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# TELEVISION DIGEST WITH CONSUMER ELECTRONICS

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**BUSH BUDGET PUZZLES INDUSTRY WITH SPECTRUM AUCTION 'SHIFT':** Wireless and broadcasting industries and their regulators were caught offguard last week when Bush Administration proposed still-murky multibillion-dollar initiative to hasten broadcasters' departure from analog spectrum — including resurrection of "lease fees" charged to broadcasters who keep analog spectrum up until 2006. White House first revealed proposal as spending offset in tables in back of "budget blueprint," which otherwise didn't mention FCC or telecom issues even once. By end of week, our sources still were trying to figure out exactly what policy shift was being contemplated. Fuller budget book with line items and explanations isn't expected until April.

Congressional telecom leaders at first reacted very harshly, in part because Administration had failed to warn them such momentous proposal was coming. Some said plan, which assumes Treasury would gain \$7.5 billion over 5 years by delaying auction of analog spectrum to wireless companies, seemed motivated more by attempts to free up money for tax cuts than sound telecom policy. They predicted quick defeat in debacle that probably would teach Administration lesson about talking with them before assuming such far-reaching proposal would gain quick acceptance. "They're just looking for extra money to pay for their excessive tax cuts," said aide to House Telecom Subcommittee ranking Democrat Markey (Mass.): "The job for Telecom Subcommittee members is to make sure these plans make sense for telecom." Another staffer said chances of plan's passing Congress were "infinitesimal" and predicted that it would be greatly scaled back when full budget book is released in April.

That's not going to happen, Administration official told us. In addition to giving more details about plan, White House next month will submit to Congress proposed legislation authorizing FCC to delay current 2002 deadline for auctioning spectrum currently used for TV analog channels 52-59, Administration official confirmed. "We proposed shifting [auction] to 2006," official said. "We believe it makes more sense to auction the spectrum when it's closer to use."



Broadcasters aren't obligated to give up those channels until 2006, when DTV transition is presumed by current law to be complete. Current 2002 deadline was set by 1997's balanced budget act, when Congress needed those assumed auction revenues to make numbers add up, official said, and "the budgeting situation has changed since then," with surpluses expected this year and for foreseeable future. Official defended changes against accusation that they were motivated by tax cut needs: "We believe it to be rational policy."

Administration also will propose plan to promote quicker clearing of analog channels 60-69 for wireless companies, official said, "while making sure broadcasters are compensated." Official promised plan would "make the situation clearer [for companies] than under the FCC's rules now," but declined to give further details. Commission would gain authority to push auction deadline for channels 60-69 back as far as 2004, official said, but wouldn't necessarily be required to do so. Budget assumes auction will prove more lucrative closer to date when wireless companies can use spectrum. Listed as budget offset for FY 2002 is \$2.6 billion lost to "shift spectrum auction deadlines and promote clearing." Another \$1 billion would be dedicated to item in FY 2003, but then \$5.1 billion revenue would be gained in FY 2004, \$2 billion in FY 2005 and \$4 billion in FY 2006. Previous Congressional Budget Office estimates have been that auctions through 2010 would bring in \$28 billion. Administration official said White House was working off different baseline figure, but one that wasn't far off Budget Office's.

Meanwhile, Bush plan appeared to resurrect "lease fee" for broadcasters staying on analog spectrum before they were required to give it up for DTV in 2006. Like similar plans floated by Clinton Administration, FCC ex-Chmn. William Kennard and previous Bush Administration, White House would take in \$200 million annually from broadcasters until 2006. "This will spur broadcasters to give up the spectrum sooner rather than later," Administration official said. Plan is slightly different from one offered by Clinton (and quickly killed by Congress) in that \$200 million taken in from broadcasters no longer was scheduled to go directly to agencies to upgrade public safety communications equipment. Money would go into general revenues instead, official said.

Hill leaders torpedoed idea of charging broadcasters "lease fee" when it was promoted by Clinton Administration, and they said they had every intention of being consistent. Lease fees "are still a bad idea under the Bush Administration," said Ken Johnson, spokesman for House Commerce Committee Chm. Tauzin (R-La.). He said Commerce Committee was giving much attention right now to why DTV transition wasn't happening on schedule, and "the last thing we need to do is begin penalizing broadcasters who are already experiencing difficulties trying to make digital work." Johnson said it wasn't clear that some broadcasters ever would be able to give up analog spectrum: "Right now there simply isn't a business plan that makes sense for a small television station."

Hill staffers were even more critical of process by which policy was reached without consulting them. "We're a little chagrined to have learned about this plan from the press and not the Administration itself," Johnson said. "Once Congress kills it, they'll remember to call us next time... We're going to dismiss it as part of the learning process." We contacted several leading telecom staffers, and none of them had been consulted. Bush people "don't understand how relationships work on the Hill," said one staffer. "That has been communicated." Staffer said it still wasn't clear "who's calling the shots over there... It's probably some junior staffer saying, 'I know how'" to raise money for tax cuts.

White House officials acted quickly to quell criticisms on Hill, and by end of week it appeared lawmakers were willing to at least listen to proposal to delay auction, if not one to charge lease fees. "The idea of spectrum fees [for broadcasters keeping analog spectrum] is probably DOA," Johnson said, but Tauzin staffers were finding that in rest of package "there appears to be some merit to parts of it... It certainly opens the door to at least some discussion." Johnson said several Committee staffers were preparing to brief Tauzin fully on issue this week, at which point he may be ready to take position, "consulting with [Telecom] Subcommittee Chmn. Upton" (R-Mich.). "The Administration has indeed been in contact with our office," said spokesman for Senate Communications Subcommittee Chmn. Burns (R-Mont.), who has ambitious spectrum plans of his own. "We're confident that everything is going to be worked out," he said: "There's a lot of communication going on right now." Spokesman said Burns wasn't ruling out plan to delay spectrum auctions. "We're willing to work with the Administration and see what can be done," he said, adding that "the devil will be in the details."

Broadcasters were struggling to take unified position. "We're still studying the proposal," NAB spokesman said. Source said some broadcasters with lower audiences (Paxson was mentioned) might "want to get out early" from analog spectrum and "get their money from the wireless carriers." On other hand, we're told, for stations whose primary asset is large audience, such as CBS affiliates, it may be attractive to delay loss of analog spectrum as long as possible.

Wireless companies seemed more enthusiastic. "Anything that can be done to speed the clearance of spectrum is a step in the right direction," CTIA Pres. Thomas Wheeler said. While policymakers and lobbyists were scratching their heads on exact meaning of language, FCC officials said OMB had been in touch with agency beforehand with questions on auction and other issues.



**APPEALS COURT REJECTS CABLE OWNERSHIP LIMITS:** FCC's limits on cable horizontal and vertical ownership don't meet the requirement of not burdening more speech than necessary, unanimous U.S. Appeals Court, D.C., said March 2 in reversing and remanding limits to Commission. FCC rules say no MSO can own cable systems with more than 30% of national cable subscribers, and programming in which MSO has attributable interest can fill no more than 40% of channels on cable system. Appeals court also said FCC should consider growth of DBS in setting ownership limits.

Unless decision is overturned on new appeal, it would appear to end need for AT&T to divest either its 25.5% of Time Warner Entertainment (TWE) or cable systems with 9.7 million subscribers in order to get under limit. TWE also had hoped to overturn attribution rules. Spokesman would say only that "it's a very good day for cable operators' First Amendment rights." AT&T issued statement saying it was "pleased" with decision but planned no further comment until it had reviewed opinion.

One senior FCC official said no decision had been made on whether to appeal decision: "It's much too early. We're still digesting it, but I am sure it will be the subject of many debates and meetings." Next step for Commission should be to open rulemaking on overall ownership issue, FCC Comr. Furchtgott-Roth told us. He said comments were needed because "clearly what we have done in the past is not adequate. The courts often get it right, and this is one of those times." Furchtgott-Roth said appeals court "is telling the Commission that there is a heavy burden" to defend ownership limits.

Decision "is an enormous loss and a devastating blow to consumers," said Consumers Union Washington head Gene Kimmelman. He said it "creates a greater incentive for cable companies to limit programming choices." Consumer groups will ask FCC to "move as quickly as possible" to set new ownership limits, Kimmelman said. NCTA Pres. Robert Sachs said his association wasn't party to case but "in general [it] favors the use of antitrust rules" rather than "artificial caps" on ownership.

In decision on Time Warner vs. FCC, court concluded that 30% horizontal limit exceeded FCC's statutory authority because Commission didn't show that number was minimum needed to assure that new programmers could get adequate carriage. It agreed with Commission that ability to reach 40% of national audience was enough to make cable network successful, but rejected agency's premise that 30% limit was needed so network success would be possible even if 2 MSOs, each with 30% of national audience, colluded. Opinion said there was no sound evidence in record of likelihood of such collusion: "The only justification that the FCC offers in support of its collusion hypothesis is the economic commonplace that, all other things being equal, collusion is less likely when there are more firms." Opinion seemed to indicate that 60% ownership limit might be acceptable.

If FCC revisits horizontal ownership rules, "it seems clear that..." the Commission will have to take account of the impact of DBS on market power," court said. Cable had claimed that it was arbitrary and capricious for FCC to discount competitive effect of DBS. Court said it was significant that DBS was able to "pass every home in the country."

On 40% vertical limit on cable network carriage, court said FCC "seems to have plucked the 40% limit out of thin air." Opinion cited agency conclusions that MSOs didn't seem to have favored their own programming and that vertical relationships with programmers had improved quality and quantity of programming. "Yet the Commission seems to ignore its own conclusions about the cable companies' incentives and constraints, and the dynamics of the programming industry," court said.

Court did uphold FCC's attribution rules for cable ownership of programming services, which are based on broadcast TV attribution rules. Rules say person or entity has attributable ownership if it has 5% of voting stock or 33% of combined debt and equity. Court said FCC's justification for those figures was "adequate."

Opinion was written by Judge Stephen Williams, joined by Judges Raymond Randolph and David Tatel.

**FCC Chmn. Powell** appointed Mary Beth Richards to spearhead "comprehensive FCC reform project." Richards, who was given title of special counsel, moves from deputy managing dir. Appointment is first step in Powell's plan to overhaul agency's operations (TVD Feb 26 p2). In announcing Richards's appointment Feb. 26, Powell said his goal was to make Commission "more efficient, more decisive and more responsive" to changes in technology. Richards, 17-year veteran of FCC, frequently has been tapped for task forces on organizational changes. Powell "takes this very seriously," she said.

**FTC appointed ex-FCC official Dale Hatfield** as its monitor trustee to oversee AOL-Time Warner merger, as expected. Monitor authority was part of consent decree companies signed in Dec., which requires merged entity to add at least one independent ISP to its cable systems before adding AOL, and 2 more after. Trustee also will deal with other technical issues, such as capacity constraints. Hatfield recently restarted his Boulder, Colo., consulting business after retiring as chief of FCC Office of Plans & Policy. He's also ex-staffer of Commerce Dept.



**GEOCAST SHUTS DOWN:** Facing “market environment that was simply not conducive to our efforts” to secure additional funding, Geocast Network Systems announced March 1 that it was ceasing operations, effective immediately. In e-mail to investors and employees late Feb. 28, Chmn.-CEO Joseph Horowitz cited “adverse economic conditions” as reason for closure. He said Geocast would “retain only a small skeleton staff to conduct a sale of our assets.”

Large TV station groups and manufacturers were among Geocast partners who invested up to \$10 million each in company set up to develop nonbroadcast uses for portion of digital spectrum. “Geocast had a tremendous vision and the talent to build to that vision,” Horowitz said. He told investors, which included TV groups Allbritton, Belo, Hearst-Argyle and Liberty Media and manufacturers Philips and Thompson, “we are... deeply saddened to disappoint you with this outcome.”

Some of Geocast investors told us demise of Geocast wasn't expected to slow their planning for future nonbroadcast use of digital spectrum. Jerald Fritz of Allbritton Communications said “extraordinary time and effort” had been extended in searching for ways to “monetize” spectrum usage. “We're now reviewing other options, including program distribution, data applications and broadband, high-speed, last-mile Internet providing,” he said. Hearst-Argyle's David Barrett said “we'll wait and see what other opportunities are out there. There's no urgency to act now... We still strongly believe that our digital spectrum has real value for the future.”

With hq in Menlo Park, Cal., Geocast said it had built new platform “that enables the efficient delivery of personalized broadband services to the PC and television.” However, Horowitz said company needed additional funding, which wasn't available, to deliver “a truly revolutionary new technology platform. Company had raised \$80 million by last spring and had 190 employees. Geocast's original plan was to deliver package of personalized broadcast-quality programming, video-text and graphics for storage in home computers.

Washington observer said he wasn't surprised by Geocast's failure, saying it was relying on “totally new proprietary technology and to do that you have to have deep pockets.” Executive who decided not to invest in Geocast told us it also had “a very high overhead operation... with too many employees.” It had acquired much of technology developed by Datacast Inc. (principal backer of which was LIN TV), which had failed several years ago and was formed for purposes similar to Geocast. Datacast executive John Abel, a former NAB exec. vp, also had gone to Geocast, whose COO was Charles Jablonski. Anita Wallgren, former FCC official and onetime member of NAB TV board, reportedly was individual left at Geocast to sell off its assets.

Other new technology companies recently formed by broadcasters in business of planning for TV stations' use of digital spectrum include iBlast — funded by several large groups, including Cox, Gannett, Media General, Meredith, N.Y. Times, Post-Newsweek, Scripps, Tribune Co. — and Bcstrs.' Digital Cooperative, whose partners are mostly TV groups, such as Benedek Bcstg. and Granite Bcstg., with stations in smaller markets. Big 4 TV networks are making their own plans, as yet unannounced, and are urging affiliates not to tie up their spectrum in advance to entities such as Geocast and iBlast. Some Geocast employees may wind up with jobs at iBlast, Pres. Michael Lambert said: “We're talking to some of them... but we're not aggressively going after them.”

**DIRECTV OPPOSES MUST-CARRY:** DirecTV filed petition asking FCC to reconsider DBS must-carry rules for local TV stations, saying they would force DBS to carry too much “duplicative programming” and were “unfair” when compared with cable. Filing is latest challenge by DBS industry to overturn laws governing local carriage of signals by satellite companies (TVD Dec 11 p5). Must-carry rules require satellite companies to carry all TV stations in markets where they provide local channels via satellite. Satellite Bcstg. & Communications Assn. (SBCA), DirecTV and EchoStar are challenging requirement in federal courts.

“There is no question that the statutory requirements themselves are very cumbersome” for DBS carriers and Commission was limited in what it could do to “remedy the problem,” DirecTV said in FCC filing. DirecTV said FCC rules “unnecessarily and impermissibly create burdens on satellite carriers” and “barriers to the expansion” of local channel offerings that exceed what Congress intended. Company also wants FCC to overturn provision prohibiting DBS companies from requiring subscribers to buy additional equipment if TV stations in their market are carried on different satellites. Law “does not and was not intended to prohibit” DBS companies from offering local-into-local services from multiple locations with multiple dishes, if necessary, “where it makes business and technical sense to do so,” filing said.

DirecTV said it didn't want to carry vertical blanking interval (VBI) and if forced to do so, it would have to pay up to \$2.8 billion to provide new boxes for nearly 10 million subscribers. “Under no circumstances should the Commission require a satellite carrier to replace many of the millions of set top boxes and receivers in use today, and to modify its entire processing and decoding system,” so VBI technology can be used, filing said. In addition, DirecTV wants broadcasters to maintain higher quality signal standard for DBS than for cable, saying current standard is too low and doesn't “allow satellite carriers to make efficient use of their allocated bandwidth and that will increase the likelihood of signal degradation.”

Meanwhile, News Corp Chmn. Rupert Murdoch said “due diligence” had slowed negotiations with DirecTV, which now were “moving slowly.” He admitted in Front Row Conference sponsored by *Variety* in N.Y.C. Feb. 27 that deal might take longer to finalize than some earlier reports had suggested. Some industry analysts had predicted deal would be completed more than week ago, but latest Murdoch comments would seem to indicate no deal was imminent. He didn't elaborate on status of talks, but indicated both sides were making thorough inquiry into and review of individuals and records involved in transaction. Industry reports indicated Microsoft might be involved in 3-way due diligence process, which could also have complicated situation in last few days. GM also denied deal with Murdoch was close to completion.

**Senate Commerce Committee Chm. McCain (R-Ariz.)** introduced bill (S-404) aimed at reversing “anti-low-power FM [LPFM] radio language” attached to appropriations legislation last year. Bill would: (1) Enable FCC to license LPFM stations and reject licenses only for stations “whose transmissions are actually causing harmful interference to a full-power radio station.” (2) Require FCC by Feb. 23, 2002, to complete all necessary rulemakings implementing full-power stations' transition to digital broadcasting. (3) Direct FCC to identify stations causing interference and how LPFM stations could resolve interference problems. Bill would repeal language in last year's appropriations bill that killed LPFM initiative, thereby restoring Sec. 336 of Communications Act.



