bell, later Bell Atlantic, and finally Verizon to, in the aftermath of the 1984 break up and the rise of free market funamentalism, change the regulatory environment for the state's local phone company. The change was from the staid rate of return utility model that had made ATT a blue chip for people to count on for retirement since 1934 to a darling of Wall Street model that would take whatever risks necessary to participate in the beginning of the great bull market that ended last year. It opened the way for the NJ incumbent to earn vast new sums of money. In return for the change, NJ Bell and Bell Atlantic agreed to a course of action that they asserted would increase NJ tax revenues and employment. Most important of all they promised to reinvest their increased revenue by building a fully symmetric 45 megabit per-second fiber optic infrastructure to all customers in the state.

As is by now well known, this did not happen. Verizon got a huge windfall. New Jersey lost jobs, and lost tax revenue. Our discussion with Tom Allibone recounts these events in detail. We outline the ways in which Verizon, by getting itself effectively deregulated on the federal and state level, has been able to enforce practices on its customers that leave them with little choice but to accept. Customers, without the protection of tariffs, are forced into contracts of adhesion where Verizon billing systems send incorrect bills and the customer has no choice but to pay or loose service.

We trace in great detail an as yet little recognized struggle on Verizon's part to quit paying the state's Business Personal Property Tax. Verizon has been paying NJ municipalities about $100 million dollars a year as recently as 2000. It is down to 43 million a year now and Verizon's lobbyists are informing municipal governments that payments will soon cease because they claim to be under fierce competition and point to a clause that says the tax is applicable only to companies that have 51% or more of the local phone lines in a political jurisdiction.

The only problem is that as Verizon makes these assertions there is no means of independent audit and ample reason to believe that the company is not telling the truth. We present evidence that, to support this assertion, Verizon has tried to spin off its FiOS arm as an independent unregulated information service and claim therefore that lines lost to its FiOS customers are lines lost to competition – all of which brings Verizon closer to its "trust us" 51%-of-the-phone-service belongs to competitors so we do not pay BPPT to your township any more.

But this line of revenue enhancement on Verizon's part seems to involve some other issues. Verizon's FiOS marketing has involved deceptive practices that have become so blatant that the NJ State Attorney General actually launched a class action lawsuit against Verizon on March 19th. sadly the State AG Office is the only part of state government to lift a finger on behalf of its citizens.

Our discussion with Tom shows that verifiable inventories of Verizon property in the state have never been taken since divestiture. Some local audits now are uncovering poles that are, in effect, off the tax records. A Verizon VP of Taxes sent written assurance to Tom's mayor that Verizon in payment of local taxes did not depreciate more than 80% yet a councilman in Summitt New Jersey claims to have records that show 90% depreciation. Verizon is legally required to remove broken poles but there is no enforcement of penalties for non removal.

The BPPT situation is set up in such a way that the ability to enforce the state law governing the tax is removed from the hands of municipal authorities. Verizon has constructed an arrangement with the State Division of Taxation where records of the value of Verizon's inventory and the nature of the inventory itself are sent every year to Trenton. There, with no public transparency or oversight, each township is told every year the dollar amount of Verizon property on which it can level its local tax rate.

Yet when Verizon decides it wants more revenue, it goes to NJ politicians be they the Seantor Doria's of the legislature or Governor Corzine. the politicians always come through. When it threatens to close its Newark offices, it winds up being relieved of its legal responsibility to pay 1.9 million in taxes every year to Newark. There is no one following the big picture – no one speaking on behalf of the public just the Verizon friendly former investment bank billionaire who is now Governor of NJ and free to help a business friend out. It is a sordid picture full of interrelated complexities of Verizon is using its cozy relationship with NJ politicians to maintain a one-sided predatory relationship with the state of New Jersey. One may only wonder if we will every see the day when, as a part of the pendulum swing, the people of NJ and other states will be able to demand redress from the abuses of the currently all powerful incumbent.

Verizon gave its lead attorney a ten million dollar plus retirement bonus last year – one that was written up in the *New York Times*. One that caused another well known telecom attorney to write on our list that this was to be expected. Under the mantra of market fundamentalism "The best investment a regulated company can make is in regulation and litigation, not infrastructure or new products." I would only add that this avarice need not be not a sine-qua-non of regulation if we can only do a fundamental reset of the expectations for our political system and economy.

