

# ANALYSIS GROUP FORUM

FALL/WINTER 2004



## Pride in Our People

... A note from the President

Strong client relationships have always been the hallmark of our firm, and those relationships are built around results. In this edition of *Forum*, we highlight some recent successes we have helped achieve for clients in noteworthy cases. We take pride in noting the work of our professional staff in these challenging engagements, several of which involved large case teams that drew upon all levels of our organization.

We've continued to develop relationships with leading academic experts from around the country, and earlier this year added seven distinguished academic affiliates to our firm. (Please see the sidebar on this page.) We're also pleased to announce a promotion within our firm. Earlier this year, we promoted Dr. Bruce A. Strombom, Vice President in our Los Angeles office, to the position of Managing Principal. Dr. Strombom has valued more than 100 businesses and is an expert in applied microeconomics.

I am also delighted to announce that Michael Lacovara, General Counsel and Principal at Sandler O'Neill & Partners, L.P., has joined our Board of Directors. In his former position as a partner at Sullivan & Cromwell, Michael worked closely with us on a number of litigations, and will add a valuable client perspective to the Board.

In addition to their case work, our professional staff and academic affiliates have been active publishing articles and reports, speaking at conferences and seminars, and being interviewed in the media. We look forward to continuing to contribute thought leadership in a rapidly changing business environment.

Sincerely,

Martha S. Samuelson

## ACADEMIC AFFILIATE NEWS

### ANALYSIS GROUP WELCOMES NEW ACADEMIC AFFILIATES

Analysis Group continues to place a high priority on developing and sustaining strong relationships with top academic experts. We welcome seven new academic affiliates, all highly distinguished in their fields of expertise:

**Judith A. Chevalier**, Professor of Finance and Economics, Yale University School of Management

**Michael R. Darby**, Warren C. Cordner Professor of Money and Financial Markets and Director, John M. Olin Center for Policy, Anderson School of Management and Department of Economics, UCLA

**Stuart C. Gilson**, Steven R. Fenster Professor of Business Administration and Professor of Finance, Harvard Business School

**John W. Mayo**, Professor of Economics, Business, and Public Policy, Georgetown University McDonough School of Business

**Jerold L. Zimmerman**, Ronald L. Bittner Professor of Business Administration and Professor of Accounting, Simon Graduate School of Business, University of Rochester

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## Market Effects of U.S. Telecommunications Policy



By Thomas Hazlett, Ph.D.

*Analysis Group academic affiliate Thomas Hazlett, Senior Fellow, Manhattan Institute for Policy Research, argues that regulation has impeded innovation and efficiency in the telecommunications industry.*

In the years since the 1996 Telecommunications Act, marketplace lessons have illustrated the difficulty of imposing regulation on an industry experiencing rapid technological change. In both wireless and wireline telecommunications, the U.S. legal environment continues to present obstacles to efficient market solutions.

One clear problem has been regulatory confusion. A June 2004 ruling by the D.C. Circuit Court of Appeals effectively rendered obsolete the panoply of network-sharing rules developed, over eight years, pursuant to the 1996 Telecommunications Act.

To promote competition in local service, the 1996 Act had eliminated state phone monopolies and, to give upstarts a toe-hold, allowed entrants to lease parts of existing networks at cost. This meant that competitors could challenge incumbent carriers, notably the Baby Bells, without putting in their own 'local loops.' But it also meant that direct rivals were forced to share the same infrastructure on terms set by the government. The contentiousness unleashed by this arrangement led to endless litigation.

This June's Circuit ruling was good news for the Baby Bells, but these large incumbent operators are now facing competition that has little to do with network sharing, most notably from wireless and Voice over Internet Protocol (VoIP) technologies. Phone lines provided by incumbent carriers have fallen from about 180 million in 2000 to just 150 million today. The nation's largest competitor in local lines, AT&T, is phasing out its standard phone offering (provided by reselling Baby Bell service) while gearing up a nationwide "CallVantage" system allowing a cable modem or digital subscriber line (DSL) subscriber to make unlimited U.S. phone calls for about \$30 a month.