**AT&T SHEDS CABLE SYSTEMS:** Disposing of more assets, AT&T agreed last week to sell cable systems and other assets valued at about \$5 billion, in several deals, and was considering offering its 25.5% stake in Time Warner Entertainment (TWE) to public. AT&T already has shaved debt load to \$46 billion from high of \$65 billion last year. Analysts still expect company to take further steps to pare down its debt, including spin-off of its Liberty Media programming unit and sales of its stakes in Comcast, Cablevision Systems and European wireless operations that it inherited from MediaOne.

Agreement with Charter calls for AT&T to sell cable systems in St. Louis area, Reno region and parts of Ala. with total of 574,000 basic cable subscribers for \$1.79 billion. AT&T will receive slightly more than \$1 billion cash and up to \$500 million in Charter common stock for its properties. AT&T also gets 2 cable systems in Miami Beach and Sebastian, Fla., with total of 62,000 customers. Companies said they expect deal to close in 2nd or 3rd quarter.

AT&T Broadband Pres. Daniel Somers said deals will "further our strategy of clustering in larger markets." He said south Fla. cable systems "will complement our current cluster there quite well." AT&T has been seeking to shed its "nonstrategic" systems in other areas to concentrate on large cable markets where it dominates, such as Atlanta, Boston, Chicago, Denver, San Francisco, Seattle, south Fla.

Charter executives, who hailed net gain of 512,000 subscribers in transaction, said deal would give them nearly total control of their St. Louis hq market with 530,000 customers. As result, they aim to explore creating regional cable sports channel and regional news channel in St. Louis area, similar to Comcast in Philadelphia and Cablevision in N.Y.C. Charter officials said they also would become dominant cable provider in Birmingham area with 175,000 subscribers and sole provider in Reno market with 150,000 customers. In addition, they said, they will pick up 104,000 digital cable and 14,000 high-speed data subscribers. "All these systems are top-notch, high-quality properties," said Charter Pres. Jerry Kent, who stressed that St. Louis systems would become "our flagship operations."

As for its 25.5% TWE stake, AT&T said it had formally requested right to convert limited partnership into corporation and create equity securities with voting rights for investors, even though market conditions for such sale are now considered unfavorable. AT&T filed registration with SEC under terms of TWE partnership agreement that it inherited from MediaOne as part of its effort to heighten pressure on AOL Time Warner. AT&T reportedly has sought to sell its minority interest back to AOL Time Warner for at least \$9-\$10 billion but sides haven't been able to agree on terms for months. AT&T said it planned to continue its discussions with AOL Time Warner to reach negotiated settlement and both sides have agreed to suspend action on TWE registration process until March 15.

AT&T agreed to sell cable systems in 4 states to Mediacom Communications and its 10% stake in Japan Telecom to Vodafone. Separate deals will allow AT&T to pocket more than \$3.5 billion in cash. Pact with Mediacom calls for AT&T Broadband to sell smaller and rural cable systems in Ga., Ia., Ill. and Mo. with total of 840,000 subscribers for \$2.215 billion. While some systems such as Des Moines have more than 100,000 subscribers, AT&T officials said they didn't fit with their concentration on such regions as Atlanta, Boston, Chicago, Denver, San Francisco, Seattle. AT&T and Mediacom said

they expected deal, approved by both boards, to close in 2nd or 3rd quarter.

Besides raising money for AT&T, transaction will more than double Mediacom's size to 1.6 million basic cable subscribers, catapulting it past Insight Communications into 8th place on list of biggest MSOs. Mediacom officials said deal would make their company largest MSO in Ia. and provide them with "tremendous synergies" in Ga., Ia., Ill., Mo. Mediacom also will pick up 214,000 digital cable and 50,000 high-speed data subscribers from AT&T, significantly boosting its customer totals for both new services. "This is a plateful right now," said John Pascarelli, senior vp-mktg. and consumer services.

Vodafone will pay AT&T \$1.35 billion in cash for its 10% stake in Japan's 3rd largest telco, Japan Telecom. AT&T expects deal to close in April and to split proceeds evenly between AT&T and AT&T Wireless. Vodafone said it would hold 25% of equity of Japan Telecom, which owns wireless unit J-Phone Communications and regional wireless operating companies. AT&T bought stake in Japan Telecom in 1999 for \$612 million as part of transaction in which it and Concert venture partner British Telecom together would hold 30% of Japanese carrier.

AT&T was expected to divest its share following NTT DoCoMo's move last year to take 16% stake in AT&T Wireless for \$9.8 billion. Transaction is conditioned on AT&T's delivering shares at end of April. AT&T said its net proceeds were expected to be about \$1 billion.

**CBS TV Pres.** Leslie Moonves said network never based business decision on any recommendation by former President Clinton. In teleconference with reporters on Feb. sweeps, he was asked about *Wall St. Journal* report that CBS had paid disputed fee to producer and close Clinton friend Linda Bloodworth-Thomason shortly after Clinton had intervened on her behalf with Moonves. CBS executive said Clinton was good friend and they had "many conversations" in recent years, but those talks had no influence on CBS decisions. Of lawsuit by former *Survivor* contestant Stacey Stillman charging CBS with fraud, Moonves said suit was "totally unfounded." He suggested reporters consider "the ridiculousness of some of her statements." He said XFL Football on NBC had done some innovative things "I like... as a viewer," citing camera work in particular. Asked whether it would survive as prime-time program, he said: "I don't want to talk much about the XFL. That's NBC's issue." As for possibility of strike by Writers Guild of America against network, he said that "I'm guardedly optimistic" there would be no strike, that it was encouraging talks were continuing beyond union's original deadline and that "there's some progress being made." Moonves called teleconference to proclaim CBS's first Feb. sweeps win since 1998, saying it was "quite a wide victory and we have an awful lot to brag about."

**Pegasus Communications** completed its reorganization by merging its current businesses under one holding company with same name, with old company, renamed Pegasus Satellite Communications, becoming subsidiary of new entity. Pegasus Broadband Communications will operate broadband and TV Internet access as subsidiary under Pegasus Satellite, which also will control DBS and broadcast TV. New holding company said all new stock had been tendered by 5 p.m. deadline Feb. 21.



**'FULL' MUST-CARRY SOUGHT:** Broadcasters told Senate Commerce Committee March 1 that most important action FCC could take to facilitate swift and successful transition to DTV would be to impose full must-carry obligations on cable, move that cable said would be neither lawful nor technically feasible. Committee Chmn. McCain (R-Ariz.) said hearing was to move beyond "finger pointing" among broadcast, cable and consumers, which blame one another for "dearth of digital programming." Although they presented various solutions to ensure industry meets its mandated 2006 DTV transition deadline, all continued to blame others for delay.

"Like us, many other broadcasters including public television stations believe that the capability to multicast several programming services is the key to their use of the digital spectrum," Paxson Communications CEO Jeff Sagansky said. "But we need the assurance that our multiple free, over-the-air programming services will be received by 70% of the homes in this country that are served by cable and satellite. They are the gatekeepers."

Sagansky and NAB Board Chmn. Ben Tucker seek congressional action to ensure full DTV must-carry, which FCC hasn't imposed (TVD Jan 29 p2). "Getting that access means we need cooperation from all the parties — the FCC, the cable industry and consumer electronics manufacturers," Tucker said. "The FCC has the authority to resolve the regulatory issues, but Congress must oversee this transition and take necessary steps to make it happen."

NCTA Vice Chmn. Michael Willner said cable shouldn't be scapegoat for broadcasters, whom he said hadn't developed DTV business plans or determined how much spectrum should be devoted to "free" TV. "Cable will continue to provide consumers complete access to the broadcast channels they enjoy today," said Willner, Insight Communications CEO. "But we are not prepared, nor do we believe the law requires us, to carry duplicative versions of each and every broadcast station."

Consumer Federation of America Research Dir. Mark Cooper proposed Congress auction off digital spectrum licenses "to the highest bidder." He said proceeds from auctions "should be placed in a trust fund used for locally developed civic, public interest and culturally relevant content, and recommended Congress set aside part of spectrum for noncommercial programming. Cooper criticized industry proposals that would benefit broadcasters but not necessarily consumers. He said proposals that "would increase windfalls enjoyed by the broadcasters, like mandating the production of television sets with digital tuners, guaranteed space on cable systems or broadcaster efforts to lower fees for ancillary uses of spectrum, are absurd."

**Electricity failures** could damage Internet economy, energy industry leaders told Energy Secy. Spencer Abraham in letter calling for creation of \$2 billion National Energy Reliability Initiative. Although most signatories were from energy industry, they also included Verizon CEO Ivan Seidenberg, USTA Pres. Gary Lytle, Silicon Valley Mfg. Group Pres. Carl Guardino. Growing concern on unreliable energy supply also was evident at Feb. 27 meeting of FCC's Network Reliability & Interoperability Council. In special presentation, MidAmerican Energy CEO Gary Hoogeveen warned telecom executives that U.S. was facing crisis in availability and reliability of power supply that could have serious consequences for telecom industry.

**Fourth U.S. Appeals Court**, Richmond, should rehear Internet copyright infringement suit because its decision would place undue burden on Internet service providers (ISPs), according to amicus brief filed by Inktoni, U.S. Internet Industry Assn., Verizon. Appeals Court in Nov. decided RemarQ Communities must remove allegedly copyrighted material from its service even though copyright holder, adult Web site ALS Scan, didn't comply with all conditions of Digital Millennium Copyright Act (DMCA). It said DMCA notice provisions requiring ISPs to remove copyrighted material was result of "an ardously negotiated notice and takedown procedure" by which Congress carefully balanced interests of parties. Appeals Court said RemarQ was provided with adequate notice of copyright violation, even though notice didn't meet 3 of 6 requirements.

**FCC's EEO rules** shouldn't have been overturned entirely just because U.S. Appeals Court, D.C., objected to one portion of them (TVD Jan 22 p2), Commission said in petition for rehearing or en banc hearing. Petition, filed March 2, said federal agency was entitled to have provisions treated as severable "when it clearly states its intent and when such intent is rational." Minority Media & Telecom Council and civil rights groups also were expected to file notices of appeal after our deadline. FCC said it could institute proceeding to set EEO rules without "offending provision," but that would waste agency's resources and could lead to additional litigation. Commission said so-called "Option B" rejected by court wasn't essential to its EEO rules, but was "adopted at the request of broadcasters to provide them with additional flexibility." FCC Comr. Tristani supported petition, but said she was "disappointed" that agency declined to seek review of entire Appeals Court decision, rather than just bid to retain Option A.

**Prospect of strike** against TV programmers and movie makers in spring increased greatly March 1 when talks between Writers Guild of America and Alliance of Motion Picture & TV Producers broke off after 6 weeks of negotiations. Both sides agreed principal issue centered on writers' residuals for TV reruns and for cable, DVD, videocassettes. Guild contract with Alliance expires May 1. Studio negotiations haven't started yet with 2 other unions — Screen Actors Guild and American Federation of TV & Radio Artists — whose contracts expire June 30. If TV-film industry is shut down, L.A. economist estimated it would cost city's economy \$250 million per week.

**Over-air TV** had 52% more viewers than ad-supported cable channels for first 6 months of current TV season, TV Bureau of Advertising (TvB) reported. Citing Nielsen figures, TvB said TV stations posted 40.3 rating in Feb., up from 39.3 in Jan. — while cable's rating dropped to 24.9 in Feb. from 26.2 in Jan. For year-to-date, TV viewing has had average rating of 38.8, cable 25.5, TvB said.

**House Telecom Subcommittee** has scheduled its next 3 hearings. On March 8, panel will review educational technology, which is of special interest to new Chmn. Upton (R-Mich.), Rm. 2322, Rayburn Bldg. On March 15, it will look at DTV, getting "Private Sector Perspective on the Transition." On March 29, it will review new FCC Chmn. Powell's agenda and plans for FCC reform. Latter 2 hearings will be in Rm. 2123, Rayburn.

**For 3rd time** in 3 weeks, FCC Comr. Tristani objected to Enforcement Bureau decision not to investigate indecency complaint. Latest case involves complaint that show on WGR(AM) Buffalo repeatedly referred to urination. "I am at a loss to explain the failure to even seek further review," Tristani said.



**DARS ISSUE RAISED:** AT&T Wireless told FCC that viability of its much-touted Project Angel could be “seriously” undermined if satellite digital audio radio service (DARS) operators use high-power terrestrial repeaters without interference limits. Project Angel is broadband fixed wireless offering from AT&T that uses single remote unit to provide wireless local area network. Satellite DARS licensees such as Sirius Satellite Radio, meanwhile, said authorization plan proposed by AT&T Wireless would be onerous and wasn’t necessary because interference as outlined by WCS licensees wasn’t problem.

AT&T’s warning came in latest volley of rival regulatory filings by satellite DARS and fixed wireless companies on repeater issue. Satellite DARS operators told FCC high-power repeaters wouldn’t interfere significantly with wireless operations, including Wireless Communications Services (WCS). But AT&T, which is starting fixed wireless Project Angel offering more broadly, said last week rules backed by satellite DARS licensees “would essentially appropriate the WCS spectrum.”

Satellite DARS terrestrial repeaters are used to bridge gaps caused by terrain or buildings in urban canyons and other areas where satellite signal can’t penetrate. WCS licensees have said they don’t object to low-power repeaters at or below 2 kw, but have concerns about high-power repeaters in range of up to 40 kw. Data submitted by Sirius, which like XM Satellite Radio plans to deploy service by end of year, show signal strengths from repeaters that are well below threshold, company has told FCC. Sirius said there was lack of engineering basis to back up what it called “irrational opposition” of fixed wireless providers.

High-power repeaters would be coordinated with WCS licensees on site-by-site basis before licensing. AT&T said issue was that WCS spectrum surrounded satellite DARS spectrum. Concern is over satellite DARS licensees’ “request to use adjacent frequencies at a power level twenty times higher than its own” and without coordination requirements, AT&T Wireless said.

Sirius Senior Vp-Gen. Counsel Patrick Donnelly countered AT&T Wireless claims of “number creep” in number of high-powered repeaters that company has planned: “Our plan hasn’t changed since we started.” Repeaters have been operating in Houston, N.Y.C. and San Francisco “and no one has knocked on our door with any interference concerns” in those areas. While not commenting on details of AT&T Wireless proposal, Sirius doesn’t generally favor type of authorization regime AT&T Wireless proposed last week, Donnelly said. Proposal would put “onerous” burden on satellite DARS operators and “we don’t think there’s interference to require site-by-site licensing,” he said.

While WCS concerns on repeaters remain, interference issues raised by MMDS and ITFS licensees appear to be largely worked out, although several details must be resolved, sources said. In ex parte filing at FCC late last month, Wireless Communications Assn. (WCA) said satellite DARS operators could install more than 1,000 high-power terrestrial repeaters under rules proposed by DARS operators. While balking at DARS’ proposed rule, WCA told agency at time that it could support more limited approach. DARS officials said then they didn’t plan to use 1,000 high-power repeaters but rules were designed to provide some flexibility. Sirius has said it plans to use only about 100 high-power repeaters. One MMDS industry source said interference issues of those licensees had largely been removed, although some details still were under discussion.

**BELO BULLISH ON INTERNET:** There is “a business in the business of new business,” Belo CEO Robert Decherd said in bullish speech on traditional media’s future in Internet-related activities. Speaking in Dallas at Interactive Newspapers Conference, he said consumers were turning increasing to Internet for their news and information, confirming media’s role in advancement of interactive and online information: “We brought content to the radio spectrum and consumers followed. We brought content to the television spectrum and consumers followed. We are bringing content to the Internet and consumers are following.”

With many companies, including TV networks, scaling back their Web-related activities, Decherd said: “This is not a time for retrenchment. This is a time for well-managed entrepreneurship, for calculated risk-taking.” He emphasized 4 essential components: (1) Focus on consumer. (2) Preserve “our advantage of localism.” (3) Prepare offerings adequately for broadband. (4) “Practice excellence in journalism online.”

Belo Interactive became separate division in May 1999 to “extend and expand Belo’s news product online,” Decherd said. Company has been aggressive in developing new interactive products for consumers, he said — individually and through alliances with other companies. He said Belo managed 37 separate Web sites on “a broad range of Internet-related products.” In 2000, “hits” on Belo sites grew to 71 million in Dec. from 23 million in Jan., with number of “visitors” jumping to 4.9 million from 548,000 monthly.

Meanwhile, The Media Audit released survey reporting that Web sites of TV affiliates were competing effectively with newspaper sites. In 4 markets — Cincinnati, Denver, Des Moines and New Haven — TV stations have overtaken newspaper Web sites in their use by consumers, Media Audit said, and are close 2nd in several other markets. Study also found that local media were beginning to take Web seriously, Media Audit co-Chmn. Robert Jordan said. Most successful TV Web site is operated by WRAL-TV Raleigh-Durham, which has attracted hits by 19.4% of adult viewers, followed by WCPO-TV Cincinnati with 15.8%.