Symposium Discussion

Data Traffic Growth and Associated Financial Strategy p. 34

A discussion on estimated of traffic growth rates something for which there is little reliable data and which our exp[erts point out has been slowing down. Ecxcept for perhaps I-phone traffic on the mobile side.

Rood: T-Mobile in the Netherlands has reported a sevenfold year-on-year data traffic growth for the month of Dec 2007 to Dec 2008.

The difference has been the iPhone 3G (launched together with the iTunes App Shop last July).

Iliad versus Orange p. 37

Illiad is using favorable circumstances in the Paris area to do a Fiber over build of Orange's mobile network. Benoit Felten has subtitled the iliad investor conference and put the results on his blog. Iliad is announcing '***investing in optic fiber will make our margins explode. Today an unbunbled customer is 50% margin or thereabouts. When we migrate the customer to optic fiber, we move to 85 or 90% margin."***

Hndrick Rood explains hat Illiad is using the ladder of investment strategy for its overbuild.

1. *Companies that enter the telecoms market start to invest first in assets that are easy to enter.*
2. *They then expand by selling services and building assets into complementary areas with partially leased network elements.*
3. *When successful, they follow it up by creating a deeper asset base to serve their customer base and get rid of the costs of leasing.*

The key strategy point of the "ladder of investment" is that you enter a new market from a complementary asset base by leveraging your existing customer base onto your new assets.

Electronic Medical Records p. 41

COOK Report: according to the *NY Times*; the current health record suppliers as offering pre-Internet era software - costly and wedded to proprietary technology standards that make it difficult for customers to switch vendors and for outside programmers to make upgrades and improvements."

Is there was a business opportunity to develop open source records?

Harrowell There already is - see www.hardhats.org.

Editor: It turns out that the Veteran's Administration has a major open source efforts called VistA VISTA (Veterans Health Information Systems and Technology Architecture. http://www.hardhats.org/dhcptovista.html

Fiber versus Wireless in Rural Areas p. 45

All eight of these points were made in generally in our comments to the FCC. **While everyone agrees we want both fixed and wireless broadband, the reality is we don't have enough money in the stimulus to do either. Getting the biggest bang for the buck is crucial and middle mile fiber/first mile wireless wins that competition by a miles.**

COOK Report: I'd like to add however that while from a technology point only - I agree with JAAP that fiber - all fiber - is the goal, I am in Mark Cooper's camp.

Why? Because after talking with Mark in some considerable detail, I have come to realize that there are political, procedural and economic issues in the current US situation that make his approach strategically much more sound.

Mapping of Service Areas in Rural America Has Become a Huge issue p. 47

Estrada: Mapping has its place - mostly as a community organizing tool to create collaborations between local communities and local providers. **There is a LOT more analysis that needs to take place about a region that is way beyond a simplistic, distorted mapping of combined upload/download speeds that will drive sensible spending of the ARRA funds. [snip]**

But, Sara's experience with Broadband Census, the known issues with the California map, the continuing saga of Connected Nation vs. North Carolina, all point in one direction - mapping, while a handy tool if you know what to map and you have verifiable, reliable data sources, is like any other data base - garbage in leads to garbage out.

Or, in the alternate view, one can make a map say anything they want. The question really boils down to where the data comes from --what I think Sharon Gillette posited very succinctly in her Roundtable remarks and what Sara Wedeman. is talking about in her posting - **publicly accessible, verifiable data is the most reliable way to build the maps and the only way the government should spend our tax dollars.**

Atkinson: On the Broadband Mapping rountable, John Horrigan of the Pew Internet Project seemed to support the idea of greater Census involvement and he, like you, recalled Census involvement in previous years.

Rose: Susan, It is not about humiliation. It is about control. The private sector enjoys access to a national resource, the electronic spectrum, only on the sufferance of the public. Spectrum is a resource allocated by the state. The deregulatory madness which has gripped the American political economy has encouraged the private sector to ignore this basic fact and pretend to property rights in a public resource. Demanding full public access to broadband availability and subscribership data for all providers is a first, small step to restoring the proper relationship between public and private interests. It is only with the restoration of a regime of much tighter regulation that unserved and underserved areas can be accurately identified because it is in the economic interest of incumbent providers to conceal the information.

