

February 24<sup>th</sup>, 1999

## **NNI White Paper: Info-Scandal**

### **New Baby Bell Expose Refutes FCC Advanced Network Report and Calls for an Investigation of "Info-Scandal".**

*10 Reasons You Should E-Mail The FCC To Complain.*

#### **Summary:**

The FCC recently released its report on Advanced Networks as mandated by Section 706 of the Telecom Act. And the FCC gives the Bells a clean bill of health, concluding that they are delivering advanced services to "all Americans in a reasonable and timely fashion".

(To read the FCC's report click here)

However, a new book, "The Unauthorized Biography of the Baby Bells & Info-Scandal", published by New Networks Institute, (NNI), clearly demonstrates that the promises by the Bells to deliver advanced networks has been anything but timely.

This new expose focuses on Info-Scandal, (short for Information Superhighway Scandal) which tells how the Bells promised to deploy fiber-optic, 500 channel, full-motion video services to almost half of Americas' households by the end of this year. In exchange for this new construction and advanced network services, state and federal regulators gave the Bells large financial incentives to build the Infobahn. Instead, the Bells never delivered and it has cost customers and competitors an estimated \$30 billion... and it's still continuing today unabated.

As we will demonstrate, the FCC's Report is a white-washing, attempting to show that the Telecom Act worked and has delivered on its promises to give Americans new services. Unfortunately, the Report is filled with numerous serious flaws. For example, the report lacks concrete evidence to support their claims. It has led Commissioner Tristani to write:

"While I appreciate the effort in the Report to compensate for the lack of direct evidence in the record...lack of such evidence makes drawing any conclusions about the state of deployment a tentative and inexact undertaking."

However, there is an abundance of evidence the FCC has ignored or not considered ---literally hundreds of documents that detail the failure of the Bells to deliver. More importantly, the FCC report gives a distorted picture of the current status of these new networks and has even watered-down the definition of advanced networks to make it easier to demonstrate that all is well in America. Worse, the report totally misses the fact that those who are trying to be the real innovators, the Competitive local phone companies (CLEC) and the Internet Service Providers (ISPs), are all being hampered by the monopolies' control over telecommunications.

Therefore, we believe the FCC has a duty to the monopoly telephone subscribers to protect their interests, and it must:

- investigate Info-Scandal, and see if refunds and lower prices should be implemented

- Collect accurate data
- Deny the Bells any new financial incentives for advanced networks incentives
- Enforce the laws designed to protect competitors, including Internet providers.
- Make the Bells live up to their former commitments or return the money.

Much of this discussion has been highlighted in other NNI materials. In 1998, NNI filed five separate filings with the FCC pertaining to Advanced networks, and Access fees, among other topics. (They can be found at <http://www.newnetworks.com>.) Our data came directly from Bell annual reports, press releases and state and federal investigations, orders, and phone company filings. And we highlight this material throughout the book.

And if you agree with our findings, we ask the reader to E-mail the FCC commissioners (Contact material and how to find the Report appears at the end of this document.)

## **1) The NNI Data --- Hundreds Of Documents Tell A Dark Tale Of Info-Scandal**

Since the mid 1980's, EVERY BELL promised massive deployment of advanced interactive networks. This started with the roll-out of the mythical ISDN, which was never delivered in a timely manner. But more to the point, in the early 1990s, the Bells had promised to spend billions to deploy fiber optics, replacing the older copper wire (which is still in use today). In fact, approximately 45million households were supposed to have wonderous new services over this new wiring by the end of next year. And the documentation---Bell Annual Reports and state filings.

Let's start with the spending. Bell Atlantic was supposed to spend \$11 billion dollars, starting in 1993 (Source: Bell Atlantic 1993 Annual Report)

"First, we announced our intention to lead the country in the deployment of the information highway ... We will spend \$11 billion over the next five years to rapidly build full-service networks capable of providing these ("interactive, multi-media communications, entertainment and information") .services within the Bell Atlantic region."

"We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets. These investments will help establish Bell Atlantic as a world leader in what is clearly the high growth opportunity for the 1990's and beyond."

Meanwhile, Pacific Telesis stated they would out do Bell Atlantic with \$16 billion. (Pacific Telesis 1994 Annual Report)

"In November 1993, Pacific Bell announced a capital investment plan totaling \$16 billion over the next seven years to upgrade core network infrastructure and to begin building California's "Communications superhighway". This will be an integrated telecommunications, information and entertainment network providing advanced voice, data and video services. Using a combination of fiber optics and coaxial cable, Pacific Bell expects to provide broadband services to more than 1.5 million homes by the end of 1996, 5 million homes by the end of the decade."

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And other Bells gave their number of households. Ameritech Investor Fact Book states: ( March 1994)

"We're building an interactive video network that will extend to six million customers within six years".