**U.S. Copyright Office (CO)** expects to open inquiry into copyright compulsory licensing for streaming media within next week, said CO attorney Bill Roberts. Inquiry is first step in potentially setting rules that will “determine a lot of how music is delivered in the future over the Internet,” Roberts told Precursor Group conference in Washington. CO expects to allow about 45 days for comments, 30 days for replies, then decide whether to proceed to rulemaking or issue final rule, he said. Generally, CO doesn’t like idea of compulsory licenses, Roberts said, “but we keep adding them.” He said he preferred that industries involved work out their own solution and use compulsory licenses “only when absolutely necessary.” Industry agreement such as licensing by ASCAP and BMI would be good, Roberts said: “I have never understood why they couldn’t have set up a group like that to eliminate the need for a compulsory license.” Application of copyright and telecom law to Webcasting “will get a lot of attention” in Washington, attorney Richard Wiley predicted. Broadcasters failed to convince Congress last year to include prohibition on compulsory licenses for streaming broadcast programming on Internet, he said, but “I’m sure we’ll see another attempt.” Cable open access also will get lot of attention in Congress this term, Simon Strategies Pres. Gregory Simon predicted, although he acknowledged significant legislation might not actually be enacted.



## Personals

**Barry Drake** resigns as CEO, Sinclair Bcst. Group TV Div... Changes at Gannett: **Samuel Rosenwasser**, ex-KXTV, Sacramento, and **John Remes**, ex-KARE, Minneapolis, named senior vps, Gannett TV; **Russell Postell** succeeds Rosenwasser at KXTV... **Bryan Scanlon** promoted to senior vp, Schwartz Communications... Changes in NAB board: **Alex Snipe**, Glory Communications, representing Dist. 6 (N.C., S.C.) and **John Barger**, Victoria Radio Works, Dist. 18 (southern Tex.) join board, replacing **David Alpert** and **John Cullen**, respectively... Changes at North American Bcstrs. Assn.: **José Suarez**, TV Azteca, elected pres., replacing **Bruce Cowie**, CTV; **Andrew Setos**, News Technology Group and **Peter Smith**, NBC, appointed vps... Elected to Media Institute board: **Jill Lester**, senior vp-domestic public policy, AOL Time Warner, and **Gregory Schmidt**, LIN TV... **Deborah Kilmer**, ex-Commerce Dept., named vp-govt. relations, CPB.

**Christine Miller**, Discovery.com, moves to exec. vp-mktg., Discovery Networks... **Douglas DePriest** promoted to vp-production and development, Travel Channel... **Eduardo Ruiz** adds pres.-international business development to pres.-Weather Channel Latin America for Weather Channel... **Amy Girwood** promoted to vp-international human resources, Discovery Networks International... **Michael Rauch** advanced to exec. vp-production, Showtime Networks... Changes at USA Cable: **Ray Giacobelli** promoted to senior vp-research; **Andrew Cohen**, ex-CBS News, named vp-original production; **Kris Slava**, ex-A&E Network, appointed vp-acquisitions and scheduling for new Trio network... **Lois Richerson**, dir.-govt relations, NCTA, moves to dir.-public affairs-education... **Scott Barton**, ex-On Command, named dir.-subscription video-on-demand, Starz Encore... **Madie Gustafson**, ex-AT&T Broadband, named partner, Cole, Raywid & Braverman.

**Ronald Ham**, ex-Software Development Partners, named vp-ad systems engineering, SeaChange International... **Adrianna Jones** advanced to dir.-N. American Telecom Sales, Artel Video Systems... Elected to Medscape board: **Thomas Croskey**, GM, and **Andrew Heyward**, CBS News... Changes at Wiley, Rein & Fielding: **Gregory Cirillo** and **Daniel Hassett**, partners, and **Christopher Mills**, assoc., Williams, Mullen, Clark & Dobbins, join firm... Changes at RealNetworks: **Scott Ehrlich**, ex-Rival Networks, appointed vp-programming; **Gary Drucker**, ex-Diego Broadband, named vp-Consumer Div.

**Cablevision Systems** said it would create new division to focus on development of wireless voice and data services, expand its commercial cable telephony offerings and explore delivery of IP telephony service through digital cable set-top boxes. Cablevision said new division would combine its Lightpath, wireless and IP telephony assets into single unit. Long-time Cablevision executive **Joseph Azznara**, most recently pres. of company's N.Y.C. metro area operations group, will head new unit as COO. At same time, Cablevision Pres. **James Dolan** said he would assume direct oversight of company's cable, Internet and retail operations groups.

**Major broadcast networks** that used electronic newsroom captioning to satisfy closed-captioning requirements in 1997 may continue to use technique, FCC said in clarification letter to CBS. Instead of live captioning, technique essentially uses scripts of newscasts as closed captions. Commission said technique meets its "no-backsliding" requirement.



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**House Commerce Committee Chmn. Tauzin (R-La.)** and **Rep. Boucher (R-Va.)** will keynote CEA's "Digital Download" conference March 6 at Mayflower Hotel in Washington, with another key legislator expected for morning keynote. Other speakers will include Fritz Attaway, exec. vp, MPAA; Mark Cooper, Consumer Federation of America; Jonathan Potter, Digital Media Assn.; Linda Golodner, National Consumers League; Dennis Mudd, CEO, MusicMatch; Cary Sherman, gen. counsel-RIAA; Matthew Zinn, TiVo; and several academics and attorneys — [www.ce.org](http://www.ce.org).



# Consumer Electronics

A Section of Television Digest with Consumer Electronics

## STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Feb.16, and year to date:

	FEB. 10 - FEB. 16	2000 WEEK	% CHANGE	FEB. 3- FEB. 9	7 WEEKS 2001	7 WEEKS 2000	% CHANGE
TOTAL COLOR TV	430,013	513,459	- 16.3	386,739	2,943,237*	2,931,999	+ 0.4
DIRECT-VIEW**	409,632	487,610	+ 16.1	372,519	2,823,380*	2,781,134	+ 1.8
TV ONLY#....	365,985	410,987	- 10.9	331,191	2,430,807	2,389,187	+ 1.7
TV/VCR COMBO.	43,674	76,623	- 43.0	41,328	392,573*	391,947	+ 0.2
PROJECTION...	20,381	25,849	- 21.2	14,220	119,857	150,865	- 20.6
TOTAL VCR**...	189,501	293,463	- 35.4	235,181	1,942,422	2,244,993	- 13.5
HOME DECKS...	145,827	216,840	- 32.7	193,853	1,549,849	1,853,046	- 16.4
CAMCORDERS.....	39,759	53,016	- 25.0	53,299	463,169*	461,727	+ 0.3
DVD PLAYERS....	117,682*	76,184	+ 54.5	89,623*	962,345*	555,334	+ 73.3

Direct-view TV 5-week moving average#: 2001-397,656; 2000-394,242 (up 0.9%).

Projection TV 5-week moving average: 2001-19,632; 2000-24,902 (down 21.2%).

VCR deck 5-week moving average: 2001-261,905; 2000-319,554 (down 32.7%).

TV/VCR 5-week moving average: 2001-64,082; 2000-66,679 (down 3.9%).

Camcorder 5-week moving average: 2001-78,305\*; 2000-76,034 (up 3.1%).

DVD player 5-week moving average: 2001-149,826\*; 2000-92,013 (up 62.8%).

\* Record for period. \*\* Includes TV/VCR combinations. # Excludes TV/VCR combinations.

Note: Analog sets only included in figures on direct-view TVs, TV/VCR combos, projection TVs; analog and digital models included in camcorders.

**MACROVISION'S CD COPY PREVENTION SYSTEM ADVANCES:** CD anticopying system that Macrovision revealed to us exclusively nearly 2 years ago has taken another step toward market reality. Development comes just as "legitimate" Audio CD recorders are building mass-market momentum that long since has been achieved by PC "CD burners" — whose use for dubbing copyrighted music remains loophole in legal no-man's-land.

Macrovision last week said beta testing had been completed on its SafeAudio Toolkit for CD-audio copy protection. Test was conducted with "major record label" that Macrovision didn't identify. Copy protection powerhouse said test of authoring tools came in advance of beta version for SafeAudio technology itself. Despite that disclaimer, we have been made aware that Macrovision already has conducted tests of actual SafeAudio-encrypted CDs among consumers in U.S. and U.K. for purpose of confirming that those CDs are compatible with wide range of playback hardware encompassing home, portable, autosound and PC players.

SafeAudio copy protection process is joint effort by Macrovision and Israel-based TTR Technologies and is elaboration on AudioLok Red system developed by C-Dilla, U.K. think-tank that Macrovision acquired in 1999. It was C-Dilla system that we tested and reported on in July 12, 1999 issue. System has evolved since then, and we published updated reports last year in our April 27, Jan. 17 and Jan. 3 issues.

SafeAudio is applied automatically during CD mastering, using existing replication equipment. Any decision to implement system would be up to individual record labels. Macrovision Pres. Bill Krepich said: "We believe that SafeAudio provides an opportunity for the music industry to regain the billions of dollars lost to unauthorized casual copying. We are eager to start our beta trials and to get the technology into the hands of the music labels for evaluations." He was vacationing last week when announcement was made and not reachable for comment.



SafeAudio has evolved since AudioLok stage. News of AudioLok provoked outcry in U.K. at time because it prevented music CD playback in PC CD-ROM drives in order to curtail copying in PCs. But it was pointed out that many people legitimately played original CDs on their PCs while working, without any intention of copying. Macrovision then modified system to let original music CD play on PC or consumer CD drives, but added extra subcode data to disable their digital outputs.

In its latest form SafeAudio allows CD playback on all existing players and ROM drives, Macrovision executive in U.K. assured us. But CD recorder, either home audio or PC type, will refuse to make copy. Company wouldn't reveal how latest version of SafeAudio works, but in original AudioLok scenario, copy protection involved insertion of CD-ROM error codes on music CD. CD-burner in PC would detect errors and reject disc as faulty. Meanwhile, Audio CD recorders were decoyed into rejecting disc because they believed it to be CD-ROM, which they couldn't play, let alone record. However, disc plays fine in conventional CD players because they disregard CD-ROM error code.

Macrovision ran consumer trials in U.K. and San Francisco area last year, releasing SafeDisc CDs and checking for customer complaints. U.K. executive said system was modified as result of tests and company now feels confident there's good balance between preventing copying but not interfering with playback of original CDs. One of Big 5 major record labels has been running its own tests that should be finished by end of month, we're told. If successful, there will be pilot production for consumer trials. Macrovision said it then will be up to record companies to decide whether they want to risk upsetting customers by selling CDs that can't be copied on existing CD recorders. "We are just providing the technology," U.K. Managing Dir. David Simmons said.

Current SafeAudio system contrasts with another for which Macrovision has patent (WO 00/62293). That system relies on future CD drives' being "compliant" and checking for signature codes that are embedded in disc but not transferred when copy is made. So original CDs play on all drives, but copies won't play on "compliant" drives because they don't give signature code. Macrovision patent application concedes that system would need cooperation of CD hardware manufacturers to make their drives compliant. That might be desirable in situation where hardware company also had programming arm and wanted to protect its own content. Sony, for example, is only PC company known to build Serial Content Management System into its PCs to prevent digital copying of digital copies. Sony has said it does so because it also is music company. Macrovision patent suggests that "a manufacturer of specialized compact disk [sic] players (for instance, for a specialized game or toy)" might contract with supplier of software for system to make sure signature and signature detection are in place.

SafeAudio implementation could cause uproar in U.S., where 1992 Audio Home Recoding Act (AHRA) appears to sanction home digital copying in exchange for royalty on recording hardware and software that goes to compensate artists and content owners for copying. Terms of AHRA were detailed in our Feb. 26 lab test report on Classic brand CDR200 Audio CD dubbing deck.

Meanwhile, U.K. seems ideal place to test system. It's criminal offense to sell unauthorized music copies under Sec. 107 of Britain's 1988 Copyright, Designs and Patents Act, with 6-month jail term possible and stiffer fines and incarceration now proposed. Sec. 296 of British law lets copyright holder take civil action against anyone who sells device to defeat copy protection, or who publishes details on how to do so. Sec. 70 permits time-shifting of radio and TV broadcasts for personal use, but doesn't allow home copying of music recordings. Because it's impractical to sue individuals on what they do at home, CD copying has become privilege by default — but not legal right.

Where SafeDisc could enforce U.K. law, in U.S. it would prevent people from doing what they long have been able to do. Because CDs are marketed by individual national subsidiaries of record companies, it's possible that labels could implement SafeAudio for markets outside U.S. where laws permit and casual copying is rampant, but not use it on CDs marketed in U.S. or other countries where private copying is authorized and compensated by royalties. Such plan, though, could create trade for parallel imports of non-SafeAudio CDs through Internet retailers, similar to demand that now exists overseas for Region 1 DVDs from N. America that can play on modified decks sold in other DVD regions. Leaving SafeAudio off some discs would make them vulnerable to commercial piracy — and give boon to organized pirates because individuals no longer could make own copies.

British Phonographic Industry (BPI) always has opposed home copying. Group, which represents record companies in U.K., first lobbied for levy on blank recording media but then dropped idea because it believed stance would appear to condone copying. BPI in past has funded research into spoiler systems that attempt to stop home copying. Surprisingly, we learned last week that BPI was unaware of Macrovision's SafeAudio system. Spokeswoman for group refused to say that BPI would welcome Macrovision system even though it could achieve what BPI had been seeking. "There need to be technical measures and legal measures," she said. "Our main focus is now on commercial piracy."

Macrovision isn't only company working to curtail home copying. U.K. company Rakvere, based in Douglas, Isle of Man in Irish Sea, recently revealed details of system it claimed could prevent dubbing onto analog tape. Company's pat-



ent (GB 2 348 736) showed it to be update of old spoiler idea first proposed by music group The Beatles' Apple Electronics in late 1960s.

Apple used high-pitched tone that was supposed to beat with bias current that recorder applies to tape in order to align magnetic particles for recording. That system proved impractical because tone, to be inaudible, would be too high for reliable cutting into record grooves and therefore reliable playback by stylus in average consumer turntable. System could be circumvented by filtering out high-pitch tone with graphic equalizer.

New system from Rakvere would spoil quality of recordings. It analyzes sound content of original music source, then adds high-pitched tones at frequencies that are masked by music. Consequently, normal music playback isn't affected or impaired. But when tape copy is made, tones mix with recorder's high-frequency bias signal. According to patent, that mixing creates lower-frequency tones that become audible when taped dub is played, thereby spoiling enjoyment of recording. System also could be used for linear monaural or stereo audio track of videocassettes.

Industry reaction to latest SafeAudio news wasn't available at our Fri. deadline. But in past, CD licenser Philips has said disc technologies introducing incompatibilities with CD hardware would contravene CD license. Philips copyright executive Gils (Gerry) Wirtz also expressed reservations about "unforeseen playback issues and random results with some players and ROM drives." He told us he doubted that music companies would use SafeAudio: "No record company is going to disconnect from large numbers of consumers."

\* \* \* \* \*

Separately, U.K. is seeking stiffer penalties for copyright infringement such as piracy and counterfeiting. Bill introduced in Parliament last week would upgrade penalties in 1988 Copyright, Designs and Patents Act to those of 1994 Trade Marks Act — unlimited fines and/or up to 10 years' imprisonment.

**VoD MARKET SEEKS JUMP-START:** News Corp.'s potential acquisition of Hughes Electronics' DirecTV could provide catalyst to jump-start moribund video-on-demand (VoD) business that slowly is gaining interest of satellite and cable industries.

News Corp. Chmn. Rupert Murdoch did little to stoke fires last week when he told *Variety*-sponsored entertainment conference in N.Y.C. that talks with DirecTV were "moving ahead slowly." Indeed, negotiations have reached stalemate and while they haven't been called off, they may be revived only if News Corp. sweetens its offer, *Wall St. Journal's* online edition reported Fri., citing people familiar with matter. Under plan said to be currently under consideration, General Motors would spin off Hughes, which then would merge with News Corp.'s Sky Global Networks satellite business.

"The thing that forces the cable industry's hand [toward VoD] is if General Motors and News Corp. get together," an analyst said. "If Rupert gets a hold of DirecTV, his mode will be to increase market share very rapidly and he will be very competitive and force the cable industry to move faster" toward implementing advanced services such as VoD.

Indeed, while the satellite industry appears poised to announce VoD agreements — Blockbuster, DirecTV and TiVo have been in discussions for months — cable industry slowly is joining fray. Pockets of VoD have emerged largely over broadband fiber networks and manufacturers are preparing to add personal video recorder (PVR) functions to set-top boxes (STBs).

Scientific-Atlanta is expected to have STB by midyear with Western Digital subsidiary Keen Personal Media PVR software, while Pace Micro Technology is building hard drive-based STB for Comcast that's due in 3rd quarter. Comcast last week completed acquisition of 2.5% stake (\$10 million) in VoD equipment supplier SeaChange International. It also placed order for VoD gear and received warrant to buy additional 100,000 shares of SeaChange common at \$13.25. Motorola and Charter Communications also are developing STB PVR reference design that would allow MSO to choose technology it wishes to deploy and implement it via software.