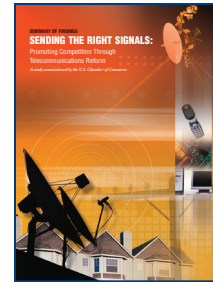
Competitive alternatives would develop even faster with the proper policies. For example, U.S. spectrum allocation policies restrict wireless carriers to just one-half the bandwidth utilized in the United Kingdom. While most advanced countries assigned 3G (third generation) wireless licenses in 2000 or 2001, the U.S. is not likely to auction these permits until 2006. By creating artificial scarcity for a key input, the government handicaps domestic wireless carriers. Services for consumers would suffer as a result.

On a more positive note, U.S. regulators had the foresight not to mandate a single standard for digital (2G) wireless phones, allowing the market to test different technologies. Today, robust competition exists between rival platforms. In San Diego, for example, consumers are able to choose between a broadband offering from Verizon Wireless, based on Qualcomm's CDMA

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## TELECOM REPORT RELEASED FOR U.S. CHAMBER OF COMMERCE

*Analysis Group academic affiliate Thomas Hazlett, Vice President Coleman Bazelon, John Rutledge of Rutledge Capital, and Deborah Allen Hewitt from the College of William and Mary recently authored a study for the U.S. Chamber of Commerce outlining the successes and failures of U.S. telecommunications policy and devising a reform program to encourage the emergence of robust competitive networks. The study, **Sending the Right Signals: Promoting Competition Through Telecommunications Reform**, is available online at [www.uschamber.com](http://www.uschamber.com).*



*The authors participated in a press briefing at the Chamber's offices in Washington on October 6th, the day of the report's release. Highlights of the report are below.*

### Recommended Regulatory Reforms

- End regulated wholesale rates set at theoretical costs; phase out mandatory network-sharing rules
- Exempt high-speed cable modem and digital subscriber lines (DSL) from common carrier regulations
- Exempt Internet services from state telephone service regulations

### Potential Economic Benefits of Proposed Reforms

- \$58 billion in new capital investment over five years
- Increase in average employment levels of more than 212,000 jobs over five years
- Accelerated rollout of new technologies and advanced networks in knowledge-based industries and applications



## CLASS CERTIFICATION DENIED IN SECURITIES CASE

A U.S. District Court judge recently denied class certification in a 10b-5 securities matter involving “fraud-on-the-market” allegations. Plaintiffs accused **Lehman Brothers** and one of its analysts of making “buy” recommendations for RealNetworks’ stock because of Lehman’s investment banking relationship with the firm. Analysis Group was retained by **Paul, Weiss, Rifkind, Wharton & Garrison LLP** on behalf of Lehman Brothers.

The plaintiffs’ expert filed a report alleging that the stock would have declined 10 percent if the analyst had recommended “sell” rather than “buy.” The Analysis Group team, led by Managing Principal Atanu Saha, worked closely with the Paul, Weiss attorneys to rebut the analysis undertaken by the plaintiffs’ expert. Judge Jed Rakoff of the Southern District of New York concluded that the expert’s methodology was “so transparently unreliable as to be inadmissible under law.” In denying class certification, Judge Rakoff stated that “plaintiffs cannot satisfy such prerequisites to class action status... this Court now holds that the ‘fraud-on-the-market’ doctrine applies in a case premised on a securities analyst’s false and fraudulent opinions or recommendations only where the plaintiff can make a prima facie showing that the analyst’s statements materially impacted the market price in a reasonably quantifiable respect.”

## MICROSOFT MINNESOTA CASE SETTLED

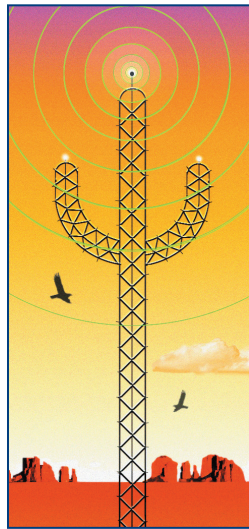
Analysis Group assisted **Microsoft’s** legal team in the 2004 Minnesota overcharge litigation, which was settled after seven weeks of trial. Our team worked closely with the attorneys and numerous experts to provide analyses of the economics and structure of the software industry and of Microsoft’s actions.

Over four years, our work with Microsoft has spanned multiple, large-scale efforts, from the

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## U.S. Telecommunications Policy

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technology, and a competitive high-speed access solution from AT&T Wireless (now Cingular) based on the European standard, UMTS. With more spectrum allocation, retail prices would come down and usage would expand.