NYNEX stated: (NYNEX 1993 Annual Report)

"We're prepared to install between 1.5 and 2 million fiber-optic lines through 1996 to begin building our portion of the Information Superhighway."

And let us stress that we are NOT talking about the Internet or World Wide Web. The Superhighway, based on fiber-optics, was "broadband", able to supply hundreds of times more information for enhanced interactive services, while the Net is 'narrowband', based on available phone wiring. As we will discuss later, it's the difference between a Ferrari and a skateboard.

And the outcome?

The irony is that in exchange for delivering on their promises to build these networks, the Bell received LARGE financial incentives. The Consumer Advocate from New Jersey stated:

"...low income and residential customers paid for fiber-optic lines but have not yet benefited." (4/18/97).

In New Jersey, the Advocate found that of the \$1.5 billion dollars that was supposed to be spent on these new advanced networks, only \$79 million had been spent. Meanwhile, the New Jersey' Bells profits increased about one billion dollars in the same time period. The Advocate stated:

"Bell Atlantic-New Jersey (BA-NJ) has over-earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in Urban Enterprise Zones as well as urban and rural areas." (3/21/97)

NNI's estimate is that over \$30 billion has been overcharged through higher prices on everything from Call Waiting to second lines --- and there's plenty of documentation to examine. (For more details about state filings and investigations see: "Chapter 4: Case Study: Opportunity New Jersey" or our information about Ohio, Michigan, Indiana, Oklahoma, Pennsylvania, among others. We also include chapters on the state regulatory policies, the Telecom Act of 1996, the construction expenditures, and an examination of Bell profits.)

Now, let's get back to the FCC's report.

## **2) The FCC Concedes That It Doesn't Have Substantial Evidence.**

The new FCC report concedes that it has a lack of direct evidence to base their claims. . Commissioner Tristani had the courage to say:

"While I appreciate the effort in the Report to compensate for the lack of direct evidence in the record, I write separately to underscore my belief that the lack of such evidence makes drawing any conclusions about the state of deployment a tentative and inexact undertaking."

"I am especially concerned about the lack of hard evidence when it comes to our obligation to determine that advanced telecommunications services are being deployed, and are available, to all Americans."

And the Report is full of caveats that demonstrates its lack of data. Quotes directly taken from the source demonstrate that the findings of the FCC's new report --- like the fiber-optic Information Superhighway --- is a mirage.

"At this stage in the deployment of advanced services to rural communities, our data is anecdotal and we can in no way conclude that all Americans have, or are about to have, access to these services. "

Or:

"We lack information on the deployment and availability of advanced telecommunications capability in disadvantaged urban neighborhoods. Therefore, we are unable to determine whether broadband is being deployed to those areas in a reasonable and timely fashion."

Even the exact amount of construction expenditures is missing.

"...precise dollar figures and construction plans for broadband are not generally available..."

And yet multiple billion dollar decisions hang in the balance of this report.

Besides the admitted lack of clear evidence, there are a number of other points about the FCC report that needs to be addressed.

### **3) The FCC Didn't Examine Or Include The Hundreds Of Documents, Filings, Investigations Or Orders That Each State Has Already Filed.**

The FCC clearly failed to investigate the data that is available today about promises made on a state and federal level, nor has it examined the amount of monies customers have paid in state rate cases that were supposed to provide advanced broadband network services.

Besides those previously highlighted, there are many other details about Info-Scandal that need investigation. For example, Pac Bell's "Education First" program was to spend \$100 million in connecting all schools to the superhighway by 1996.

"Pacific Bell Helps Bring Schools On-line. As part of a continuing commitment to education in California, Pacific Bell has launched "Education First", a \$100 million program to connect the

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state's schools to the communications superhighway. By the end of 1996, all of the nearly 7,400 public K-12 schools, libraries, and community colleges in Pacific Bell territory will have access to the company's Integrated Services Digital Network (ISDN), which enables simultaneous transmission of voice, data and video signals over a signals telephone line." Pacific Telesis, 3/31/94

According to CNN, (8/17/97), however, in 1997, only 60% of California schools had computers and less than half that were online. Where did the money go?

Pennsylvania was supposed to have 20% of the state wired, including it low income customers with "Universal Broadband." (Bell of PA Annual Report, 1995), while Ohio Bell/Ameritech did roll out some fiber, but instead now offers "Plain Old Cable" instead of the interactive services as promised FCC and state filings..

Or even a decade earlier, both Pac Bell and SBC Communications promised extensive rollouts of ISDN! Southwestern Bell's 1986 Annual Report stated:

"At the forefront of new technology is ISDN. Scheduled for commercial availability in 1988, ISDN will revolutionize day-to-day communications by allowing simultaneous transmission of voice, data and images over a single telephone line."

