the Director of Operations of the ITC stated that the EPI study in several ways misrepresents the work and the findings of the ITC's analysis.

I hope that this reply addresses your concerns. If you have any further questions, we would be happy to address them.

Sincerely,

CHARLENE BARSHEFSKY.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, there are no further amendments in order to H.R. 4444. Therefore, the 6 hours of debate time remain. It is my understanding that the debate time will be consumed tomorrow and Monday. Therefore, there are no further votes this evening. The next vote will be on Tuesday at 2:15 p.m. on passage of H.R. 4444.

I ask unanimous consent that all debate time allotted in the previous consent agreement be consumed or considered used when the Senate convenes on Tuesday, with the exception of 90 minutes for each leader to be used prior to 12:30 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Mr. President, I yield the floor.

Mr. GRAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. THOMPSON. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOY SCOUTS OF AMERICA

Mr. THURMOND. Mr. President, yesterday, the House of Representatives voted on a bill which would have repealed the Federal charter of the Boy Scouts of America. Fortunately, the bill received a mere twelve votes. However, even the consideration of such an absurd proposal concerns me tremendously.

I recognize that traditional values and institutions which uphold those values are under attack and considered out of date by some elements of our society. Unfortunately, the Boy Scouts of America is one of many fine organizations being challenged.

The Boy Scouts embody the beliefs on which the very foundation of this country was built. Since its inception in the early 1900s, this fine American institution has taught the young men of our Country about the importance of doing one's duty to God, of serving others, and of being a responsible citizen, and has in turn provided this Nation with countless distinguished leaders.

I find it disappointing that at a time when the United States is in critical need of organizations that teach our youth character and integrity, some would choose to attack the Boy Scouts of America. Few fail to recognize the hurdles today's adolescents face. Confronted by obstacles that were unimaginable in my day, Boy Scouts provides young people with the knowledge, self confidence and willpower to do what is right in difficult situations.

I commend the Boys Scouts of America for its dedication to our youth, and reaffirm my commitment to its preservation.

MICROSOFT LITIGATION

Mr. BENNETT. Mr. President, I wish to call to the attention of my colleagues an article that appeared on September 1 in the Washington Post, written by Charles Munger, who is the vice chairman of Berkshire Hathaway, on the issue of the Microsoft litigation and the impact that will have in the marketplace.

As I have considered this particular issue, as I pointed out to my colleagues, I come to the Senate unburdened with a legal education but with a background in business. Here is a businessman commenting on the implications of this litigation in a way that I think others might find interesting.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 1, 2000]

A PERVERSE USE OF ANTITRUST LAW

(By Charles T. Munger)

As best I can judge from the Microsoft antitrust case, the Justice Department believes the following: that any seller of an ever-evolving, many-featured product—a product that is constantly being improved by adding new features to every new model—will automatically violate antitrust law if: (1) it regularly sells its product at one all-features-included price; (2) it has a dominant market share and (3) the seller plays ''catch-up'' by adding an obviously essential feature that has the same function as a product first marketed by someone else.

If appellate courts are foolish enough to go along with the trial court ruling in the Microsoft case, virtually every dominant high-tech business in the United States will be forced to retreat from what is standard competitive practice for firms all over the world when they are threatened by better technology first marketed elsewhere.

No other country so ties the hands of its strongest businesses. We can see why by taking a look at America's own history. Consider the Ford Motor Co. When it was the dominant U.S. automaker in 1912, a small firm—a predecessor of General Motors—invented a self-starter that the driver could use from inside the car instead of getting out to crank the engine. What Ford did in response was to add a self-starter of its own to its cars (its ''one-price'' package)—thus bolstering its dominant business and limiting the inroads of its small competitor. Do we really want that kind of conduct to be illegal?

Or consider Boeing. Assume Boeing is selling 90 percent of U.S. airliners, always on a one-price basis despite the continuous addition of better features to the planes. Do we really want Boeing to stop trying to make its competitive position stronger—as it also helps travelers and improves safety by adding these desirable features—just because some of these features were first marketed by other manufacturers?

The questions posed by the Microsoft case are (1) What constitutes the impermissible and illegal practice of ''tying'' a separate new product to a dominant old product and (2) what constitutes the permissible and legal practice of improving an existing one-price product that is dominant in the market.