Market forces have generally proven more efficient than regulation in allocating resources and fostering innovation in high-growth industries like telecommunications. Going forward, U.S. regulators could enhance competition and innovation by phasing out network sharing regulations, setting clear, unburdened rules for VoIP applications, and making abundant spectrum available (with flexible use rights) for competitive licensees.

## Analysis Group Assists Trial Team in Successful Class Action Defense

Analysis Group recently provided expert consulting services to the trial team in its successful defense of **Allstate**. In a class action suit involving “diminished value” for automobiles after accidents, the class of plaintiffs included 387,000 Allstate policyholders from 32 states. Claiming damages of \$300–\$430 million, counsel for the class argued that Allstate was obligated to pay not only for repairs, but for any value the cars had lost as a result of the accidents even after repairs had been completed. Allstate argued that additional payments for “diminished value” were not covered under the insurance contract, and that determinations could be made only on a case-by-case basis, not as a class.

Analysis Group was retained by Allstate’s counsel to serve as consultants on damages and statistical aspects of the lawsuit. Our work fell into two major areas:

- Critiquing and analyzing the methodology by which the plaintiffs’ expert witness arrived at his damages assessment; and
- Assisting counsel in preparing for the plaintiffs’ expert witness deposition and trial testimony.

Analysis Group conducted technical analyses of multiple data sets developed by the plaintiffs for their damages analysis; statistical regression developed by the plaintiffs’ expert; and use of the regression analysis in the development of the various damages estimates presented by the plaintiffs.

After three weeks of trial, the jury rejected the plaintiffs’ damages claims, found no liability for Allstate, and awarded no damages.

The verdict was especially newsworthy in that the trial occurred in state court in southern Illinois, where class action verdicts were delivered in recent years against Philip Morris for over \$11 billion and against State Farm for over

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**MICROSOFT***Continued from page 3*

discovery process through trial preparation and settlement negotiations. We have identified potential experts in areas of survey design, class certification, pricing, statistics, liability and damages, accounting, and information technology. The Analysis Group team included President Martha Samuelson, Vice President Almudena Arcelus, and Managers Jaison Abel, Rebecca Kirk, and Richard Mortimer.

**SETTLEMENT REACHED IN FALSE CLAIMS ACT CASE**

Analysis Group recently worked on behalf of the **U.S. Government** in a False Claims Act case. Kerlan-Jobe Orthopaedic Clinic, team physicians for the Los Angeles Lakers, Dodgers, and Kings, was accused of defrauding Medicare and other federal health insurance programs over an eight-year period.

Analysis Group academic affiliate Dennis Aigner, Ph.D., a statistician holding posts at the University of California, at both Irvine and Santa Barbara, was retained by the U.S. Department of Justice to draw a random sample of claims and to extrapolate damage estimates from that sample. Working with our team, including Analysis Group Manager Peter Simon, Dr. Aigner calculated the proportion of all Medicare claims which the clinic had “up-coded” – billed for more elaborate procedures than those actually provided – and the associated overcharge. Dr. Aigner and Analysis Group were also able to estimate the overbilling on services provided under Medi-Cal, the U.S. Labor Department’s workers’ compensation program, and the Defense Department’s medical program.

While admitting no wrongdoing, Kerlan-Jobe settled with the government for \$2.65 million on behalf of itself and 17 of its physicians.

**Allstate***Continued from page 3*

\$1 billion. Belleville, the county seat of St. Clair County, along with neighboring Madison County, are “nationally known for being friendly to plaintiffs in class-action cases,” according to the Associated Press.

Counsel for Allstate included the law firms of **Sonnenschein Nath and Rosenthal LLP** and **Kerr & Wagstaffe LLP**. Margo Weinstein, lead partner on damages issues for Sonnenschein, noted: “Analysis Group worked closely with my legal team from early in the case through the end of the trial. They combined high quality work with an ability to translate their analysis into language and concepts understandable to non-economists.”

Bruce Deal, Managing Principal in Menlo Park, California, led the Analysis Group team, which included Manager Armando Levy.

**Price Measurement and Damages Calculations in Dynamic Industries****By Ernst Berndt, Ph.D.**

*Analysis Group academic affiliate Ernst R. Berndt of the Sloan School of Management at MIT discusses the complexity of assessing price changes in dynamic industries such as software. Professor Berndt recently led an Analysis Group team conducting pricing analyses in consumer class action overcharge litigation involving Microsoft’s prepackaged software.*

Accurate price measurement is crucial to calculating damages in overcharge litigation. In dynamic industries facing rapid technological innovation and frequent entry and exit of products, arriving at a reliable price measure is especially challenging and often requires careful analysis.