Australia New Zealand Fiber: p 57

Cooper: **These two announcements signify the near disappearance of market fundamentalism from the global communications space. Virtually every national government, except the U.S., has recognized the need for a well regulated communications infrastructure that receives a substantial subsidy and is operated on an open basis.**

Communications networks are collective goods that produce massive, massive positive externalities, and the information that flows over those networks is a public good. Market failure is inevitable The U.S. continues to labor under the fiction that the market will deliver the infrastructure, confining its public policy to those few areas where the market is deemed to have failed (un and under-served), rather than admit there is a pervasive market failure. As long as the U.S. clings to a failed economic ideology, its standing in the global communications race will continue to decline

Eckerman: **In the long term, the owner of a shiny new fibre network will have the "firepower" to win against an incumbent running aged infrastructure with significant performance limitations - and hopefully this reality might motivate a level of collaboration that historically has not come naturally to a party like Telstra.**

Please don't let the financial challenge that I'm highlighting detract from the enthusiastic support I have for this initiative - it "ticks every box" (and more!) on a number of issues that I have been lobbying for several years. ***The devil will be in the detail!***

Macaulay: A few NZ oriented notes in response to recent posts. snip **4) The key to success in the NZ/Aus market will be the ability to get start-ups to focus on providing a wide range of revenue earning services over the network to make the cash flow hum.**

Loan Guarantees for Rural Build out? p. 60

Cook Report: Personally I would hope that Susan Crawford and other folk involved at at RUS and NTIA would not let the expertise of private lenders anywhere near this.

I have also been reading Geoff's much more detail explanation at his blog. I am reminded of Geithner's proposed public private leveraging to buy up toxic assets. Personally I am against adding layers of complexity to this.. no thanks. Let individual projects stand or fall on their own merit.

Daily: Gordon, The reason to pursue loan guarantees is simple: it could make tens of billions more in capital available to fund broadband deployment. In particular, I know of at least $3 billion in shovel-ready fiber projects that would start moving immediately if there was money available to do so.

A Note from the Editor on the June 2009 Format and Presentation

This issue leads off with an April 11 interview with Tom Allibone on Verizon predatory behavior in NJ.

Coming in the July Aug 2009 issue - out about June 15 an interview with Fred Goldstein conducted on April 22. The piece with Fred shows very clearly how we got into the mess. It puts into very sharp focus the regulatory highlights --especially how the 96 act changed computer ii and iii and what the FCC did to ISPs and the Internet under the regime of George Bush. But it also goes on to describe a powerful solution and to set an agenda for a new Divestiture showing persuasively how it should be in the interests of all the economic stakeholders ---- except that is for the salaries of the high-level executives of the incumbents.

Finally as you may recall, I promised last month to publish the results of a fascinating series of interviews I conducted from March 9-11 with Frank Coluccio. Frank's work is most impressive. Unfortunately after many many hours we could not bring these through to fruition. My apologies to all. Stay tuned for June 15 when I publish a combined July August issue. At that point I should be able to announce what I will do for September's issue. There will be no scarcity of possibilities.

Text, URLs and Executive Summary: I have attempted to identify especially noteworthy text by means of boldface for **REALLY** good "stuff" . **Also the proper Executive Summary in this issue continues**. I hope you find it useful. Feedback welcomed. You will also find live URL links and page links in this issue.. (I am also no longer changing British spellings of things like fibre to the American fiber.) Thanks to **Sara Wedeman -** see sarasworld.blogspot.com/behavioraleconomics/ for assistance with the masthead logo. Captain Cook now charts direction by looking at a compass rosette.

I am omitting the contributors' page since a cumulative list may now be found at
http://www.cookreport.com/index.php?option=com_content&view=article&id=121&Itemid=74

Contents:

Does Verizon Have a Social Responsibility to NJ or to Any of the States it Serves?

In NJ, State Government Has Abrogated its Regulatory Responsibility Leaving Verizon to Act as Economic Predator