The solution, to avoid ridiculous results and arguments, is easy. We need a simple, improvement-friendly rule that a new feature is always a permissible improvement if there is any plausible argument whatever that product users are in some way better off.

It is the nature of the modern era that the highest standards of living usually come where we find many super-successful corporations that keep their high market shares mostly through a fanatical devotion to improving one-price products.

In recent years, one microeconomic trend has been crucial in helping the United States play catch-up against foreign manufacturers that had developed better and cheaper products: Our manufacturers learned to buy ever-larger, one-price packages of features from fewer and more-trusted suppliers. This essential modern trend is now threatened by the Justice Department.

Microsoft may have some peculiarities of culture that many people don't like, but it could well be that good software is now best developed within such a culture. Microsoft may have been unwise to deny that it paid attention to the competitive effects of its actions. But this is the course legal advisers often recommend in a case such as this one, where motives within individuals at Microsoft were mixed and differed from person to person. A proper antitrust policy should not materially penalize defendants who make the government prove its case. The incumbent rulers of the Justice Department are not fit to hold in trust the guidance of antitrust policy if they allow such considerations of litigation style to govern the development of antitrust law, a serious business with serious consequences outside the case in question.

While I have never owned a share of Microsoft, I have long watched the improvement of its software from two vantage points. First, I am an officer and part owner of Berkshire Hathaway Inc., publisher of the World Book Encyclopedia, a product I must admire because I know how hard it was to create and because I grew up with it and found that it helped me throughout a long life.

But despite our careful stewardship of World Book, the value of its encyclopedia business was grossly and permanently impaired when Microsoft started including a whole encyclopedia, at virtually no addition in price, in its software package. Moreover, I believe Microsoft did this hoping to improve its strong business and knowing it would hurt ours.

Even so, and despite the huge damage to World Book, I believe Microsoft was entitled to improve its software as it did, and that our society gains greatly—despite some damage to some companies—when its strong businesses are able to improve their products enough to stay strong.

Second, I am chairman and part owner of Daily Journal Corp., publisher of many small newspapers much read by lawyers and judges. Long ago, this corporation was in thrall to IBM for its highly computerized operation. Then it was in thrall to DEC for an even more computerized operation. Now it uses, on a virtually 100 percent basis, amazingly cheap Microsoft software in personal computers, in a still more highly computerized operation including Internet access that makes use of Microsoft's browser.

Given this history of vanished once-dominant suppliers to Daily Journal Corp., Microsoft's business position looks precarious to me. Yet, for a while at least, the pervasiveness of Microsoft products in our business and elsewhere helps us—as well as the courts that make use of our publications—in a huge way.

But Microsoft software would be a lousy product for us and the courts if the company were not always improving it by adding features such as Explorer, the Internet browser Microsoft was forced to add to Windows on a catch-up basis if it didn't want to start moving backward instead of forward.

The Justice Department could hardly have come up with a more harmful set of demands than those it now makes. It it wins, our country will end up hobbling its best-performing high-tech businesses. And this will be done in an attempt to get public benefits that no one can rationally predict.

Andy Grove of Intel, a company that not long ago was forced out of a silicon chip business in which it was once dominant, has been widely quoted as describing his business as one in which ''only the paranoid survive.'' If this is so, as seems likely, then Microsoft should get a medal, not an antitrust prosecution, for being so fearful of being left behind and so passionate about improving its products.

NUCLEAR WASTE STORAGE

Mr. BENNETT. Mr. President, I rise to address an issue that is of great concern to the people of my State, and, I think beyond the parochial issue, the people of the country as a whole.

Private Fuels Storage is in the process of seeking a license to store nuclear waste on the Goshute Indian Reservation in the State of Utah. Their application seeks a 20-year license with the option of extending it for an additional 20 years. This is being described as an ''interim storage'' place for nuclear waste. I have been silent on this issue up until now. But I have decided to take the floor and announce my opposition to this storage for two reasons, which I will outline. One is something that requires further study and might be dealt with, but the second and more powerful reason for my opposition is a permanent policy issue.

Let me address the perhaps less important issue first. But it is an important issue that requires consideration; that is, the location of this particular site with respect to the Utah Test and Training Range.

One of the things most Americans don't realize is that we require the Air Force to train over land. There are very few training ranges that will allow aircraft to train over land. Much of the training that takes place in the Armed Forces takes place over the water, but it is not the right kind of training experience for pilots to always have to fly over water.