#### **4) Bell Expenditures For Advanced Networks Never Happened -- And The Bells Expenditures Are Less Than Previous Years.**

An entire chapter of the book is dedicated to the Bells' supposed spending on advanced networks. There never was an extra \$11 billion dollars spent by Bell Atlantic, or \$16 billion dollars by Pac Bell, or even a major increase in any Bell construction.

However, the Report states that "Incumbent LECs, mainly the Bell Operating Companies (BOCs) and GTE, are also investing billions of dollars in broadband technologies". For example, the FCC's author exclaims that Ameritech is spending \$3 billion in capital in 1999 for "all its communications networks (wireline, wireless, and cable television" and uses this as an example that these sums are "large even by the standards of America's communications business".

While that may seem like a great deal of money to you and me, the truth is that Ameritech made almost \$18 billion dollars revenues in 1998 so these charges are simply 17% of the total they bring in. In fact, Ameritech spent more money 8 to 10 years ago on its network than they had in the years it had promised major new advanced networks. And as a percentage of the total revenues...the Bells construction spending has declined over the decade.

To put it more into perspective, in 1998, Ameritech spent \$3.7 billion investing in foreign companies, including \$3.1 billion in TeleDenmark, the phone company for Denmark, a country with a population of about 5 million. In comparison, the Chicago, Illinois Metropolitan Area, (an Ameritech state) has over 8 million. (Source: 1997 World Almanac)

#### **5) In Fact, The Bells May Have Deducted The Copper Network Even Though It Was Never Replaced.**

In 1998, NNI filed a complaint against the Bells with the Criminal Justice Division of the IRS for \$21 billion dollars. (This is in addition to the \$30 billion previously quoted. The Bells took massive write-offs of the copper plant from 1993 to 1995, each claiming that they were going to replace it with fiber-optics--- and all in the name of Advanced Networks. However, these networks were never replaced,. (or are not in use) and so the issue is whether these write-offs were valid, since the old copper network is still in use.

The implications are two fold - 1) If these deductions were made improperly then the Bells owe about \$7 billion in Federal taxes, not counting interest and penalties. 2) If these deductions were not made improperly, then the prices of all services should have dropped because the copper wire's value was slashed and everything over it should have had major price reductions, including all business and residential services.

## **6) The FCC Definition Of Advanced Networks Is Dummying Down The Definition Of Broadband.**

The FCC states that advanced network broadband is a two way service with speeds of over 200Kps, which is about 4 times as fast as current 56K modems. (NOTE: A "Kilobyte" is a unit of the speed as in "kilobytes-per second", KPS-In English: The more Ks, the faster the Internet runs and the more you can do with it.)

"For purposes of this Report, we define "broadband" as having the capability of supporting, in both the provider-to-consumer (downstream) and the consumer-to-provider (upstream) directions, a speed (in technical terms, "bandwidth") in excess of 200 kilobits per second (kbps) in the last mile. This rate is approximately four times faster than the Internet access received through a standard phone line at 56 kbps. We have initially chosen 200 kbps because it is enough to provide the most popular forms of broadband -- to change web pages as fast as one can flip through the pages of a book and to transmit full-motion video."

And with this definition, the FCC is dramatically watering-down the standard of what was promised and in many cases already paid for.

Broadband, by its very name, (and as the previous Bell annual reports, state and federal filings describe), was not supposed to have speeds in the Kilobyte range but in the MEGA BYTE RANGE (That's 1000K equals 1 Megabyte). --- and capable of handling interactive "Full Motion video" (Full-motion video is the ability to have a picture that looks like it's a TV show or a rented movie.) According to most experts, full motion video requires 45 megabytes without compression and over 1.5 megabits with current compression. Anything less and quality is lost and the picture will be jerky or the color or image not as clear.

Pac Bell's 1994 Fact Book clearly states that it was rolling out speeds the equivalent of 50-750 MPS, (Megabytes-per-second) to the customer and 5 to 40 MPS from the customer's premises. These speeds are hundreds of times faster than the promised consumer ADSL.

Did customers spend billions simply so that instead of fiber-optic services they would end up with just faster Web speed over the same copper wire?

## **7) The FCC Is Still Gullible To The Bells' Promises.**

The FCC quotes the Bell's deployment plans to demonstrate that all is well with the Advanced networks deployments. For example:

"In Bell Atlantic's service area, ADSL is available now to some customers in the Washington, D.C., area and in Pittsburgh, with plans to add Philadelphia and the Hudson waterfront of New Jersey next year. Bell Atlantic has formed a marketing alliance with America Online, Inc., in which Bell Atlantic hopes, by the end of 1999, to make ADSL available to seven million subscribers. Its goal is to offer ADSL to fourteen million customers by the end of 2000." (FCC Report)

And this quote is also problematic in a number of ways, not just from the hype it relays. For example, promises of rollouts to customers are not actual deployments to a customer--- it is hype, or at best optimistic thinking. Offering a product and being able to deliver it is not the same thing. If Bell Atlantic always stayed with their deployment plans, over 11 million households would have 500 channels, among other interactive services (includes NYNEX).