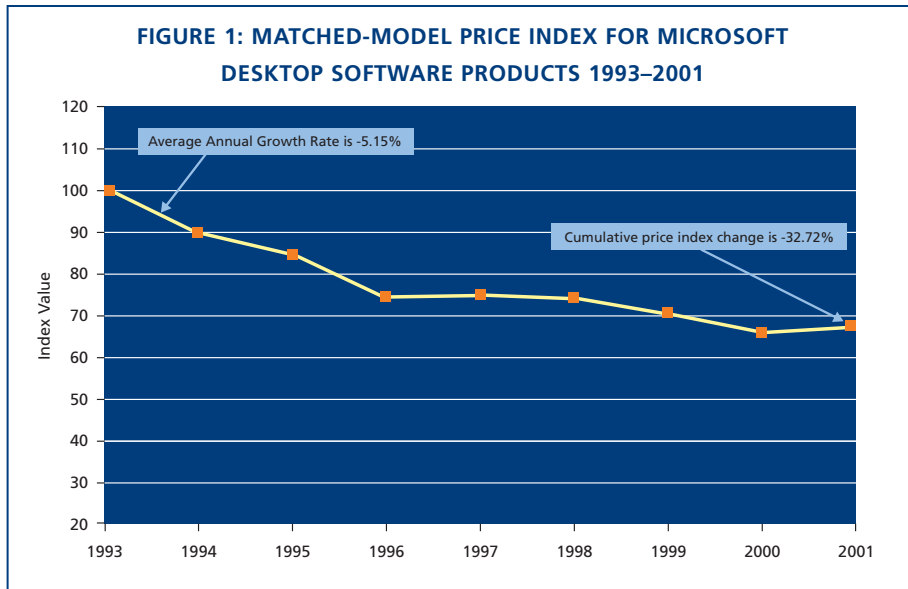
Price variation often reflects changes over time in distribution channels, product forms, and product quality. To account for changes in these factors, accurate price measurement requires a thorough understanding of the industry as well as different pricing strategies.

In recent Microsoft litigation, the primary allegations involved claims that Microsoft’s software prices for desktop personal computer operating systems and software applications were above the competitive level, and that innovation and product quality were being suppressed. Under my direction, an Analysis Group team including Managers Alan White and Jaison Abel focused on key drivers of pricing in the software industry. We found that Microsoft’s prices for prepackaged software products differed considerably across channel of distribution, type of user, and product form. Changes over time in the underlying composition of Microsoft’s software sales along these dimensions could have a material impact on the overall price level.

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Our analysis described the movement away from the traditional retail channel of distribution (e.g., mail order) toward volume-discount sales of software to corporations and sales to computer manufacturers. In addition, the shift from stand-alone software to productivity suites also influenced overall price levels. Since the combined price paid for purchasing both stand-alone Word and stand-alone Excel exceeds the price paid for the Microsoft Office productivity suite (which includes both, as well as other applications), accurate price measurement required accounting for all of the product forms in which Word and Excel were available. Our pricing analysis was designed to account for this important phenomenon. As Figure 1 demonstrates, when changes to product distribution and form are taken into account, prices have generally declined over time.

Improvements in quality have also had an impact on price. Advances in personal computer hardware have increased the quality of personal computer software products. Our analysis revealed that quality-adjusted prices have declined for both personal computer operating systems and productivity suites over the last two decades.

Issues of quality, product turnover, and technologically driven innovation in distribution and form all make price measurement particularly challenging in dynamic industries. Methodologies that fail to account for the unique, industry-specific factors driving price will not accurately estimate price changes and, as a result, damages estimates may be inaccurate.

*Professor Berndt, Alan White, Jaison Abel, and Cory Monroe recently published a National Bureau of Economic Research working paper, "Hedonic Price Indexes for Personal Computer Operating Systems and Productivity Suites," that accounts for the effects of quality change. The paper is available at [www.nber.org](http://www.nber.org), Working Paper No. 10427, April 2004.*

## PLAINTIFF COMPLAINT DISMISSED IN INTERSTATE COMMERCE CASE

Analysis Group provided economic analysis that resulted in a reversal of a decision against our client, **Oneida-Herkimer Solid Waste Management Authority**. The plaintiffs, United Haulers Association *et al.*, alleged that flow control laws governing the processing of solid waste in New York's Oneida and Herkimer counties represented "an impermissible restraint upon interstate commerce, in contravention of the Commerce Clause of the United States Constitution."

Given the geographic scope of economic activity in the U.S., state or local law often will affect interstate commerce. However, *Pike v. Bruce Church Inc.* states that a "statute will be upheld unless the burden imposed on [interstate] commerce is clearly excessive in relation to the putative local benefits." This is referred to as the *Pike* balancing test.



Our academic affiliate, Professor Robert Stavins, analyzed the flow control laws' relative burdens and benefits. Professor Stavins determined that the laws placed neither a qualitatively nor a quantitatively greater burden on out-of-state interests, relative to in-state interests, supporting a finding, under the *Pike* test, that the laws placed no burden on interstate commerce. He also analyzed the laws' local benefits. Relying, in part, on Professor Stavins' analysis, U.S. Magistrate Judge David Peebles recommended summary judgment dismissing the plaintiffs' complaint. A final ruling is pending.



## DAMAGES AWARDED IN INTERNATIONAL BREACH-OF-CONTRACT CASE

In a recent international dispute, Analysis Group's client was awarded damages consistent with the amounts determined by our expert.

In 1997, the **Eurotrain Consortium** was awarded priority status as preferential bidder to provide core systems for the multibillion-dollar Taiwan high-speed train project, which was being undertaken by Taiwan High Speed Rail Corp. (THSRC). After Eurotrain had spent more than \$32 million in upfront development costs, THSRC awarded the final contract to Taiwan Shinkansen Consortium of Japan in 1998.

Following a partial award on liability in Eurotrain's favor in March 2002, Analysis Group Managing Principal Laura Boothman Stamm provided expert reports and took the stand as an expert witness on behalf of Eurotrain. Ms. Stamm's analysis and testimony on damages were deemed to be "fair and just" by an international arbitration panel. The panel awarded Eurotrain the exact amount of reliance damages claimed – \$32.4 million – and further damages for unjust enrichment compensation of \$35.7 million, before prejudgment interest.



"This result would not have been possible without Analysis Group's invaluable assistance," said Alan Howard, lead attorney for **Winston & Strawn**, counsel for Eurotrain.

## Procter & Gamble Prevails in Alleged False Advertising Case

Analysis Group was recently retained by defendant **Procter & Gamble** (P&G) and the law firms **Kramer Levin Naftalis & Frankel LLP** and **Weil, Gotshal & Manges LLP** in a litigation involving false advertising claims. Plaintiff Colgate-Palmolive alleged that P&G's comparative advertisements for its tooth-whitening products, Crest Whitestrips and Crest Night Effects, contained misleading and disparaging statements about Colgate's Simply White and Simply White Night. Colgate sought to recover damages of \$80 million from reduced product sales and profits.

Colgate's claimed damages were calculated under two scenarios: in the first, P&G reduced its advertising budget by the amount it spent on comparative ads; in the second, P&G spent its entire television advertising budget on non-comparative ads. Under the direction of Managing Principal Dr. Keith Ugone, an Analysis Group team evaluated Colgate's econometric model and claimed-damages calculations by analyzing A.C. Nielsen scanner data and CMR media-related data. Team members, including Vice Presidents Maureen Chakraborty and Marc Van Audenrode, as well as Manager Jimmy Royer and Associates Na Dawson and Lauren Kindler, demonstrated that Colgate's model contained serious flaws, rendering their damages estimates unreliable. Specifically:

- Colgate's alternative advertising scenarios were inconsistent with P&G's historical marketing strategies, and not appropriate for calculating damages.
- Colgate measured the impact of P&G's comparative advertisements as a whole, instead of the challenged content within the comparative advertisements.
- Not all reasons for the decline in Colgate's product sales were accounted for, including a decline in the tooth-whitening product category, the entry of competing products making comparative claims against Colgate's Simply White, and consumer trial and repeat purchase patterns after product launch.
- Colgate used inflated profit margins in its claimed-damages calculations.
- Colgate's econometric model and damages calculations contained serious methodological errors, including projecting higher sales without adjusting for the effect of higher prices.

Dr. Ugone testified at deposition and at trial on the evaluation of Colgate's damages calculations. Following a three-week trial, the jury rejected Colgate's claim that P&G's comparative advertising contained misleading whitening efficacy content, and awarded no damages to Colgate.