The Utah Test and Training Range has a long history of service to our Nation's military. It was there that the pilots trained for the flights over Tokyo in the Second World War. Indeed, it was there that the crew of the plane that dropped the atomic bomb on Hiroshima was trained.

The proposal for the storage site at the Goshute Indian Reservation is in a location that will affect the flight pattern of Air Force pilots flying over the Utah Test and Training Range. I have flown that pattern myself in a helicopter provided by the military, and I have seen firsthand how close it is to the proposed nuclear waste repository.

There are people at the Pentagon who have said the flight path will not be affected; everything is fine. I have learned during the debate over the base realignment and closure activity that sometimes what is said out of the Pentagon is more politically correct than it is substantively correct. I have talked to the pilots at Hill Air Force Base who fly that pattern, and they have told me, free of any handlers from the Pentagon, that they are very nervous about having a nuclear waste repository below military airspace that will require them to maneuver in a way that might cause danger, and could certainly erode the level of the training that they can obtain at the Utah Test and Training Range.

I do not think we should move ahead with certifying this particular location until there has been a complete and thorough study of the impact of this proposal on the Utah Test and Training Range and upon the Air Force's ability to test its pilots.

That, as I say, is the first reason I rise to oppose this. But it is a reason that is subject to study, analysis, and examination, and may not be a permanent reason.

The second reason I rise to oppose this is more important, in my view, than the first one. I want to deal with that at greater length.

Let us look at the history of nuclear waste storage in the United States. The United States decided 18 years before a deadline in 1998 that the Department of Energy would, in 1998, take responsibility for the storage of nuclear waste. That means that through a number of administrations—Republican and Democrat—the Department of Energy has had 18 years to get ready to deal with this problem. Current estimates are that the Department of Energy is between 12 and 15 years away from having a permanent solution to this problem. I do not think that is an admirable record—to have had 18 years' notice, miss the deadline, and still be as much as 15 years away from it.

The deadline is now 2 years past, and we are no closer to getting an intelligent long-term solution to this problem than we were. Perhaps that is not true. Perhaps we are closer in this sense: That a location has been identified. Up to $8 billion, or maybe even as much as $9 billion, has been spent on preparing that location as a permanent storage site for America's nuclear waste. We are no closer politically to being ready for that. We perhaps are a good bit closer in terms of the site.

I am referring, of course, to the proposed waste repository at Yucca Mountain in Nevada, on the ground that was originally set aside and used as the Nevada Test Site. Many times people forget that. The Nevada Test Site is where we tested the bombs that were dropped elsewhere, and the bombs went into our nuclear stockpile. So the ground at the Nevada Test Site has already been subjected to nuclear exposure. The seismic studies have been done, and Yucca Mountain has been found to be the most logical place to put this material on a long-term basis. Twice while I have been in the Congress we have voted to move ahead on that, and twice the President has vetoed the bills.

Against that background comes this proposal to build an interim storage site in the State of Utah on the reservation of the Goshute Indians adjacent to the Utah Test and Training Range.

This is my reason for opposing that so-called interim site: I do not believe that it will be interim. I do not believe that. If we start shipping nuclear material to the Goshute Reservation in Utah, that gives the administration and other politicians the opportunity to continue to delay moving ahead on Yucca Mountain.

Now, how much Federal money has been spent preparing the Goshute Indian Reservation to receive this? Virtually none, compared to the between $8 and $9 billion that has been spent on Yucca Mountain.

There will be one delay after another if this thing starts in Utah. People will say: We don't need to move ahead on Yucca Mountain; we have a place we can put it in the interim. The interim will become a century, or two centuries, while the Government continues to dither on the issue of Yucca Mountain.

I am in favor of nuclear power. I believe it is safe. I believe it is essential to our overall energy policy. I am in favor of the Energy Department's fulfilling the commitment that was made in 1980 that said by 1998 the Department of Energy will have a permanent storage facility. I believe we have identified that facility through sound science, through expenditure of Federal funds, through every kind of research that can be done, and we are ignoring, for whatever political reason, the opportunity to solve this problem at Yucca Mountain while we are talking about an interim solution at the Goshute Reservation.

It is simply not a wise public policy to say that since we cannot solve the permanent problem, we will find a backdoor way for a stopgap interim solution. The stopgap interim solution