More to the point, Bell Atlantic's lower cost ADSL Infospeed products that offer 640K and 1.6 MK, are both essentially ONE WAY services. (source: Bell Atlantic) The return from the customer's household to the network is only 90K and that's 110K lower than the FCC's own definition of Broadband --- making the above quote meaningless.

And there are numerous other caveats to their roll-outs. For example, the Bell Atlantic product literature states the company is only offering "best efforts". As they put it (Source: Bell Atlantic) "There is no guarantee of Data throughput". It's like selling a car and saying "The car gets 50 miles to the gallon, but sometimes it could only be two miles". And worse, the higher speed services only work if you live "8000 feet from the loop", almost eliminating all rural and suburban deployments.

To complicate matters the report quotes Ameritech who states that it couldn't deliver XDSL to 45% of its customers over the current phone networks.

## **8) Then, There's The Issue of The Actual, Current Reality and Future Of Advanced Networks---And The Imagination Bottleneck**

ADSL and cable modem rollout are now considered the "advanced network" rollouts---with the main purpose to make the Internet faster. And at the proposed current speeds, the FCC in one fell swoop, along with the phone companies, have stolen our Digital age. We are now relegated to a low bandwidth, not quite two way world, and that's of course if the service is available at all. And it is a place where the video images will be blurry and they all go over the same old POTS networks ---- even though we paid for the gold-plated one.

And this because the FCC and others have an Imagination Bottleneck, a term coined by Joe Plotkin, Executive Director of [BroadbandNow](#). The FCC with this Report, and the Bells, with their deployment failures, now make it all right NOT to dream of the real next generation. --- The Two Way Interactive world.

By allowing the Bells off the hook to deploy the wiring as promised, who knows what wonderful services would now be available to the public.

## **9) The FCC Should Have Examined The Impact On Competitors And Internet Service Providers By The Monopolies.**

The Internet Service Providers (ISP) and the smaller local competitive companies are the real innovators of America' techno-future. The Internet was not brought to us by the local Bells, but through the thousands of entrepreneurs who dedicated both time and expertise to making this next generation of the Info Age.

However, since all of these companies must deal with the Bells for service, these companies are at a major disadvantage, and based on interviews and the preliminary results of an NNI ISP Survey, the consensus is that the Bells are delivering "substandard customer services" --- which include everything from missing appointments and lines that go dead to simply not answering basic questions in a timely fashion.

And the FCC report not only ignores these issues but it has ignored pleas by these companies to enforce the laws or work with the states for better enforcement capabilities.

## **10) It's The Money Stupid.**

And finally, the FCC should always be concentrating on the bottom line --- are customers being overcharged? And when considering the status of advanced networks, there is also the larger issue --- at what cost and to who? And in this case, how much money did customers pay for services they never received? The FCC should not let the monopoly to use advanced network as another form of customer scam.

Of course there is the larger related problem---The Telecom Act was written based on the promises made by the phone companies and cable companies to compete and to deploy new services in a timely and reasonable fashion. How much of the stories told by the Bells were simply a fabrication to change and enact laws that made these companies some of the richest in America? (For details of the Bells' profits and NNI's claims of customer overcharging please see Chapters 14,15,16,27,29,30-42) And to what extent does the Telecom Act need to be amended to protect monopoly customers?

Therefore, the FCC and the states should:

- investigate Info-Scandal, and see if refunds and lower prices should be implemented.
- Investigate the Bell copper plant write-offs be required to collect accurate data,
- Make the Report state by state specific to find out exactly what is the status of advanced networks--- not the hype.
- Collect the definitions already in use by the states.
- Deny the Bells any new incentives for advanced networks until the investigation has concluded. --- This includes the upcoming results from other FCC Reports (NRPM 147), which might give the Bells new financial incentives.
- Make the Bells live up to their former commitments or return the money.
- Enforce the laws designed to protect competitors.

Want to Help? If you agree with our analysis, Please also check out the following links for our research at our web site at [HTTP://www.newnetworks.com](http://www.newnetworks.com). Or feel free to order the Unauthorized Biography of the Baby Bells & Info-Scandal for more details.



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Read the original "[Report on the Deployment of Advanced Telecommunications Capability to All Americans](#)" (CC Docket No. 98-146), press release and statements. Then write the FCC Commissioners, and Congress requesting them to investigate Info-Scandal: