

STATEMENT OF JASON DEVITT
CEO, Skydeck
FCC Hearing, Stanford University, April 17, 2008

My name is Jason Devitt, and I am the CEO of a new company called Skydeck.

Skydeck's mission is to help consumers to take back control of their cell phones and their cell phone bills, by providing them with the tools and the information that they need to do so.

How can we measure the effects of regulation? Every so often the economy presents us with a natural experiment: two almost identical markets that differ only with respect to the regulatory environment.

I have two computers in front of me today, both very powerful, both offering multiple applications, both able to connect to broadband wireless networks.

I like a lot of the software that came with this computer [*my laptop*], but I always have other choices. I did not like their browser, so I chose another. Since that browser is itself an open platform, I added several features that made it more powerful. They offer a service for backing up my hard drive, but I found a much better one online. There's no GPS chip in this computer, but an independent company has worked out how to estimate my location based on the WiFi hotspots around me, and I chose to install their software.

I use this computer [*my laptop*] on multiple networks on a regular basis: Comcast, Covad, Verizon Wireless, many WiFi networks. That's not evidence of broadband choice by the way. Covad does not serve my home, Comcast does not serve my

office, neither serves this table, and last time I traveled I found that Verizon did not serve my hotel room. I did, however, have a choice when two of those carriers pestered me to install their software on my computer and to use some of their branded services. I said no.

This computer [*my cell phone*] on the other hand works on only one network. I cannot change the default browser, or upgrade it, or extend its functionality so that I can visit obscure web sites like YouTube. The manufacturer offers only one way to back up all the contents of this computer, and their software is not compatible with my other computer. It should be easy for me to copy my address book across using Bluetooth, but my carrier blocks that. This computer does have a GPS chip – but only applications sold by my carrier can use it.

What is the difference between these two computers? Is it price? No, because my carrier won't sell me a more open device at any price. Is it because one network requires careful management? No, because right now they are both connected to the same wireless network. Is the cellular market less competitive? No, the reverse is true, I have at least 5 wireless carriers to choose from in the Bay Area, while practically speaking I have no choice in wireline Internet service and the market for PC software has at times been distorted by a monopoly.

Here is the difference; here is our natural experiment. The people who designed this computer [*my laptop*] had to presume a neutral network: common carriage and Carterfone rules. The people who designed this computer [*my cell phone*] did not.

For better or for worse, I have built my career on the wireless Internet. But if this were a Dickens novel, then I would be the Ghost of Internet Future.

Within a year or two, modems like these [*my laptop's external wireless modem*] will be built in. When you start up a new laptop computer you will be asked - repeatedly - to sign a contract with a broadband wireless network. Why? Because the commission which carriers will pay to the manufacturer will be double the profit that they make on selling the computer. Just as with cell phone manufacturers today, their primary customer will become the carrier, not you. If they have no duty to you under the law, if you are no longer their primary customer, then what power will you have? Even if your carrier nominally allows you to connect any device to their network, who is going to make and sell a device that your carrier doesn't like?

On this computer [*my cell phone*], I cannot tell you what 'network management' technologies my carrier is using, because I cannot install an application to detect them. I do not know whether they are blocking any legitimate text messages to me because I have no way of knowing what messages they block. I cannot even check if they are billing me correctly each month, because I cannot get a complete record of my activity – my calls, messages, and data usage – off this computer to compare to my bill. But that does allow me to end on an optimistic note. Quit worrying about whether the network is neutral; because soon you might not be able to tell.