## New Academic Affiliates



**Judith A. Chevalier, Ph.D.**

Professor of Finance and Economics, Yale University School of Management

Professor Chevalier is co-editor of the *American Economic Review* and a Research Associate of the National Bureau of Economic Research. She was awarded the American Economic Association's first biennial Elaine Bennett Prize in 1999, given in recognition of research by a woman in any area of economics. Professor Chevalier has published in a wide range of industry journals, and her research has been cited in articles in *The Wall Street Journal*, *The Economist*, *Forbes*, *BusinessWeek*, and CNNfn.com.



**Michael R. Darby, Ph.D.**

Warren C. Cordner Professor of Money and Financial Markets and Director, John M. Olin Center for Policy, Anderson School of Management and Department of Economics, UCLA

Professor Darby's economic research covers international finance, industrial organization, the money and banking system, macroeconomics, and technology. He has published 11 books and monographs and over 40 articles in professional journals. Professor Darby held a number of senior positions in the Reagan and George H. W. Bush administrations and in 1989 received the Treasury Department's highest honor, the Alexander Hamilton Award. He has also served as a consultant to Korea's Presidential Commission for Financial Reform and as President of the Western Economic Association International from 2000 to 2001.



**Stuart C. Gilson, Ph.D.**

Steven R. Fenster Professor of Business Administration and Professor of Finance, Harvard Business School

Professor Gilson's current research focuses on techniques for valuing bankrupt and distressed companies and on strategies for investing in distressed company securities. He has served as an expert witness and provided litigation support in a variety of cases, specializing in valuation and financial analyses of distressed companies and companies in Chapter 11. He has also conducted training programs on business and securities valuation, financial analysis, and corporate restructuring for a variety of companies. Professor Gilson has published widely in financial journals and is listed in *Who's Who in Economics*.



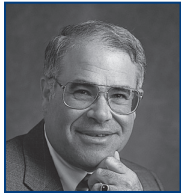
**John W. Mayo, Ph.D.**

Professor of Economics, Business, and Public Policy, Georgetown University McDonough School of Business

Professor Mayo has served as an advisor and consultant to the Department of Justice, the Federal Trade Commission, AT&T, MCI, Sprint, the Tennessee Valley Authority, and the Department of Energy. He has also served as Chief Economist for the U.S. Senate's Small Business Committee. At Georgetown, he teaches and conducts research in economics, business, and public policy. Previously, Professor Mayo taught graduate and undergraduate economics classes at several universities.



## New Academic Affiliates Continued from page 7



### **Jerold L. Zimmerman, Ph.D.**

Ronald L. Bittner Professor of Business Administration and Professor of Accounting, Simon Graduate School of Business, University of Rochester

Professor Zimmerman is a founding editor of *Journal of Accounting and Economics* and has written extensively for *The Accounting Review*. His research, with Professor Ross Watts, on “positive theories of accounting,” seeks to understand the costs and benefits of various accounting procedures. Professor Zimmerman has consulted for law firms and companies and has filed expert reports in a number of litigations. He is a director, and chairs the audit committee, of CPAC, Inc., a Nasdaq-listed company.

### **SPEAKING AND PUBLISHING**

**Symposium on Executive Compensation:** Professors Lucian Bebchuk and R. Glenn Hubbard spoke at the Columbia Law School’s Symposium on Executive Compensation. The symposium was organized to discuss the critique of executive compensation practices in the new book *Pay Without Performance: The Unfulfilled Promise of Executive Compensation*, written by Professor Bebchuk and Jesse Fried.

**Robert Stavins Writing for *The Environmental Forum*:** Professor Stavins is writing a regular column for *The Environmental Forum*, the bimonthly publication of the Environmental Law Institute. The columns are available on the Analysis Group website ([www.analysisgroup.com/pa\\_environmental.htm](http://www.analysisgroup.com/pa_environmental.htm)).

**Michael Darby Files Report for Commerce Department:** Professor Darby recently filed a report for the U.S. Commerce Department as part of an anti-dumping proceeding brought against the Government of Korea

(“GOK”). The proceeding was in connection with the GOK’s direction of credit to several firms in the Korean semiconductor industry. Professor Darby’s report involved analysis that drew on his knowledge of the semiconductor industry. The GOK is currently appealing an adverse ruling from the World Trade Organization.

### **APPOINTMENTS AND HONORS**

R. Glenn Hubbard, former Chairman of the President’s Council of Economic Advisers, was named Dean of the Columbia Business School effective July 1, 2004.

Robert Hall was elected to the National Academy of Sciences in recognition of his contributions to the field of economics. Professor Hall is the McNeil Joint Professor in the Department of Economics at Stanford University and Senior Fellow at the Hoover Institution.



## UPCOMING EVENTS AND SPEAKING ENGAGEMENTS

**FDLI Conference:** Managing Principal Bruce Deal will be a panelist, with Jim Wood of Reed Smith LLP, at an FDLI conference in January 2005 entitled Product Liability for FDA-Regulated Products.

**Technology Valuation:** Managing Principal John Jarosz will speak about technology valuation at the 2005 annual meeting of the Association of University Technology Managers, and will also facilitate an interactive workshop on valuation topics at the LES 2005 winter meeting.

## RECENT SPEAKING ENGAGEMENTS

**Testifying Effectively:** Academic affiliate Robert Hall and Managing Principal Bruce Deal participated as guest speakers at Effective Financial Expert Testimony, a November conference sponsored by LSI.

**Intellectual Property:** Analysis Group hosted seminars on software licensing and litigation in Washington, D.C., and New York, with Professor Josh Lerner of Harvard Business School and Vice Presidents Chris Borek and Justin McLean. Managing Principal John Jarosz delivered "Ingredients of a Damages Study" at an LSI conference on patent damages. Managing Principal Carla Mulhern discussed "The Economics of Price Erosion and Lost Conveyed Sales" at an LSI workshop on patent damages. Managing Principal Jeffrey Kinrich delivered a presentation, "Plan Your Use of Experts," at an LSI seminar on intellectual property, and also discussed patent infringement damages at an AICPA conference. Vice President Russell Mangum III discussed how to prepare supportable IP damages calculations at a November LSI workshop.

**Securities:** Vice President Nicholas Crew participated in a panel on defensible data in damages at an LSI securities seminar.

**Technology Valuation:** Vice President Robert Vigil gave a workshop on advanced valuation methods at the LES annual meeting in October.

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## Promoted to Managing Principal:



**Bruce A. Strobom**, Los Angeles  
bstrobom@analysisgroup.com

Dr. Strobom, an expert in applied microeconomics, has considerable experience in valuation, health care, antitrust, and finance. He has valued more than 100 privately held businesses, assessed the risk-adjusted performance of investment portfolios, and estimated damages stemming from business interruption and lost earnings. He has also testified at trial in damages-assessment matters.

Dr. Strobom holds a Ph.D. in Economics from the University of California, Irvine, and a B.A. in Economics from San Jose State University. He began his career with Analysis Group in 1993 as a Senior Associate in our Los Angeles office.

## Susan Tierney Interviewed on Anniversary of Blackout and on Energy Prices



Analysis Group Managing Principal Susan Tierney was interviewed recently on CNBC and CNN Financial News television regarding the causes of the blackout of 2003, and the progress that has been made to ensure such an event does not recur. Dr. Tierney, former Assistant Secretary for Policy at the U.S. Department of Energy, noted that much has been done in the last 12 months, but also acknowledged that many problems remain. She cited the failure of Congress to enact legislation to require mandatory, enforceable reliability standards, without which compliance is only voluntary.

Dr. Tierney also discussed energy prices on Comcast's *Nightbeat* program. In January 2005, she will present at the 8th Annual Electric Utilities Environmental Conference on "Siting Critical Infrastructure: What Will It Take to Site Power Projects?"



## New Director Named to Analysis Group Board

Analysis Group has named Michael Lacovara, Esq., to the firm's Board of Directors. Mr. Lacovara is General Counsel and a Principal at Sandler O'Neill & Partners, L.P., a full-service investment banking firm. Previously, he was a partner at Sullivan & Cromwell LLP, where he had represented Sandler O'Neill for several years. While at Sullivan & Cromwell, Mr. Lacovara represented a variety of financial services and technology firms, including serving as trial counsel to Microsoft Corporation in *United States v. Microsoft*. He worked closely with Analysis Group in a number of litigations. In 2003, *American Lawyer* named him one of America's top 45 lawyers under the age of 45.



## RECENT SPEAKING ENGAGEMENTS

*Continued from page 9*

**Telecommunications:** Vice President Paul Vasington spoke at the National Press Club in Washington, D.C., at a conference sponsored by the New Millennium Research Council.

**ABA Litigation Panel:** Vice President Elizabeth Evans participated in "The Numbers Game: Cross-Examination of Financial Experts," a panel at the ABA Litigation Section's annual conference.

**MIT Forum on Global Drug Pricing:** Academic affiliate Ernst Berndt and Managing Principal Andrew Parece spoke at "Large Molecules, Large Dreams," a forum on drug pricing and sustainable medical innovation.

**MIT Sloan Women in Business & Technology Symposium:** Managing Principal Laura Boothman Stamm participated in a panel discussing executive-level careers at a symposium sponsored by the MIT Sloan Alumni Club of Boston.

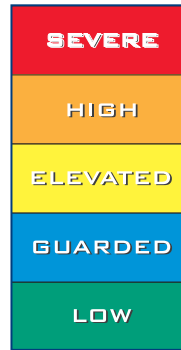
## PUBLICATIONS AND REPORTS

**Location Savings:** In the July/August issue of *International Transfer Pricing Journal*, an Analysis Group writing team, led by Managing Principal Deloris Wright, discusses "location savings" – the cost savings that U.S. multinationals realize when relocating from high-cost to low-cost jurisdictions. Dr. Wright's co-authors were Steven Allen, Joy Dasgupta, Jessica Rosenbloom, Crystal Thibeault, Rahul Tomar, and Alden Woodrow.

**The Limits of Vertical Integration:** In the June *Journal of Industrial Economics*, Analysis Group Manager Lee Heavner describes the impact when upstream firms integrate with downstream firms, and develops a model predicting when integration might be unprofitable.

**California Proposition 71:** Analysis Group academic affiliate Dr. Laurence Baker and Managing Principal Bruce Deal recently co-authored an economic analysis of the costs and benefits of California Proposition 71, the Stem Cell Research and Cures Initiative. Proposition 71 was approved by California voters in November 2004.

## Terrorism Risk Insurance Report Released



Academic affiliate R. Glenn Hubbard and Managing Principal Bruce Deal recently completed a research study on the economic effects of terrorism insurance. The study is being used to inform debate on Capitol Hill over possible extension of the Terrorism Risk Insurance Act (TRIA) of 2002, and focuses on the economic and policy questions related to TRIA's pending expiration and proposed reauthorization. In previous testimony in his position as Chairman of the President's Council of Economic Advisers, Professor Hubbard wrote: "The absence of insurance coverage for terrorism risks will likely raise the difficulty of financing existing commercial structures and deter the construction of new projects." Mr. Deal participated in a forum on the same topic at the National Press Club in late October.

## Health Care Practice News

**Publications:** Health Care practice Co-Directors Paul Greenberg and Howard Birnbaum authored an article on the family burden of attention deficit/hyperactivity disorder (ADHD) in the *Journal of the American Academy of Child & Adolescent Psychiatry*. Academic affiliate Pierre Ouellette, Managing Principal Pierre Cremieux, and several co-authors have written an article demonstrating the value of pharmaceuticals that will appear in the December 2004 issue of *Health Economics*, a leading international peer-reviewed journal. Managing Principals Andrew Parece and Edward Tuttle and Vice President Anne Hector wrote an article on generic drug entry for the November issue of *Pharmaceutical Executive*. The Health Care practice is currently helping brand-name manufacturers develop strategies to deal with generic entry.

**Presentations:** Paul Greenberg, Howard Birnbaum, Andrew Parece, and several colleagues presented "Drug Treatment Patterns of Bipolar Disorder and Associated Costs," at the New Clinical Drug Evaluation Unit Conference. Pierre Cremieux, Paul Greenberg, Howard Birnbaum, and Vice President Mei-Sheng Duh spoke about maximizing the value of claims data at the International Society for Pharmacoeconomics & Outcomes Research.

## Analysis Group Report Addresses Employee Stock Option Valuation



Analysis Group Vice President Ronald Rudkin and consultant Rod Parsley recently authored "Valuation of Employee Stock Options and Other Equity-Based Instruments," published by the Research Foundation of Financial Executives International. The report addresses the key valuation issues raised by the Financial Accounting Standards Board (FASB) in its Exposure Draft on share-based compensation, and discusses the impact on equity-based compensation design. In their report, the authors determined that the modified Black-Scholes model can overstate the cost of an employee stock option by a range of 28% to 50%, compared with a properly designed binomial model.



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