"Last year we were chasing about 20 deals worldwide that involved the integration of PVR hard drives and this year there are more than 80 opportunities," Seagate Technology Vp Michael Skalar said at Kagan Seminars' VoD Summit in N.Y.C. last week. "Not only are major CE companies and cable companies interested, but also smaller, nichier firms that are coming up with gaming, audio and set-top box applications."

Major struggle for VoD, however, has been to get major film studios, which are concerned about copyright protection, to release content. Blockbuster (BB) VoD test with Enron in 4 markets — American Fork, Utah, N.Y.C., Portland, Ore. and Seattle — has delivered only one MGM movie in pay-per-view (PPV) window to its customers. It signed on Vivendi Universal's Universal Pictures last week, agreement that's likely to increase VoD service's current offering of 200 titles. Universal VoD deal was negotiated as part of renewal of broader revenue-sharing agreement, but won't serve as blueprint for discussions with other film studios, BB CEO John Antioco said.



"We only want to enter long-term agreements that allow us to participate in multiple channels of film distribution," Antioco said. "We think it would be foolish for us to just do a VHS revenue-sharing deal and ignore other channels at this point."

BB/Enron has expanded number of households involved in VoD tests to 800 from 300 and expects to complete technical trials by April, Enron Broadband Services Dir. Bradford Brooks said. Service currently charges \$4.95 for PPV movie in 24-hour window, but probably will experiment with different pricing and availability strategies, he said.

"There's no sense in expanding the service based on the kinds of offerings we have right now, so you look at this as a technical trial that we're learning from every day," Antioco said. "But do I envision VoD happening without all the appropriate content? I think that it's going to be slow. If the content is made available, we'll expand. If not, we'll stay where we are."

BB/Enron tests, which are using digital subscriber line (DSL) service to deliver VoD, thus far have had buy rates similar to those found with rentals in BB stores, Brooks said. Similarity has allowed VoD service to be better gauge of what films to make available without cutting into retail store's business, he said.

"To really get RBOCs to upgrade their infrastructure to carry broadband networks and to get more MSOs to upgrade their platforms, you're going to have to have more than just videos coming out," Brooks said. "You're going to have to deal with wide volumes of available content."

To deal with greater volume, Motorola STB at heart of Blockbuster/Enron VoD service is likely to be upgraded to increase memory to 64MB from 16 MB and add features such as Nuon chip that's part of gaming controller being designed by Motorola for system, he said. In attempt to ease copyright concerns, companies will add Intertrust's digital rights management software to system by mid-April, Brooks said.

In addition to DSL test, Blockbuster/Enron is studying linking service to DBS, Brooks said. DirecTV and TiVo are expected to introduce service later this year, starting with niche programming, but later added premium services such as HBO, Showtime or Starz Encore. Starz made strong pitch at conference for its Starz On Demand subscription VoD service, hanging banner at conference and distributing literature outlining service despite fact that it hasn't yet secured cable or DBS agreements. Starz on Demand service listed DirecTV and EchoStar as partners, although spokesman conceded agreements hadn't been finalized and field trials hadn't been scheduled.

"We could do it [VoD] immediately and it will likely include one of our current programming partners," TiVo Vp Stacy Jolna said. "They [Starz Encore] want to move forward on this, as do Showtime and HBO, so you have to present a level playing field for all of these companies. I do believe that niche programming will be the hallmark of any premium service we develop with DirecTV." Current DirecTV/TiVo STB is capable of adding VoD service, having 40 GB hard drive and 2 tuners, 2nd of which is expected to be lit up by 4th quarter, Jolna said.

Other issue with VoD probably will be price of hardware needed to receive service. Manufacturers are seeking to push cost of PVR module to under \$200, industry sources said. CacheVision, joint venture of Seagate and Thomson, has developed alpha version of 40 GB PVR module that will start production in June with cost under \$199 in volumes of "thousands" of units, Pres.-CEO Richard Johnson said. Module uses embedded RISC processor and Linux operating system, he said. While PVRs have largely been marketed as standalone devices, CacheVision module, which is being manufactured by Seagate, is expected to be combined with DVD player, video CD or possibly VCR where "you are using the output of your hard drive to produce a legal copy," Johnson said. While no OEM agreements have been reached, he mentioned Philips, Sony and Thomson as examples of companies it's seeking discussions with.

\* \* \* \* \*

**VoD Notes:** Despite its shift to licensing business and proposed sale to Sonicblue, ReplayTV investors EchoStar and Sharp remain "highly interested" in company's technology, Senior Corp. Strategy Vp Thomas Carhart said. Neither EchoStar nor Sharp has introduced ReplayTV-based products, although latter was said to be studying DVD player/PVR. "The capital markets are not going to allow us to burn through millions of dollars so the [PVR] market is going to change," Carhart said. "It's going to allow these guys to come back in and they're all looking for the appropriate business model." Sharp and EchoStar officials weren't available for comment... While BB hasn't reached agreements with MSOs to date, it isn't ruling them out, Antioco said. "The way cable companies are set up they have a geographic monopoly with access to the home and they really haven't needed a third party to get into the middle of that," he said. "There will be more competition from DSL and satellite so they might be apt to look at the world differently and align with potential partners that could help their business." As possible sign of icebreaker, Comcast executive handed Antioco his business card as latter was being interviewed by reporters at Kagan conference... Keen Personal Media expects to finalize financing by spring that will allow it to be spun off from Western Digital. Latter will remain shareholder, but with less than 50% stake, Pres.-CEO Russ Krapf said. While he declined to identify new investors, he said they would be collection of software companies, STB makers, MSOs.



**SONY EXPANDS DTV, DVD, SACD LINES:** With uncertainty resolved about DTV's 8-VSB modulation system, Sony will resume plans to offer DTV sets with integral ATSC decoders. Announcement came last week at annual line showing in N.J., where company also outlined ambitious plans to expand its DVD-Video line, including models with Super Audio CD (SACD) playback. Sony also will add dedicated SACD players at lower prices.

"Your perception is right that the transition has been less than ideal," Home Network Products Pres. Vic Pacor said, alluding to DTV. He said uncertainty over 8-VSB and continuing standard created "a very contentious environment for innovations" and "very unstable environment in this regard for the last 2 years." It was Pacor last spring who summoned reporters to briefing at which he said owing to debate over modulation standard, Sony wouldn't follow through on plan to offer DTV sets with integrated decoders in 2000, instead would provide only DTV-ready monitors.

"Now, Sony's getting back into it," Pacor said last week in introducing 34W direct-view DTV at \$4,000 and 57W and 65W rear-projection DTVs at \$5,000 and \$6,000, respectively. Sets will ship in fall. Besides integrated decoder, sets will have 2 IEEE-1394 digital connectors with Data Transmission Content Protection (DTCP) copy protection.

Sony also will market DTV-ready sets with 4:3 aspect ratio in its Hi-Scan 1080i line, which displays full 1080i HDTV image within letterbox area of screen. Offerings include 4 direct-view models with flat Wega CRT: 32" and 36" at \$1,900 and \$2,400; 32" and 36" XBR models at \$2,000 and \$2,500. They ship in July, followed in Aug. by 43" Hi-Scan 1080i tabletop rear projector \$2,500. Widescreen rear projectors at 51" (\$3,500) and 57" (\$4,000) come in Oct. All sets have Sony's Digital Reality Creation circuitry, which line-doubles analog or digital 480i programming to near-HDTV 960i scan rate while also doubling resolution across width of image.

In DVD, Pacor introduced multichannel SACD-compatible model that can be deployed vertically or horizontally or hung on wall. New DVD-F21 also plays CD-R and CD-RW, ships in fall at \$300. Pacor said other DVD announcements would be coming, but meanwhile introduced 2 DVD Dream Systems with disc player and multichannel receiver in single chassis and bundled loudspeakers for Dolby Digital or DTS surround sound. Dream Systems also perform multichannel SACD playback. Systems are slated for July and consist of DAV-C700 with 5-disc changer (\$800), single disc DAV-S500 (\$600).

New multichannel SACD players at \$300 and \$800 also use single-disc and 5-disc changer configurations, respectively. Pacor said SCD-XE670 and SCD-C222ES changer would be available in Sept.

Sony will continue reinvigoration of Walkman portables line with product designs and ads targeted to "Gen-Y" demographic of 12- to 24-year-olds — in particular, Psyc line of brightly colored products. Ron Boire, pres.-personal mobile electronics, said that age group now was 25% of population, spent more than 25 hours weekly listening to music.

Psyc line will include CD-R/RW compatible portables and boomboxes as well as headphones and clock radio. Boire said Sony also would push MiniDisc recorders to Gen-Y set, specifi-

cally for recording music downloaded from Internet through PCs. "MiniDisc did not take off until we repositioned it in 2000 for use with PC bundles," Boire said. Company will offer 3 MiniDisc recorder bundles with Digital PC Link this summer at \$180, \$300 and \$350. All perform MiniDisc Long Play recording, good for up to 5 hours of music on single disc. Flagship MZ-R900DPC has battery capable of 30 hours' recording time, 60 hours' play.

On PC side, Sony now has No. 2 market share in volume and dollar with its Vaio portables, Personal Network Solutions Pres. Mark Viken said. His division will focus this year on products that connect to PCs, such as digital cameras, camcorders and LCD monitors.

New in Digital Handycam line is MiniDV camcorder that also takes still shots at 1.5 megapixel resolution, while movies increase to 530 lines of horizontal resolution. Viken also introduced 2 more CD Mavica digital still cameras that use 3" blank CD to record images. This year, cameras will be able to use erasable CD-RWs as well as CD-R blanks. Discs have 156 MB capacity, enough for 1,000 VGA resolution stills or 90 min. of MPEG-1 video, Viken said. MVC-CD200 with 2.1 megapixel resolution and 3X-optical/6X-digital zoom arrives at \$800 in June. MVC-CD300 (\$1,000) ships at same time. It has 3.3 megapixel resolution and 3X Carl Zeiss zoom.

**Gateway** is halting expansion of company-owned Country stores and "re-examining" rental of space in stores including OfficeMax and Rent-Way (RW), CEO Ted Waitt said at investors conference last week. PC maker will close some Country stores, leaving it with 300, and will curtail plan to open 90 more this year, he said. Change could be blow for OfficeMax, which sold off remaining IBM and Compaq inventory year ago to focus on installation of Gateway kiosks (TVD May 15 p18). It has added kiosks to about half of its more than 900 stores and PC maker would be responsible for removing displays, OfficeMax spokesman said. While program was projected to generate sales of 520,000 units annually, it's thought to be selling far fewer. Gateway also invested \$50 million in OfficeMax stock and debt. Chain is "evaluating its options" and may seek to modify agreement so Gateway would serve as supplier for build-to-order PC program, OfficeMax spokesman said. Space in stores currently occupied by Gateway kiosk could be used for sales of wireless products or Internet connectivity, spokesman said. "I think going forward we will carry PCs through a licensed department similar to the Gateway idea, but we'll do it on a smaller scale and provide it more as a service to our customers," spokesman said. RW officials weren't available for comment, but expressed confidence in Feb. that Waitt was "100% committed" to program (TVD Feb 19 p15). Analysts have projected that Gateway program could account for 5-10% of RW's overall revenue... **Office Depot** (OD) denied allegations that it discriminated against black workers after prominent Fla. attorney said he would file class action lawsuit against company. Willie Gray, who recently targeted Microsoft, Coca-Cola and Eastman Kodak with similar suits, told *Palm Beach Post* he would file suit on behalf of black employees alleging disparate pay, promotions, job opportunities. OD later issued statement saying it "emphatically denied that there is any policy or systematic practice of discrimination of any sort."

**Correction:** Harman International is one of 4 companies that shared in providing ZapMedia with \$6 million in private equity funding (TVD Sept 18 p17). It was not sole investor.



**BLOCKBUSTER-DIRECTV CHANGE:** Blockbuster (BB) and RadioShack (RS) agreement on new store-within-a-store concept overshadows subtler change being made in video retailer's sales pact with DirecTV.

Under new agreement, RS will assume responsibility for receiver sales in 4 markets and 133 stores that will serve as test of 600-sq.-ft. RS outlets inside BB locations, BB Chief Mktg. Officer James Notarnicola said. Previously, BB store staff sold hardware and programming, but now will shift emphasis to co-branded pay-per-view (PPV) service that's scheduled to start June 1, he said. BB stores not involved in test will continue selling hardware through freestanding kiosks installed last fall. BB and DirecTV staffers began work last week on reformatting PPV service's 55 channels to reflect new co-branded strategy, he said. New format will be installed in test markets starting next month with goal of having it fully in place by May, Notarnicola said. Under 10-year agreement, RS will pay BB \$300 million licensing fee, while video chain contributes \$60 million.

As part of new strategy, freestanding kiosks will be removed and merchandising folded into RS store-within-a-store when format is rolled out nationwide in 2002, Notarnicola said. Kiosks were installed in 3,800 Blockbuster stores last fall and video rental chain has reported strong DirecTV sales.

"We anticipate the job of customer acquisition and selling hardware will shift to RadioShack personnel, while our folks shift to focus on driving the pay-per-view business," Notarnicola said. "We think 2 companies working together will acquire more DirecTV subscribers than either company could do separately." DirecTV officials weren't available for comment. Blockbuster and DirecTV jointly will market DBS service, with former focusing on direct mail campaign to its customers highlighting PPV, he said.

While Blockbuster retrained clerks to sell DirecTV receivers, Notarnicola conceded that RS had "so much more expertise that we think they're going to be much more successful in converting Blockbuster customers to DirecTV than we were."

New RS stores will carry 1,600-1,800 SKUs such as DirecTV receivers, cellular phones, Microsoft MSN Internet services, Compaq PC products and Thomson's RCA CE gear, but will downplay connectors and batteries, Notarnicola said. And while RS store-within-a-store format will be patterned after chain's new format that debuted in Tucson market last fall, new vendor contracts will be negotiated when concept begins nationally, he said. RS format also will be extended to BB's 1,000 franchisees, although terms haven't been finalized, Notarnicola said.

In adding new concept, BB is likely to narrow its assortment of videos, CEO John Antioco said. While he didn't quantify size of reduction, he said BB was focusing on opening 4,800-sq.-ft. outlets that would carry 4,000-5,000 titles vs. 7,000 typically found in its 6,000-sq.-ft. stores. DVD titles currently account for 15-20% of BB's revenue, he said.

BB and RS stores occupy many of same markets and, in some cases, share shopping malls, but RS CEO Leonard Roberts denied there would be "cannibalization" of sales. Surveys showed just 8% of BB customers had shopped at RS outlet in Dec., he said. More than 20% of BB customers are under 18 years old, age category that has "eluded us for many years," Roberts said.

Chains said they also would look toward expanding concept into international markets including Australia, Canada, Europe, Latin America. Unclear is whether expansion plans will be limited by RS's licensing agreement with Intertan. Latter has rights to use RS name on stores it operates in Canada and Australia.

**Steep price drops** for DVD-Audio decks and related electronics from Panasonic and Technics were result of "repositioning" in Jan., said Gene Kelsey, vp, gen. mgr.-audio entertainment and disc devices. Ads appearing last week from N.Y.C. retailer J&R Music World showed Panasonic DVD-A7 universal player down to \$299.99 from recent \$499.99 sticker, and 70% below original \$999.95 MSRP. Technics DVD-A10N was advertised at \$399.99 — \$200 off intermediate \$599.99 and 67% below original \$1,199.95. Technics "DVD-Audio ready" receiver goes for \$249.99 at J&R, 58% below original \$599.95. J&R advertised step-up SA-DA10 receiver at \$299.99, down from interim \$499.99 and 62% from original \$799.95. Spokesman for Kelsey gave 2 reasons for price reductions to dealers: (1) To take more aggressive sales posture at time when more DVD-Audio software was coming on market. (2) To reposition prices in anticipation of new Panasonic/Technics models coming onto market in spring. Cal.-based Apex Digital announced it would have \$299 model in spring that would play DVD-Video, DVD-Audio, Super Audio CD, MP3 compressed CDs.

**ViMedia disc** developed by Vialta for Apex Digital's ViDVD player (TVD Feb. 5 p9) appears to use proprietary technology to store 10 hours of video and other content on DVD-size disc. ViDVD player (\$149-\$159), which makes debut in spring, connects to Internet through dial-up or broadband modem to access locked, encrypted content on high capacity ViMedia discs sent by mail to owners who "subscribe" to service. Apex said "magazine format" ViMedia discs would hold up to 10 hours of video, music and other content. Vialta, subsidiary of chipmaker ESS Technology, still is reluctant to reveal how company stores 10 hours of programming into confines of 2-hour, 4.7-GB capacity disc. But in response to our continued queries as to whether ViMedia disc was authored and formatted to DVD Forum's standards for DVD-Video or whether another method was used, Vialta spokesman indicated it used proprietary system. He said "versatile disc" could be used "to store unique formats. An example is PlayStation 2", alluding to Sony's use of Digital Versatile Disc as carrier for PS2's proprietary content. Vialta apparently is unwilling to divulge more details until its trademarks and patents have been published.

**Consumer intentions** on buying TV sets fell in Feb. from Jan., according to preliminary data in Conference Board monthly survey. Consumer Confidence Index fell in Feb. for 5th consecutive month, and at 106.8 was at lowest point since June 1996, when it was 100.1. Conference Board said: "The erosion in consumer confidence continues to be fueled by weakening expectations regarding business and employment conditions. While the short-term outlook continues to signal a severe economic downturn, consumers' appraisal of current economic conditions suggests we are still undergoing moderate growth and not a recession."

**Macrovision copy protection** for pay-per-view programming has been licensed by ONdigital, U.K.'s terrestrial DTV broadcaster. Latter made debut in Nov. 1998 with 30 channels of digital programming and since has grown to 54 channels and one million customers. Macrovision system enables broadcaster to prevent consumer recording of paid programming at content owners request.



**GOOD GUYS, CIRCUIT CITY IN LAYOFFS:** Good Guys and Circuit City laid off total of 750 employees last week amid signs of slowing retail sales linked to sluggish U.S. economy.

Good Guys cut 450 jobs, primarily at its stores, including 2-3 at each outlet — cashiers, warehouse workers and entry-level sales associates, Pres. Kenneth Weller said. Circuit said it would take \$5 million one-time charge against 4th quarter and year-end earnings to cover elimination of 300 jobs at corporate and divisional offices.

Circuit had “healthy” sales in Dec., but since then “we have experienced a general fall-off in sales across all categories,” Pres.-CEO Alan McCollough said. Circuit said earnings per share for 4th quarter and year ended Feb. 28 were expected to be 44¢ and 54¢, respectively, down from analyst projections of 46¢ and 69¢. Results excluded CarMax Div., which added 2¢ and 15¢ to 4th quarter and year-end earnings. As result, McCollough said chain would “plan conservatively” for first half.

Circuit has struggled for much of last year. It laid off 1,000 employees last summer in dropping major appliances (TVD July 31 p11) and altered store remodeling program after earlier plan proved too costly (TVD Jan 8 p12).

While GG weighed layoffs in early Jan., it held off as sales continued to improve, Weller said. But by late Jan. as signs of slowing economy took hold, including layoffs across many business sectors, he made his decision.

“I think everyone has read about the layoffs and felt that they should be fiscally responsible and get ahead of the curve,” Weller said. “Retailers in general tend to follow that and wait for the results to turn bad before doing anything. I’m being proactive in this. I don’t want to wake up in June and find that the economy has slowed down.” Job cuts will wring out “significant savings” for GG, said spokeswoman, who declined to release specific figure.

GG also took steps to retain more experience personnel. It implemented simplified commission program and added annual bonus based on sales performance, Weller said. New incentives were based on GG findings that sales associates with 3 or more years’ experience generated 50% more business than those employed for 12 months or less, he said. GG also plans to add kiosks chainwide by April that will be used for training and give sales staff access to additional product data via goodguys.com Web site, Weller said. It’s testing concept now at 2 San Francisco area stores, he said.

“I’ve restructured the commission program so that it much more heavily incentivizes people with more experience and tenure,” Weller said.

Layoffs were 2nd round for GG, which shed 315 store and ad positions last spring (TVD March 27 p14) as 2nd quarter loss grew to \$10.2 million from \$7.2 million. Stores now average 30 employees, 21-22 of whom are product specialists, Weller said.

GG also has dropped home office and personal CE categories and tested leasing of space in 2 Las Vegas stores to Tower Records for sale of music CDs. GG hasn’t decided whether to expand test, but is likely to act by spring, Weller said.

**STANDARD NEAR FOR MPEG-7:** Digital Hollywood conference in San Jose this week will see presentation on MPEG-7. Standard is expected in July for new compression format, which will enable content owners to link video and audio to multimedia information.

Ability to create interactive AV experience opens possibility of free downloadable content, subsidized by advertising for remunerating artists and copyright holders. That’s opinion of Alex Eleftheriadis, prof. of electrical engineering at Columbia U. who drove through existing MPEG-4 standard for low-bit-rate digital video. He will give presentation on MPEG-7 this week.

Moving Picture Experts Group first set MPEG-1 standard for video on CD at around 500 kbps, then MPEG-2 for DVD and broadcast at several Mbps. MPEG-4 reduces bit rate to below 500 Mbps, and doesn’t restrict video to rectangular screen shapes, thereby enabling foreground and background objects from different sources to be combined. In MPEG-7, Multimedia Content Description Interface will attach text and interactive programs to objects in picture. So clicking on image of artist in video can bring up lyrics of song, artist biography or opportunity to make online purchase.

“So far people have seen MPEG-4 as just a way to stream video over the Internet, like audio,” Eleftheriadis told us. “They hope to make money from making a PC work like a disc player. You go to a site like Napster, download and play. And that’s it. If you make the material interactive you get an experience you can’t get anywhere else, then you have a real business plan. The content provider can target advertising to individuals and subsidize the cost of the delivery.”

Eleftheriadis said “you will be able to download a Britney Spears music recording, see a video clip and buy tickets online for her next concert. Or stream Miles Davis and find out where to buy the instruments the musicians are playing. Or Ford might sponsor Madonna free online in return for adverts. I see this happening on a massive scale.”

Speed and flexibility in authoring are other benefits of new formats, he said. Interactive video discs can take so long to master and press that they can be out of date before they’re issued — and if any bugs are found, whole batch must be redone. New MPEG formats permit programming to be prepared quickly and repaired, he said.

Eleftheriadis told us he had such confidence in MPEG innovations that he had taken leave from Columbia to start his own company, Flavor Software, to develop enabling programs.

**MP3.com signed value-added reseller (VAR) deal** with Audio Electronics (AE) in latest move by Web music company to expand its business-to-business market share. As part of deal, AE agreed to market and sell MP3.com’s Web-enabled business music and ad delivery program to restaurant chains and retail stores nationwide. MP3.com’s business music offerings allow customers to create and schedule customizable music playlists from library of songs at [www.mp3.com](http://www.mp3.com).

**Gameplay sold its game development studio** NEO Software Produktions, Vienna, Austria, to Take-Two Interactive for £500,000. Studio had been acquired by U.K. game maker Gameplay in Feb. 2000 as one of 5 businesses disposed of by Computec Media.



**RECOTON IN PROFIT PLUNGE:** Shares of Recoton stock opened slightly higher at \$11.09 last Tues. on morning after company blamed "malaise" in videogame industry for sharp drop in 4th quarter profits. Recoton net profit fell to \$2.51 million (22¢ per share) from \$7.9 million (67¢) in same 1999 quarter on 16.3% sales decline to \$209.57 million from \$250.37 million.

Recoton accentuated the positive, declaring that its accessories and audio business segments for 12 months ended Dec. 31 had completed "a major turnaround" that in words of Pres. Robert Borchardt "cannot be stressed enough." Earnings before interest and taxes (EBIT) were \$30.8 million in accessories category for 2000, up from \$7.6 million in 1999. In audio, company reversed EBIT loss of \$5.3 million by reporting EBIT earnings of \$17.3 million in 2000.

But that was far cry from company's videogaming performance in 2000, when company incurred EBIT loss of \$13.1 compared with year-earlier profit of \$9.3 million in category. As in past, Borchardt said consumers delayed purchases of Recoton's InterAct videogame accessories as market transitioned to next-generation platforms.

However, he said InterAct was "well-positioned to benefit" from expected turnaround this year as Sony fills pipeline on PlayStation 2 (PS2) and "excitement is also building" for debuts this year of Game Boy Advance, Gamecube, Xbox. In conference call with financial analysts, Borchardt said "the real home run" for videogame segment "is going to be in 2002," when all of new platforms will be available to consumers.

He said company was "trying to be extremely conservative" with its projections for 2001 because there was no absolute certainty that upcoming new game systems from Microsoft and Nintendo would indeed arrive as scheduled this year — and in numbers that Recoton was hoping for. He once again pointed out that Recoton was negatively affected by smaller-than-expected number of consoles that were available at PS2's rollout. Borchardt said: "There's so much subject to what is going to happen in the [videogame] marketplace. The only thing we know is that we expect to be there with the right products at launch and if we're there at launch we expect to make the appropriate profit margins. But we can project and be a lot more dependable with the [nonvideogame] segments because of past history and [other segments are] more reliable. The videogame business is a very different business."

As for current quarter, Borchardt said: "The first quarter looks reasonably good. I wouldn't say it's a barn burner for retail. But certainly [it] has been so far reasonably well for consumer electronics. The accessory division is performing well. And our videogame division is basically performing up to their projections."

**Bestbuy.com Finance Dir.** Daniel Lagermeier agreed to pay \$88,000 to settle charges that he profited from advance knowledge of parent Best Buy's 1998 earnings estimates before they were made public. Lagermeier didn't admit or deny civil charges filed by SEC in U.S. Dist. Court, Minneapolis. SEC charged that Lagermeier bought 65 Best Buy (BB) option contracts for more than \$46,000 Feb. 23, 1998, several days after he saw financial statements that showed retailer's projected 4th-quarter and year-end earnings were higher than analysts' estimates. BB's stock took off March 4, 1998, when it released estimates, rising \$3 per share to \$64 and boosting value of Lagermeier's options more than \$39,000.

**QUAKE RATTLES RETAILERS:** Earthquake rattled nerves and damaged buildings in Seattle area last week, but CE retailers and manufacturers escaped relatively unscathed. By late Fri., most offices and stores had reopened, although one OfficeMax outlet remained closed.

Powerful 6.8-magnitude earthquake struck near Seattle on Feb. 28, cracking bridges, triggering landslides and causing more than \$1 billion in damage. Scores of injuries were reported in strongest quake in Washington state in more than half century. Two further aftershocks measuring 3.4 and 2.4 hit March 1, but there were no reports of injuries or serious damage.

Starbucks shut its hq in historic 89-year-old building that suffered heavy damage and also was home to OfficeMax store. Latter suffered "significant damage" and there were no indications when it would reopen, spokesman said. Four of OfficeMax's 15 Seattle area stores sustained damage from quake, but only 2 closed, he said. Good Guys shut one of 8 outlets in area, but it was up and running following day. Closed store wasn't damaged, but "we did it more as a gesture to our staff," Pres. Kenneth Weller said. Status of Magnolia Hi-Fi's stores wasn't available.

Harder hit was Amazon.com hq where bricks fell from facade of building during quake and "a couple of" windows were broken, spokesman said. There was "nothing significant" in terms of structural damage to building and only injuries were to employees who twisted ankles going down stairs. Amazon closed its warehouse and customer service center in Seattle Feb. 28, but reopened by week's end. Service inquiries were handled by centers in other states. Web site had no disruptions, spokesman said.

Nintendo of America hq in Redmond, Wash., sustained "a little bit of superficial [damage], but no structural damage," spokesman said. Telephone service was knocked out for 2-3 hours, he said. "Overall, people were shaken up," he said, noting that company's main building was evacuated for 35-40 min. while damage was assessed. While quake lasted about 40 sec., it "probably took [us] 15 seconds to figure out what was going on," spokesman said.

Little or no damage was reported at Sharp Microelectronics' Camus, Wash., facility that handles display technologies, executive there said. Only disruption, he said, was shutdown of some state highways used to get to complex.

**B&W TV** is key component of new Singing Machine Co. (SMC) MTV-branded karaoke player that ships later this year at \$199. Karaoke machine, which can play back CD plus G titles, has 7" TV that also can tune in broadcast stations plus 20 w speaker. Company plans to add model with 9" color screen next year, Chmn. Edward Steele said. SMC said 3rd-quarter net income soared 54% to \$1.7 million as revenue more than doubled to \$21 million. Rise in earnings was result of expansion of SMC's business at Best Buy, Sears and J.C. Penney and addition of Toy's "R" Us and Wal-Mart, COO John Klecha said... **Tao Music** is shipping portable karaoke players in 5 colors (red, yellow, blue, green and purple) starting at \$99 for "1iktv" machine that is packaged with microphone, AC adapter and 4 music video CDs. Step-up iSingalong player set (\$129) adds support for supervideo CD (S-VCD), video CD (VCD), MP3.



**TETRATTEL EYES GAME CONSOLE ARENA:** To enter videogame console market, Tetratel, based in Edmonton, Alberta, is eager to get its proprietary EyeFX 3D technology incorporated into Xbox videogame system from Microsoft.

However, although Tetratel early last week announced it had "signed a license agreement" with Microsoft for that very purpose as part of project code-named "TIN," Microsoft denied any definitive deal had been signed.

Tetratel said "combined EyeFX technology and Microsoft TV videogame system will feature unprecedented performance by combining 360-degree player movement within a full 3D viewing environment." But it said "nondisclosure agreements prevent publicly released details." Tetratel Pres. Ken Tettersington told us last week that, over next year, his company probably would be spending \$1 million on Xbox project.

Although Kevin Bachus, dir. of 3rd party relations for Xbox, admitted to us on Thurs. that Microsoft had been in talks with Tetratel, he said Tettersington misunderstood nature of those talks. Bachus said nondisclosure agreement had been signed initiating talks but said: "For reasons that escape us, they decided it was akin to a license agreement." He said: "We certainly have not licensed anything [from Tetratel] to go into Xbox."

Bachus said Microsoft had entered into similar discussions with "somewhere in the neighborhood of [500] to 600 companies." But he stressed that that in no way meant that Microsoft intended to actually sign definitive deals with any or all of those companies.

After Microsoft denied licensing deal had been signed last week, Tetratel issued statement in which it attempted to clarify status of relationship, Tettersington saying: "The license agreement and related documents between the firms are required to enter into developer support programs established by the Xbox division and do not, or cannot, imply any endorsement of EyeFX 3D products by Microsoft. Further distribution agreements are required after the final mutual products have been completed."

Tettersington told us he "already got chewed out by those guys" at Microsoft because he had announced arrangement. But he said Tetratel, as public company, was compelled to tell its shareholders about Microsoft relationship at this time because of money Tetratel plans to spend in next 12 months.

Tetratel was formed in 1998. Since then it has used its 3D technology to make virtual reality entertainment software and eyewear strictly for home PC market.

First and 2nd generations of Tetratel's core product were referred to as EyeFX 3D, although it changed product's name to HeadSpace 3D for 3rd generation. Tetratel has been selling product direct to consumers for \$49.95 and is targeting same price for U.S. market if Xbox 3D kit is finalized. TIN project for Xbox would be 4th generation of Tetratel's product, Tettersington told us, and company has decided once again to refer to 3D system as EyeFX 3D because it best describes its nature. Tetratel also recently renamed its Tetratel Systems subsidiary EyeFX 3D "to properly reflect the nature of its business and to segregate the business from other potential business opportunities that Tetratel Inc. may undertake."

Company's current 3D kit for computers includes adapter, cable, control box, eyewear peripheral, software. Game Plus software from Tetratel already allows computer gamer to play Direct X compatible videogames in 3D while using system. Tetratel isn't yet describing what configuration of Xbox-compatible EyeFX 3D system would look like or include.

Bachus, saying he wasn't even clear on exactly what product Tetratel wanted to make for Xbox was, said Microsoft had given Tetratel approval only to get access to information to put together prototype for Xbox. But Bachus said that in no way meant Microsoft planned to accept finished product.

While Bachus said it was "great" that new companies such as Tetratel were expressing desire to get into videogame console market, he said, "there's a down side" because many of those companies aren't familiar with how licensing processes work in this arena. "It doesn't surprise me that this has happened," he said, calling Tetratel's misunderstanding of process "a cautionary tale."

Despite conflicting positions of companies, Tettersington said his company was going forward with development of 3D kit for Xbox and he believed only thing Microsoft "objected to is the news release" Tetratel had put out announcing licensing deal: "I think they're going to be happy once all the dust settles." Bachus told us that although his company was "a little disappointed" with Tetratel's announcement, Microsoft still would consider using Tetratel's technology "if they put together a great product." Bachus said: "We're not spiteful."

Meanwhile, Tetratel signed letter of intent with Montreal-based Isee3D calling for latter to use Tetratel's technology to stream 3D Web content. His company signed deal with Eagle Wireless, based in League City, Tex., in 1999 to build its 3D technology into latter's set-top boxes.

**Lego's Mindstorm** robotics invention system added 717-piece set (\$199) with USB connectivity. Version 2.0 of 3-year-old system features new interface designed to make complex commands easier to program and adds advanced models such as candy sorter and robotic arm. Spokesman said Lego has no plans to offer new versions of \$99 kit introduced year ago that was based on *Star Wars* movie (TVD Feb 21/00 p21) or of \$149 Discovery Kit. He said Lego also wouldn't integrate sensing and voice recognition technology acquired last April (TVD May 1 p21) from Zowie Entertainment into this year's line of products. Lego said at time that technology would be integrated into its products worldwide.

**CDNow** said it doubled percentage of sales of DVD and VHS movies at its Web site in only one year since it started Video Shop. E-tailer attributed success to Video Shop's development and expansion in Oct., right before busy holiday-selling season. CDNow said it now had more than 70,000 movie selections at Web site. In time for Oscars later this month, CDNow is presenting Awards Central one-stop shopping place for Academy Awards information. It also is offering special pricing on award-nominated artists.

#### THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥117 = \$1, except where noted.



800.com was ranked "Best of the Web" in recent Resource Marketing (RM) customer experience survey. Report was based on findings of undercover online shoppers who posed as real consumers and spent more than 25 hours evaluating 53 top e-tailers in 90-day period. Evaluations were based on key areas of importance for online shoppers. Trailing 800.com, in 2nd place, was eToys, followed by SmarterKids.com, and Barnesandnoble.com in 3rd and 4th. In 8th, 9th and 10th were CDNow, Amazon.com and Borders.com. RM Chief Experience Officer Kelly Mooney commented: "While brick-and-mortar retailers have the greatest advantage on many fronts, the pure players outperformed in customer experience execution." He added: "800.com excelled in areas of high importance to consumers including consumer decision support, postpurchase communications, package delivery and returns." Resource study said pure play e-tailers finished in 6 of 10 top spots in best end-to-end consumer experience. But eToys's strong showing was little consolation for that company, which was on verge of extinction last week.

Lucas Learning (LL) showed its upcoming PlayStation 2 (PS2) game *Star Wars Super Bombad Racing* in N.Y. recently. Spokeswoman said kart racing game — company's first title for console system — would ship at end of April, probably at \$49.95. PC version of game will follow "shortly thereafter," she said. When asked whether LL was looking to make titles for other game systems, she said "we're in talks" with other companies, but didn't identify any. Games for handheld systems "might be a possibility" for LL, she said. As for *Bombad Racing* specifically, LL Project Leader Michael McCormick said company's deal with Sony wasn't exclusive. Game was shown first in "alpha" version form at last year's E3 and took "about 18 months or so" for LL to develop, he said. McCormick said company was targeting broad base of consumers with title, including kids who should be attracted to Star Wars characters and older gamers who should appreciate some of title's more intricate details. Company plans to back release of game with ad campaign that will include print gaming publications. LL is one of 5 companies in Lucas group, which also includes Lucas Digital, Lucas Licensing, LucasArts Entertainment, Lucasfilm.

Changes are taking place in evolution of digital camera market, NPD Intellect said. In report, it said that while 32% of digital camera owners were taking same number of pictures, 62% of digital camera owners were taking more pictures than ever. NPD market tracking found 1.97 million digital cameras were sold via traditional channels in 4th quarter and 227,958 through e-commerce channel. NPD Intellect Senior Imaging Mgr. Neil Portnoy said: "The camera market is more complex and segmented than ever, due to the explosion of digital cameras [and] owners are finding new ways to use their cameras every day."

DVD surpassed VHS in value in Japan for first time in Dec., Japan Video Software Assn. said. Shipments soared 183% to ¥15.7 billion (\$134.2 million) from Dec. 1999. Assn. said value for year was ¥104.5 billion (\$893.2 million), up 240% over 1999 and representing 38% of value of video software market in Japan. In all, 48.7 million DVDs were shipped, 3 times more than year ago. DVD value is expected to outstrip prerecorded VHS in Japan this year, group said.

Record Macrovision revenue was \$80.1 million in 2000 from copy protection products and services, up 54% over \$52.1 million in 1999, company said. Earnings for year were \$13.6 million. In 4th quarter, revenue rose 53% to \$24.8 million from \$16.3 million in 1999, and earnings were \$6 million.

## Consumer Electronics Personals

Wayne Inouye, ex-Best Buy, named eMachines pres.-CEO, replacing Stephen Dukker, resigned... Appointed at Clarion: Steven Gramig, ex-Onkyo America, as senior vp-OEM sales and new Clarion OEM Group, based in Novi, Mich.; Paul Lachner, ex-Sony Mobile Communications Group, as vp-sales at new Clarion Device Corp., also based in Novi... Melissa Boughton promoted to Musicland vp-leasing from managing dir. of real estate; Rick Bateson, ex-design & construction dir., advanced to vp... House Commerce Committee Chmn. Tauzin (R-La.) to keynote CEA-sponsored Digital Download conference March 6, Mayflower Hotel, Washington... Ex-Mont. Gov. Marc Racicot (R), now with Bracewell & Patterson law firm, appointed outside counsel to RIAA... Joseph Brugh, ex-Region Link, named Electrograph mktg. mgr... David Daucanski, ex-Emergin and BellSouth, appointed Pace Micro Technology Americas sales vp-new business development... Parker Lee, ex-eCal, named PlanetWeb business development vp... Appointments at Equator Technologies: Richard Christopher, ex-Triscend, as worldwide sales & mktg. vp; Yee-Wei Huang, ex-TriMedia, as digital media market segment dir.; Olivier Schiffmann, ex-Zapex, as tactical product mktg. dir.; Bruce Belmont, ex-STMicroelectronics, as East Coast sales mgr... Mark Allen, Transmeta pres.-COO, named CEO, replacing co-founder David Ditzel, who shifts to vice chmn.-chief technical officer... Terry Glatt, ex-TecKnowledge Inc., appointed Pace Americas technology dir... Glenn Murphy resigns as Chapters pres.-CEO, succeeded by Heather Reisman, whose chain Indigo Books & More, acquired Chapters... Russ Thyret resigns as Warner Bros. Records chmn.-CEO, replaced in interim by Pres. Phil Quartararo... Gary Drucker, ex-Diego Broadband, appointed RealNetworks Consumer Div. pres.; Scott Ehrlich, ex-Rival Networks, joins as programming vp... Chuck Lanham, ex-marchFirst, appointed Telocity senior systems development & integration vp... Kelly Sumner promoted to Take-Two Interactive CEO, replaced as pres. of Take-Two Europe by Gary Lewis, who had been subsidiary's COO... Craig Sullivan, Clorox Co. CEO, elected to Mattel board.

Intel digital video camera will ship in Sept. at \$99 with ability to record up to 4 min. of audio and video. Digital Movie Creator (DMC), introduced year ago without audio capability and with 8-sec. recording capacity, delivers video with 320x240 resolution and fits into cradle containing USB port for connection to PC. "We looked at this [last year] and said 'this isn't going to cut it' and we decided to go back and see what we could do to get audio integrated," Intel Business Segment Mgr. Jeffrey Abate said. DMC has 2 MB memory.

Combo HDTV/PVR will be offered by Panasonic for Japan's HDTV system this month. Model TH-36DH100 has 30 GB hard disc drive capable of 2.5 hours of HDTV recording, 5 hours in SDTV mode and 25 hours for analog programming. Company said set uses new 36W flat Super Slim Tube that's less than 18" deep — 23% shallower than CRTs with same size display. Besides digital PVR, combo has SD Memory card to save still pictures and IEEE-1394 based interface to connect digital sources such as D-VHS recorder or DV-format camcorder.

World leader in patents last year was IBM with 2,922 issued by U.S. Patent Office, IFI Patent Claims Services research firm reported. It said NEC was 2nd with 2,000 patents, ahead of 5 other Japanese companies. Other U.S. tech companies in top 10 were Lucent (5th), Micron Technology (7th), Motorola (9th).





# TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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**AT&T SALE REQUIREMENT** should be delayed because of court ruling, Furchtgott-Roth says. Broadcast ownership may be affected. (P. 2)

**TV RECEPTION RULES** questioned in appeals court argument. Judges ask why OTARD antenna rules weren't questioned in other forums. (P. 3)

**FCC SLOTS PUSHED** by Washington insiders. Burns backs Rowe. Copps, Obuchowski said to be 'locks.' (P. 4)

**RETRANSMISSION FIGHT** between Young Bcstg. and EchoStar moves to FCC. DBS claims unfair linking. (P. 4)

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**PROJECTION TV GROWTH TO SLOW** this year to 23% from 27.8% year ago amid sluggish economy, Corning Precision Lens projects. (P. 9)

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**NATM DEALERS HUNKER DOWN** to ride out what many expect to be short downturn in U.S. economy. (P. 11)

**MIXED BAG IN FEB. SALES RESULTS:** Best Buy boasts strong results, but Circuit City has double-digit declines. (P. 13)

**NASA USING REGION-FREE DVD PLAYERS** from Sony that U.K. company modified for use on International Space Station. (P. 14)

**ULTIMATE EARNINGS RISE** in 4th quarter to \$7.4 million from \$5.1 million year ago as TVs drive increased sales. (P. 15)

**AFFILIATES DECLARE WAR ON TV NETWORKS:** Network Affiliate Stations Alliance (NASA) — long at odds with Big 4 TV networks on station ownership cap — declared war on another front by asking FCC to open inquiry into what it charged were "unlawful network tactics and practices." Immediately after personally delivering petition to commissioners March 8, NASA leaders took their argument to members of Congress who, they hope, will pressure Commission to act. Members of NASA are affiliates of ABC, NBC and CBS, and they also asked FCC to look into Fox actions.

NBC, ABC and CBS denied charges, while Fox said it still was "digesting the 42-page" document, plus attachments. "It's a shame" request was filed, said NBC. "We've made so much progress in terms of our relationship with our affiliates [and] it's as good as it has been for many years. We're confident the FCC won't find any merit to their claims." Said ABC: "The references in the NASA petition regarding ABC are wholly without merit. The public would best be served by deregulating the broadcast industry to reflect today's highly competitive environment, not the sweeping and unjustifiable governmental intrusions that NASA demands." CBS called filing "ill-advised and extremely disappointing, particularly given CBS's strong commitment to the network/affiliate relationship." CBS official "categorically denied" network had undertaken any "unlawful activities whatsoever" and said it was "confident the FCC will find no merit in these baseless and irresponsible charges." Asked why NAB wasn't informed of filing in advance, official said Assn. "has some network members [CBS, ABC] and we didn't think it was appropriate."

Said NASA in seeking FCC investigation: "When a national network enjoys undue leverage over an affiliated station's operations, the local licensee's ability to select community-appropriate programming and to make all significant business and operational decisions is significantly undermined. Viewers' television service suffers because



the programming they watch tends to be dictated by a centralized conglomerate — not shaped by local station licensees that know and care about their home communities.”

With relaxation of rules and regulations to help networks compete in changing video marketplace, they “unfortunately... are now using their increased strength to exercise ever-greater control” over affiliates, NASA charged. “In many cases, their actions violate existing FCC rules and policies. In still others, their practices threaten core public interest principles such as program diversity and localism.”

Among alleged illegal practices cited by NASA: (1) Demand for provisions in affiliation contracts that “effectively” prevent stations from preempting network programming. (2) Attempt, by Fox, to require affiliates “to give up all control over their digital capacity.” (3) Use by Fox, NBC and ABC of affiliation agreements to “unlawfully manipulate” contracts in station sales, “thereby subverting local licensee independence... This amounts to the network having veto power over the sale of an affiliated station... Although CBS has not yet exploited station sales... recent CBS affiliation agreements expressly provide that CBS may terminate the agreement without any reason” if affiliated station is sold. Petition cites specific examples of where affiliation agreements allegedly have been used to “unlawfully manipulate” station sales that “erode or eliminate” licensees’ control — including KRON-TV San Francisco (NBC).

“Improper” — but not illegal — network practices that FCC should probe, NASA said, include “collaborations in collection and distribution of news” (such as exit polling), their “growing reluctance” to give affiliates program exclusivity, “extent to which networks are using the power derived” from their ownership of TV stations to “unfairly control the distribution of video programming.” NASA Chmn. Alan Frank, pres. of Post-Newsweek Stations, said petition was filed because of “disturbing trend by the networks to assume greater dominance... We are partners with the networks, but we cannot stand by and let them control our local stations... This petition establishes that those core values [localism and diversity] are at risk.”

NASA knows it will be difficult to get new Republican-dominated FCC to start inquiry — particularly in light of Chmn. Powell’s often stated view that marketplace should be main regulator (TVD Feb 26 p2). With that in mind, group plans to lobby Congress heavily to apply pressure on agency. “We’ve got an uphill fight with Powell,” NASA official said, “but the Commission can’t neglect its responsibilities.” Pleading had more than 18-month gestation period, and purposely was withheld until after Presidential election. Affiliates’ plan wasn’t disclosed to NAB in advance of its filing at FCC. Assn. official said NAB had no comment at this time: “We’re in the process of analyzing it.”

**FURCHTGOTT-ROTH URGES DELAY IN AT&T DIVESTITURE:** In light of Appeals Court ruling on cable ownership limits, FCC ought to suspend deadline for AT&T to divest cable interests until agency decides how to respond to court, FCC Comr. Furchtgott-Roth said March 9. Action by U.S. Appeals Court, D.C., (TVD March 5 p3) has left agency without 30% cable ownership cap, making it hard to force AT&T to comply with it, he told reporters at breakfast briefing. “It’s impossible to compel a company to come into compliance with rules the court said are unconstitutional,” he said. Court decision, he said, “places in substantial doubt what happens to the AT&T merger conditions.”

FCC Chmn. Powell said in USTA conference speech March 7 that court decision could lead to reconsideration of agency’s requirement that AT&T shed its 25.5% holding in Time Warner Entertainment (TWE), its stakes in Liberty Media and other programming interests or cable systems with 9.7 million subscribers to get under agency’s 30% ownership limit. Court action “implicates our thinking,” Powell told audience, requiring FCC to review “what our legal obligations are” on AT&T matter. He said he didn’t know what conclusion Commission might reach.

Spokesman for AT&T, which controls 42% of pay TV market following its purchase of MediaOne, declined comment on Furchtgott-Roth’s comment. Company, which has been pursuing both sale of its TWE stake and spinoff of Liberty Media programming unit to satisfy FCC divestiture order, faces May 19 deadline for complying with order and more imminent March 20 deadline for telling Commission whether it will be able to comply. Spokeswoman for FCC Cable Bureau, which reviewed AT&T-MediaOne merger, also declined comment. Aides to Powell and Comrs. Ness and Tristani hadn’t returned calls by our deadline.

Furchtgott-Roth said he suspected AT&T divestiture was under review by Powell’s office, other commissioners, Office of Gen. Counsel and Cable Bureau, but there was some dispute over whether court’s action applied to conditions placed on license transfers. “I think it’s fair to say that reasonable people disagree,” he said. FCC placed divestiture requirement on AT&T last June as condition for approval of its \$44 billion buyout of MediaOne. Furchtgott-Roth said he



didn't know whether Commission would vote on AT&T question or decision would be made at staff level, for example by Office of Gen. Counsel or Cable Bureau.

Court's basic message was that 30% limit on number of pay-TV subscribers that single MSO could control was "kind of plucked out of the air," Furchtgott-Roth said. Court said FCC didn't justify its selection of that figure, he said. Court didn't say number had to be smaller, just that "whatever number is chosen, it can't be arbitrarily determined," he said.

Besides cable ownership cap, Furchtgott-Roth argued that court ruling "probably" had "some implications" for FCC's broadcast ownership limit, which bars broadcasters from owning stations reaching more than 35% of TV homes nationwide. But he said that in broadcasters' case, Congress, rather than FCC, set 35% cap in Sec. 202 of Telecom Act. "I think the Commission could at least fall back and say there's clear Congressional guidance for that number" if it ever were challenged in court, he said. "I don't know how it plays out."

Noting that same court that ruled on cable ownership cap also struck down FCC's equal employment opportunity (EEO) rules, Furchtgott-Roth said in both cases court made it clear that Commission must tread carefully on Constitutional protections. He said court recently asked Commission for its views on petitions by various parties for en banc hearing on EEO decision. He said he would prefer simply to eliminate current EEO rules and start over again. FCC also has appealed part of that decision.

**APPEALS COURT TACKLES TV RECEPTION RULES:** U.S. Appeals Court, D.C., quizzed lawyers on both sides March 5 on FCC rules that preempt landlords, building managers and homeowner groups from blocking renters from installing DBS dishes and other types of TV antennas. Hearing oral argument, 3 judges particularly grilled attorneys for Building Owners & Managers Assn. International, which brought suit against govt.'s regulations for over-the-air reception devices (OTARD). While judges also questioned attorneys for FCC and DirecTV, they directed most of their attention to building owners and asked why they hadn't taken complaints about OTARD rules and supporting statutes to other forums. They also asked why landlords didn't simply raise their rents to cover cost of alleged "physical taking" of their property and interference with their contractual relationship with tenants.

Taking lead, Judges Raymond Randolph and Merrick Garland bombarded building owners' counsel Matthew Ames with skeptical questions, asking him why FCC couldn't set OTARD rules for renters under 2 sections of Telecom Act. Randolph also questioned "physical taking" argument advanced by landlords. "There's nothing unconstitutional about a taking," he said. "The only thing unconstitutional is if you don't pay for it." Randolph said Congress passed up chance to overturn OTARD rules and expressed doubt that court even had authority to rule on "physical taking" argument.

Garland wondered how far building owners would go in pressing their case that tenants couldn't attach things to their walls or bring in entities that physically occupied space without landlord permission. Did that mean that tenants couldn't install rabbit ears on their TV sets or fire extinguishers on their walls? he asked. Did "physical taking" of space argument apply when tenants brought home children? "Why is a child different from a satellite dish?" Garland asked. "That's sort of a cosmic question."

Ames argued that "the Commission has essentially regulated every owner of rental property in the country" by giving tenants nearly "unlimited rights" to install DBS, MMDS and other TV antennas in and around their homes and apartments. Contending that FCC had "effectively broadened the scope of tenancy," he complained that landlords "have lost all control over the property." Ames also questioned FCC's authority to intervene in landlord-tenant relationship, saying Congress never granted agency that specific power. "We're simply saying the Commission doesn't have the authority to adopt the rules," he said.

Judges Garland, Randolph and Judith Rogers questioned FCC Counsel Gregory Christopher about Commission's statutory authority to impose restrictions on landlords. They asked whether agency was concerned that it had acted too late to assert its authority because it had missed Congress's 180-day deadline. They also wondered whether FCC worried that its rules amounted to "physical taking" of landlord property. Christopher said that wasn't concern, arguing that rules were "simply entitlement" of tenants.

Latham & Watkins attorney Richard Bress, representing DirecTV in support of FCC's rules, came in for little questioning. He said federal govt. had right to preempt state and local property laws to favor tenants. He also said Congress may have wanted to remove restrictions on tenant viewing options even if that meant imposing physical taking on landlords.



**FCC SEATS PRESSED:** Washington insiders continued to maneuver last week for their candidates for seats on FCC. One of top candidates apparently has withdrawn, with White House reportedly nearing announcement of nomination of Tex. PUC Chmn. Pat Wood as head of Federal Energy Regulatory Commission (FERC). Wood had been rumored to be up for appointment by President Bush to fill Republican slot on FERC or FCC. Decision wasn't actually announced. "We've had many inquiries," said Tex. PUC spokesman, who declined to comment on reports. "We've had nothing new out of Texas."

Meanwhile, Senate Communications Subcommittee Chmn. Burns (R-Mont.) said he would push appointment of Mont. PSC Comr. Bob Rowe (D) to FCC, although he admitted other members, notably Sen. Hollings (D-S.C.), had other candidates in mind. "We're going to try to do something with [Rowe]," Burns said March 7 at OPASTCO conference in Washington.

Longtime Hollings aide Mike Copps has "a lock" on appointment to one of 2 Democratic seats soon to open up on FCC, according to one prominent Democrat. Giving credence to that position is statement to us by Senate Republican that Commerce Committee Chmn. McCain (R-Ariz.) had told Hollings (former Commerce Committee chmn. when Democrats controlled Senate) that he could fill Democratic seat. Copps left Hollings's staff last year to become asst. secy. of Commerce for international trade. Candidates for other Democratic seat include front-runner Andy Levin, aide to Rep. Dingell (D-Mich.), former chmn. of House Commerce Committee.

Former FCC official Janis Obuchowski now is front-runner for one of 2 Republican vacancies on Commission, according to GOP sources. Her appointment would fulfill Administration's desire to retain woman commissioner after Democratic Comrs. Ness and Tristani leave, we're told. Obuchowski was NTIA dir. in first Bush Administration and now is international consultant.

Meanwhile, head of National Telephone Co-op Assn. (NTCA) urged Bush to appoint FCC members who would take rural interests into consideration. In a March 2 letter, NTCA CEO Michael Brunner said it wasn't enough "to designate a 'rural commissioner' in name only as has been the case in the past." There has been no shortage of qualified commissioners and staff dedicated to the Act's competitive principles, he said.

**AOL Time Warner** will form new TV networks group under Turner Bcstg. System umbrella that will encompass WB broadcast network and all of Turner's basic cable networks, including Cartoon Network, CNN, TBS Superstation, TNT, Turner Classic Movies. AOL Time Warner said TV network group, which it called world's largest, would be headed by WB CEO and founder Jamie Kellner, who will become chmn.-CEO of Turner Bcstg. Kellner will replace current Turner Bcstg. Chmn.-CEO Terence McGuirk, who company said would "step back from a direct operating role" and become vice chmn. In other management changes, Turner Pres.-COO Steven Heyer will leave AOL Time Warner to "pursue other interests" and Turner CFO Wayne Pace will take on added role of vice chmn. In internal e-mail to WB staff March 6, Kellner said he would remain involved in management of WB and Kids' WB! networks but would rely more heavily on WB's senior management team. He said he would split his time between WB's Burbank offices and Turner's Atlanta hq, "with a majority of my time spent in Atlanta." AOL Time Warner said Kellner will relocate his family to Atlanta.

**FCC GETS RETRANSMISSION FIGHT:** Young Bcstg. disputed EchoStar claim that it had "conditioned" retransmission consent for Nashville and San Francisco stations on carriage of Young stations in other markets while charging excessive fees. After having local broadcast signals shut off in San Francisco and Nashville when it couldn't reach agreement, EchoStar moved fight with broadcaster to Commission, where it accused Young of attempting to get "arrangement" under which it would be paid "4 times for retransmission of network-affiliated stations." Carriage complaint at FCC charged Young attempted to receive cash fee "above norm" for retransmission deals and making carriage of independent stations prerequisite for contract.

EchoStar said broadcaster attempted to force it to pay additional fee for retransmission of independent station along with another network affiliate scheduled to lose its network affiliation (KRON-TV San Francisco). Dispute continues even though companies had appeared to reach settlement in June that eventually fell apart. Industry official said dispute could be "preview" of things to come as DBS providers and broadcasters "jockey for position" over carriage rights of local signals.

In effort to help tarnished image with EchoStar subscribers, Young issued statement challenging EchoStar's characterization of negotiations and denying it had "conditioned satellite retransmission consent in San Francisco and Nashville" on carrying Young stations in other markets. Young Vp Deborah McDermott said EchoStar was offered each station on individual and group station basis. Young also released portions of letter it faxed to EchoStar Chmn. Charles Ergen March 2: "We have said over and over again — and time again — verbally and in writing from the very outset of our negotiations that Young Bcstg. will be happy to negotiate with EchoStar one or more agreements on a station-by-station, a la carte, basis."

McDermott challenged EchoStar to release negotiating documents and exchanges of correspondence. She said company reached similar retransmission agreements long ago with DirecTV and cable.

**Using broadband technology,** Disney Co. in "near future" will begin delivering movies direct to homes via its Movies.com Web site, Chmn. Michael Eisner told shareholders March 6 at annual meeting in Ft. Worth. Using same technology, Disney Pres. Robert Iger said company later this year would start My SportsCenter — "a sports enthusiast's dream." He said Disney Internet Group also was developing service using wireless technology as "more and more people are accessing the Web from portable devices." One of Internet Group's "most dramatic innovations" is Enhanced TV in convergence of TV set and computer, he said. System already has been used by ABC TV Network for several telecasts. "The Internet is evolving from a purely information medium to an entertainment medium," Iger said, with ESPN in forefront of that change where major growth opportunities are centered in Asia, Europe, Latin America. Despite closing of Disney's Go.com Web site earlier this year, Eisner said Disney Internet Group registered 17 million users monthly: "Our Internet businesses are healthy, growing and... they are approaching profitability." He said usage of ESPN Internet properties had grown "an incredible 225%" in last year, with ABC Entertainment brands up 155%. CFO Thomas Staggs told shareholders Disney interactive revenues increased 30% in first quarter this year, even though Internet Group lost \$253 million in same period.



**'NAPSTER' FOR FILMS:** Movie and TV industry could soon face Napster-like problem of Internet file sharing, particularly as broadband Internet access becomes more widely available, MPAA Exec. Vp Fritz Attaway told CEA's Digital Download conference in Washington. He cited study that indicated that 350,000-400,000 full-length movies were being illegally downloaded via Internet every day, with figure expected to grow to one million daily by end of year. Impact of video file sharing on industry revenue is "quite small now," Attaway said, but it could grow rapidly. Citing figures in movie downloading study by Boston-based consulting group Viant, Attaway said: "If anyone thinks this level of file sharing will have no significant impact on owners, then you are a prime candidate for a bridge in Brooklyn."

Protecting consumer copyright rights in digital era, including fair use doctrine, is "fundamental to exercising our First Amendment rights," Rep. Boucher (D-Va.) said at conference. It's time for Congress to "reaffirm fair use and bolster the rights now at risk," he said. Boucher said it was time for studios and other content owners to submit copyright proposals to Congress: "I hope our content communities will not attempt a unilateral approach to controlling access to content."

Consumer-oriented change in copyright law would include several factors, Boucher said: (1) Laws preventing circumventing anticopying technology shouldn't apply to copies made under fair use doctrine. (2) Consumers should have "reasonable expectation" that they could make personal copies of content for time-shifting and other purposes, without degradation of quality. Boucher said analog copy protection laws could be model. (3) Congress should be willing to consider digital watermarking technology. (4) Legislation should allow extended distance learning, first sale exemption and incidental or temporary reproductions, such as in computer buffers. (5) Archiving of legally purchased material on Internet should be allowed. (6) Consumers should be allowed to make archival copies of data and to take advantage of Internet equivalent of in-store exemption.

There probably is no need for new copyright legislation now, Attaway said, but it could be needed in the future if Digital Millennium Copyright Act (DMCA) proves ineffective in protecting content or if consumers have too much trouble getting access to it. He said broadcast TV certainly needed to be able to protect content because competitors satellite and cable could. He said broadcast had "a horrible competitive disadvantage" because lack of content control made less content available. However, Attaway said DTV transition wasn't being delayed by lack of content but by "DTV sets that cost \$5,000." As result, he said, there's not enough audience for DTV content for broadcasters to be able to afford to pay for it.

Copyright law wasn't created just to provide incentives for creative people to create content, CEA Pres Gary Shapiro said, "it's also meant to guarantee broad public access" to content. He said there was "a substantial burden of proof" for those who wanted to put restrictions on use of new technology.

**Rep. Berman (D-Cal.)** is drafting legislation that would return U.S. commercial satellite export licensing jurisdiction to Commerce Dept. from State Dept. while incorporating State and Defense Dept. special review process on satellite exports to China. Staffer said Berman was gauging potential co-sponsors' responses before introducing bill, which he said would be finalized later.

**DIRECTV DEAL IN LIMBO:** News Corp. Chmn. Rupert Murdoch reportedly is eyeing deal with EchoStar or return to Sky Global IPO as talks with Hughes for purchase of DirecTV "drag on," industry source said March 8. "He's starting to get impatient with the slow pace" of negotiations, but he "still believes he can pull the deal off. Everybody in the industry, including Murdoch, expected the sale to be completed by now." However, sources close to company believe Murdoch is starting to weigh alternatives to buying DirecTV, and EchoStar is viable option. In recent days, Murdoch has gone out of his way to praise EchoStar CEO Charles Ergen, his long-time rival, calling him "tremendous businessman." "The talks are starting and stopping and it's not clear to anyone when the deal might be done," industry official said.

Companies reportedly had agreed to provisional deal last month to merge News Corp.'s Sky Global satellite unit with Hughes-owned DirecTV that would have created \$75 billion empire before talks hit snag, sources said. "Honestly speaking, I heard News Corp. thought they had a deal, but GM and Hughes just wouldn't take the next step," said attorney close to Hughes and familiar with negotiations. Some published reports indicated primary opposition was coming from GM CEO Michael Smith, but Hughes and GM wouldn't confirm any of speculation.

GM also said it still was exploring other opportunities to sell largest DBS company in U.S. "We have been working on this for quite some time and are ready to find an outcome, but it's just not there yet," GM spokeswoman said. "There's a full range of possibilities open to us and we have not ruled anything out. You have to remember that any deal we strike will be a complex one."

**A wrong that needs to be righted** in U.S. political campaigns is "the out-and-out bribery that affects the body politic," *60 Minutes* founder and Exec. Producer Don Hewitt said. In accepting First Amendment Leadership Award from Radio-TV News Directors Foundation March 7, he said "the Founding Fathers would turn over in their graves if they knew their precious First Amendment was being used" to justify existing campaign practices and fund-raising. Today, he said, "the No. 1 qualification to run for office in the world's greatest democracy has become in the television age not the ability to govern but the ability to raise money." First Amendment "doesn't give you the right to holler 'fire' in a crowded theater," he said. "Why does it give you the right to holler 'money' in a Buddhist temple?" Presidents now "frequently spend more time at fund-raisers than they do at the business of running the government," Hewitt complained. Politicians can't get elected without "amassing a [money] war chest and you can't amass a war chest without being beholden to people who want something from you." Contributions from anybody doing business with govt. should be banned, he said, "because any way you cut it, that is bribery." Solution isn't to give candidates free time, he said: "Just give them news time when they do something newsworthy. That is our only obligation." If TV were to lose the estimated \$1 billion candidates paid for air time in 2000, Hewitt suggested TV industry start taking "hard liquor commercials" as possible replacement: "Jim Beam and Jack Daniels did less harm to America than [Democratic strategist] Dick Morris and [former White House attorney] Jack Quinn."

**Senate Commerce Committee** plans markup March 15 on legislation and nominations, it said without releasing agenda. Markup will begin at 9:30 a.m., Rm. 253, Russell Bldg. However, we're told markup probably won't include Internet- or telecom-related items.



**STREAMING VIDEO STRUGGLES:** While more video streams than ever were served over Internet last year, streaming video still is far too immature to be viable business because of technical limitations, lack of consistent revenue model and other issues, Digital Hollywood conference in San Jose last week was told. That's good news for traditional TV and cable because serious battle for viewers has been put off. But it's bad news for content creators because new revenue from re-purposing TV programming over Internet also is years away, speakers said.

ABC.com Vp-Gen. Mgr. Brian Bowman said issues that needed to be addressed included renegotiating with TV unions for re-broadcasting TV content over Internet: "Companies that are re-broadcasting video over the Internet are exposing themselves to the guilds." Bowman cited *Drew Carey Show* simulcast of additional live streaming content on Web during regular airing of show. Results appeared impressive — not only were ratings higher, but 600,000 consumers went to ABC Web site to access streamed Internet content during time period. But Bowman said there was 50% failure rate despite "cream of the crop" technology. He said experiment was subsidized by participants: "Had we actually had to pay for this, it would have been extremely, extremely expensive. And I don't think the eyeballs are there for the advertisers to be associated with something like that."

ACTV Entertainment Vp Brent Imai said one thing that had backed Internet entertainment sites into corner was their promise to advertisers to deliver accountability and trackability of audience response far beyond what traditional TV could offer.

Bowman said ABC.com currently obtained 90% of its revenue from advertising but was looking at other streams such as slotting fees, licensing, subscriptions. He said TV advertising slump was having trickle-down effect and upfront TV ad market was off 25-30% now: "That's going to have an enormous impact not just on television advertising, but cable advertising, print and the Internet." Nonetheless, he said, Disney parent company had vowed its Internet division would be profitable in 18 months.

While dot.com crash has dampened enthusiasm for finding new and faster ways of delivering data to consumers, conference offered some glimmers of hope that new technologies and business models would evolve to enable satellite and wireless to compete against cable modems and DSL. In many ways, speakers said, satellite may be best poised to drive broadband revolution, acting not just as rival to DSL and cable modems, but also as partner that can beam content to cable headends efficiently.

**"No further action** is warranted" in case of allegedly subliminal anti-Gore message in Republican National Committee ad last fall, FCC Enforcement Bureau said. Most of stations that aired it weren't aware word "RATS" appeared in it, according to FCC investigation, and others believed it was acceptable because it included identifiable appearance by candidate.

**Sirius Satellite Radio** received authority from FCC to modify space station license from 2- to 3-satellite constellation using nongeostationary (NGSO) system instead of geostationary in 2320-2332.5 MHz band. No objections were filed. Sirius said change would provide system with "enhancements" and better fulfill potential of radio network. Spokeswoman said higher elliptical orbit would allow satellite signals to be receivable at all times.

**Telemundo TV Network** is using FCC procedures in effort to delay debut of Azteca America as 3rd U.S. Hispanic network, official of Azteca said. Comment was in response to Telemundo petition — charging potential interference to existing stations — to Commission to reconsider staff grant of Pappas Telecasting's purchase of CP for Ch. 54 KIDN-TV Avalon, Cal., in L.A. market, to be affiliate for Azteca America. Planned network is co-owned by Pappas and Azteca Mexico and plans late-spring start. L.A. affiliate is "critical" to its success, Azteca said. KIDN-TV is 5th station Azteca America has tried to acquire in L.A. market. It said it was outbid for KWHY-TV (Ch. 22) by Telemundo and for KHSC-TV (Ch. 45) Ontario by Spanish-language Univision. Purchases gave Telemundo and Univision 2 stations each in L.A. market. In FCC filing, Azteca said Telemundo's pleading was based on "the flawed proposition... that hundreds of thousands of viewers may lose existing television service" because of interference from KIDN-TV [which isn't on air]. Azteca told Commission that, based on actual measurements by engineering consultant Neil Smith, "only a relatively minuscule number of viewers" would be affected and that "Pappas Telecasting can resolve such problems... by installing filters." Telemundo's objection "is based solely" on interference station would cause to 500,000 viewers in L.A. service area, Telemundo (which owns dominant Spanish-language network in U.S.) said. "It is unfortunate," said Telemundo, that Pappas and Azteca America "have taken out their frustrations [with move] to the press and it is unsettling that Pappas/Azteca would use unfounded attacks on Telemundo's motivations as a means of diverting attention away from a significant electrical interference issue." Telemundo said it wasn't seeking to "restrain competition from Pappas/Azteca," as Azteca America claimed in FCC filing, but merely wanted to ensure that its ability to serve viewers wasn't impeded.

**Public Bcstg. Caucus** in House under leadership of Rep. Blumenauer (D-Ore.) has 60 members, NPR Legislative Dir. Kathy Dole told meeting of NPR board's Membership Committee March 7. Calling formation of caucus positive development, she said it was bipartisan and afforded opportunity to provide detailed briefing on issues such as LPFM. Besides Blumenauer, founding members of caucus are Reps. Wamp (R-Tenn.), Lowey (D-N.Y.), Houghton (R-N.Y.), Markey (D-Mass.), Morella (R-Md.). Caucus held its first briefing March 5 for staff on significant issues affecting public broadcasting community and Congress. "The staff briefing... was a positive kickoff," Blumenauer said. Caucus supports 4 broad principles: (1) Strong and financially sound noncommercial, universal, educational broadcasting service. (2) Policies that ensure continued growth and vitality of public broadcasting programs and services. (3) High level of financial support for public broadcasting's transition to digital. (4) Strategies and policies that allow public broadcasting community to take full advantage of new technologies.

**FCC closed book** on last spring's nasty Time Warner-Disney programming fight, approving consent decree with AOL Time Warner that excused MSO from further sanctions for cutting off ABC in 7 markets for 2 days. Under decision by Cable Bureau, AOL Time Warner evaded any fines for its role in retransmission consent dispute but volunteered to make \$72,000 contribution to U.S. Treasury. Cable Bureau held that MSO, while at fault for turning off ABC last May, responded to problem quickly by providing prompt subscriber refunds and taking other conciliatory steps. Contribution is based on \$750 payment for each of 96 cable systems.

**Latest DTV station** on air: WGAL-TV Lancaster, NBC affiliate. NAB said 184 DTV stations now are on air.



**SATELLITE MERGER POSSIBLE:** GE Americom and SES Astra were closed-mouthed last week on industry reports they were negotiating \$5 billion merger. SES Astra Senior Representative-U.S. Dean Olmstead wouldn't discuss details of talks, but said "we're pursuing the same strategy," and he still hoped deal could be in place by spring. He said industry reports that its purchase of GE Americom was imminent were "surprising," but they "didn't come from our side. I can't say one way or another if they're true." GE Americom spokeswoman said she never would comment on rumor of pending "transaction," but said "we're always looking for opportunity to expand our leadership position" in satellite industry.

News of possible merger was somewhat surprising since it wasn't widely known that GE Americom was up for sale, said satellite analyst William Kidd of C.E. Unterberg Towbin. GE Americom reportedly also was being pursued by EchoStar, Intelsat, Loral. Facing possible deal with rival DirecTV, EchoStar was said to be highly interested in joining forces with, or acquiring, satellite operator. Spokesmen for EchoStar and Intelsat refused comment. Loral spokesman wouldn't comment, but said company would "evaluate any opportunities that come up." Intelsat spokesman didn't return phone calls. Reported deal is among flurry of activity in continuing consolidation of satellite industry, analysts said.

Olmstead said last month company was determined to get into U.S. market by spring to "fill the North American vacuum in our global strategy."

GE Americom has 15 satellites, 12 of which are linked to U.S. It owns largest satellite fleet in N. America and provides access for cable systems, data transmissions, radio and Internet traffic where it believes it has most potential for growth. Company also committed to purchasing 6 more birds by 2004 and building on acquisition of Columbia Communications to gain larger share of markets in Asia and Europe.

More than 90% of cable MSOs now offer high-speed Internet access, up from 32% in late 1999, Cahners In-Stat Group said in annual survey. Study of 48 cable systems also found that 28% of MSOs now provided cable telephony, up from 3% year earlier. Another 20% said they planned to add cable telephony by year-end. On digital video side, survey said 64% of MSOs expected to have at least 5 digital channels available within next 2 years, and 18% planned to offer more than 30 digital channels by then. But cable operators said they had introduced digital cable set-top boxes to only 15% of their subscribers so far. About 44% of MSOs said they had chosen 64-QAM as their modulation technology for digital TV, while 25% had picked costlier 256-QAM modulation system.

**Boeing Satellite Systems** confirmed March 8 Pres. Tig Krekel resigned without warning, spokesman said. Krekel's top aide, Exec. Vp Joseph DeSarla, also left company for personal reasons, Boeing said. Krekel has been credited with improving operations and growth of satellite company in volatile marketplace plagued by sagging investor confidence, consolidation and stringent export controls that have hampered U.S. satellite operators. Boeing spokesman didn't say why 2 top officials left and neither was available for comment.

**News Corp. Chmn.** Rupert Murdoch and NBC sports announcer Bob Costas will keynote SkyForum satellite/financial symposium at Marriott Marquis Hotel April 5 in N.Y.C. — 703-739-8351.

**CABLE ACCESS DEBATED:** Now that it has secured space on AOL Time Warner's cable systems, EarthLink urged FCC to open all high-speed cable lines to independent ISPs. In its latest ex parte filings on Commission's open access inquiry, EarthLink argued that "Internet access is an information service" and that facilities-based providers of information services must offer nondiscriminatory access to their lines. EarthLink stressed that "increasing consumer demand for broadband services makes prompt Commission action on cable open access essential if consumers are to have meaningful choices of broadband Internet access providers." Pointing to its own 4th-quarter broadband growth, it said broadband "has now reached the point of exponential growth that was experienced in the dial-up Internet access market approximately 5 years ago." EarthLink also warned that U.S. Supreme Court could usurp FCC's authority if it didn't soon decide "proper regulatory classification of cable modem service."

At same time, Comcast stressed its service advances and increased competition that it faced from DBS providers and cable overbuilders in fresh ex parte filing. Contending that "the market is working," company urged Commission to avoid extending open access mandates imposed on AOL Time Warner to rest of cable industry. It said cable Internet access "will continue to develop appropriately without government intrusion." Comcast also said it was likely to extend its multiple ISP technical trial to other ISPs beyond Juno Online Services.

In another new ex parte filing, AT&T said its multiple ISP technical trial in Boulder, Colo., had grown to include more than 300 cable subscribers. AT&T said test, now in 4th month, had 4 active ISPs — EarthLink, Excite@Home, Juno, WorldNet. Company said 3 other ISPs — IC&C (formerly RMI.net), MSN and Winfire — still were working through "technical and operational details of providing service and hope to be online soon."

**Controversy over NPR's** recent acceptance of underwriting credits from govt. of Kuwait has caused enterprise to think anew about guidelines for "appropriate method" of accepting underwriting from sovereign govts., NPR Pres. Kevin Klose told board meeting March 8 in Washington. He said there was hardly any public comment when NPR accepted underwriting credit from German govt. 3 years ago to mark anniversary of collapse of Berlin Wall, but there had been "much public comment" on credit for Kuwait to mark 10th anniversary of its liberation from Iraq. Those credits were completely consistent with NPR's underwriting guidelines, he said. Saying guidelines on accepting underwriting from sovereign govts. needed to be revisited, Klose said it wasn't matter of independence or integrity of NPR's news operations, which always had been protected and insulated from influence of any underwriting. "It is in the area of the perceptions" that guidelines needed to be clarified, he said. Klose defended NPR's proposal to lease wall of its Washington headquarters for mural art. "It is a perfectly reasonable use of a blank wall," he said, and NPR was doing what Congress and its board instructed it to do: to explore "reasonable ways to be self-sufficient as possible and as responsible as possible to our own values."

**"One-on-One"** with FCC Chmn. Powell highlights NAB State Leadership Conference today (March 12) at J.W. Marriott Hotel, Washington. Powell will immediately follow opening panel of FCC staffers. Members of Congress scheduled to appear include House Majority Leader Arney (R-Tex.), House Telecom Subcommittee Chmn. Upton (R-Mich.), Sen. Hollings (S.C.), ranking Democrat on Commerce Committee, and Sen. Cleland (D-Ga.) of Commerce Committee.



## Personals

**Vernon Jordan**, Lazard, Frères & Co, named co-chmn., Ad Council advisory committee on public issues... Changes at Tribune Bcstg.: **Patrick Mullen** promoted to pres., Tribune TV, succeeding **Michael Eigner**, who moves to pres., Tribune Cable; **Peter Walker** advanced to senior vp-Tribune TV; **John Reardon** promoted to west coast regional vp... **Robert Friedman**, ex-New Line, named pres., AOL TV... **Robert Long**, vp-news, WRC-TV Washington, moves to vp-news and operations... **Arthur Sando**, ex-Winstar, named senior vp-communications, CBS Enterprises... **Rafael Fernandez**, ex-Miami-Dade Police Dept., appointed vp-Latin music, RIAA.

Changes at Lifetime: **Thomas Hanft**, ex-KNBC, L.A., appointed senior vp-mktg., advertising and promotion; **Gerald Logue**, ex-Grey Entertainment, named senior vp-exec. creative dir... **Amy Girdwood** advanced to vp-international human resources, Discovery Networks... **Alan Perris**, ex-Warner Bros., named senior vp-programming, Odyssey Network... **Alan Burch**, senior vp-gen. mgr., Pegasus Cable TV, retires... **Ronald Stark**, ex-Star Kreative Services, named vp-affiliate mktg., Odyssey Network... Changes at ESPN: **Leonard DeLuca**, senior vp-program development, moves to senior vp-programming strategy; **Mark Shapiro** adds vp-gen. mgr. ESPN Original Entertainment to vp-gen. mgr. ESPN Classic... **Art Salisch**, ex-Rainbow Advertising Sales, named senior dir.-research, Comcast Advertising Sales.

**Douglas Herzog**, ex-Fox Bcstg., appointed pres.-USA Cable... **Adam Perel** promoted to vp-national ad sales, Comcast... **Robert Lemle** adds vice chmn. to gen. counsel and secy., Cablevision Systems... **Beth Hampton**, ex-American Chemistry Council, named vp-membership mktg., CTAM... **Natasha Cohen** promoted to dir.-business development, Digital Media Group, Showtime Networks... **Pamela Bertino** advanced to vp-gen. mgr., Weatherscan Local, Weather Channel... **Christopher Kelly** promoted to gen. mgr., DiscoverOmaha.com, Cox Interactive Media.

**Christopher Feola** advanced to vp-technology, Belo Interactive... **Todd Hanks**, ex-Juntunen Mobile Television, becomes vp-production & satellite services, Conus... **Hubbard Bcstg.** CEO **Stanley S. Hubbard** will keynote Bcst. Education Assn. convention in Las Vegas April 22.

**Satellite Bcstg. & Communications Assn. (SBCA)** filed amicus brief to support MPAA appeal in antipiracy case before 2<sup>nd</sup> U.S. Appeals Court, N.Y. NFL and NCTA also filed in support of MPAA. In Aug., MPAA won suit against distributor of DeCSS, computer program designed to break encryption code of Content Scramble System that prevents illegal copying from DVDs. DeCSS appealed decision, which led MPAA to ask other groups for help, including SBCA. SBCA said it continued to be "alert to other opportunities to fight signal piracy and unauthorized theft of copyrighted works" in effort to protect DBS programmers and service providers.

FCC postponed auctions for FM reserved band allotments until Dec. 5, from scheduled May 9, in notice issued March 7. Commission also lifted FM minor change application freeze announced Jan. 19 that was to continue through March 19. FCC cited "reasons of administrative convenience" for delay. Form 175 for Dec. 5 auction now is due Sept. 24 — 717-338-2888.



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**Financials:** Insight Communications revenue rose to \$123.2 million and operating cash flow to \$56.3 million, in 4th quarter. MSO didn't disclose its quarterly net income... **Gemstar-TV Guide International** reported net loss of \$126.2 million for 4th quarter ended Dec. 31 despite huge surge in revenue to \$358.1 million and in operating cash flow to \$112.3 million. Gemstar had \$23.1 million profit in 4th quarter 1999... **NTL** reported net loss of \$1.2 billion in 4th quarter ended Dec. 31 despite big increases in revenue to \$852.9 million and in operating cash flow to \$93 million.



# Consumer Electronics

A Section of Television Digest with Consumer Electronics

## STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Feb.23, and year to date:

	FEB.17 - FEB.23	2000 WEEK	% CHANGE	FEB.10- FEB.16	8 WEEKS 2001	8 WEEKS 2000	% CHANGE
TOTAL COLOR TV	625,665	711,212	- 12.0	430,013	3,568,902	3,643,211	- 2.0
DIRECT-VIEW**	604,951	670,659	- 9.8	409,632	3,428,331	3,451,793	- 0.7
TV ONLY#....	484,857	550,741	- 12.0	365,985	2,915,664	2,939,928	- 0.8
TV/VCR COMBO.	120,094*	119,918	+ 0.1	43,674	512,667*	511,865	+ 0.2
PROJECTION...	20,714	40,553	- 48.9	20,381	140,571	191,418	- 26.6
TOTAL VCR**...	499,761	781,530	- 36.1	189,501	2,442,183	3,026,523	- 19.3
HOME DECKS...	379,667	661,612	- 42.6	145,827	1,929,516	2,514,658	- 23.3
CAMCORDERS.....	86,641	135,851	- 36.2	39,759	542,810	597,578	- 8.0
DVD PLAYERS....	165,542	215,732	- 23.3	117,682*	1,127,887*	771,066	+ 46.3

Direct-view TV 5-week moving average#: 2001-437,226; 2000-433,481 (up 0.9%).

Projection TV 5-week moving average: 2001-19,754; 2000-28,770 (down 31.3%).

VCR deck 5-week moving average: 2001-306,124; 2000-407,333 (down 24.8%).

TV/VCR 5-week moving average: 2001-77,735\*; 2000-76,921 (up 1.1%).

Camcorder 5-week moving average: 2001-89,313\*; 2000-87,106 (up 2.5%).

DVD player 5-week moving average: 2001-159,761\*; 2000-114,900 (up 39.0%).

\* Record for period. \*\* Includes TV/VCR combinations. # Excludes TV/VCR combinations.

Note: Analog sets only included in figures on direct-view TVs, TV/VCR combos, projection TVs; analog and digital models included in camcorders.

**PROJECTION TV GROWTH TO SLOW SLIGHTLY THIS YEAR:** Projection TV (PTV) growth in U.S. is expected to decline this year to 23%, down from 27.8% year ago, amid slowing of economy, Corning Precision Lens (CPL) said in its annual report on product.

CPL, formerly U.S. Precision Lens (USPL), is projecting sales of 2.1 million sets this year, up from 1.7 million, as manufacturers boost production and overcome component shortages that plagued industry year ago. Shortage of components, which included ASICs, resistors and capacitors, resulted in industrywide PTV inventories of 2½ weeks (35,339 units) at year-end, 14,594 of which were DTVs, CPL said.

Among those increasing production was Toshiba, which planned to double capacity by June along one of 4 digital TV (DTV) assembly lines at Lebanon, Tenn., plant, Asst. Mktg. Vp Scott Ramirez said. To make room for extended line, Toshiba is removing some refurbishing operations from factory, he said. While Ramirez declined to disclose Toshiba's new DTV capacity after expansion, he said it would "be enough to make us No. 2" in PTV market share. Toshiba added new production line last year to assemble HD-ready 50"-65W projection TVs (TVD Aug 14 p11).

Continued increase in PTV sales in 2001 will come as DTVs draw even with shipments of analog models at roughly 900,000 units each. HD-ready PTVs accounted for 29% of category's sales in 2000, PTL said. Integrated HDTVs were forecast to post sales of more than 300,000 units this year as entry-level prices fell to \$2,500, while HD-ready models slipped under \$2,000. Falling prices are likely to enable integrated HDTV sets to be available in volume this year rather than in 2003, as CPL had projected year ago.



"The introduction of the first fully integrated digital PTV priced under \$2,500 will be a strong promotion for the manufacturer/retailer that can achieve it," CPL said. "Whether or not that price can be legitimately maintained in anything other than a leader model, it will be established in the mind of the consumer."

Increased sales and lower prices for DTVs resulted in "practical death" of high-end analog PTVs in 2000, CPL said. Sales of analog PTVs declined 1.3% to 1.21 million units last year, but slightly better than CPL's original forecast of 1.17 million. As result of downturn, TV manufacturers have trimmed 2001 analog PTV lineups 30-50% (TVD Jan 8 p9).

"Why would a consumer pay a significant premium for an upscale analog product with no future compatibility?" CPL asked. "To the minimally trained salesperson, such a pitch makes for an easy conversion of a customer into the digital realm."

Transition to digital PTVs from analog also will result in increased installed base for widescreen format that in past has been slow to catch on in U.S., forecast said. Last year, 36% of DTVs sold were widescreen models, figure that was expected to rise to 50% this year, CPL said. Widescreen sets represented 10% of overall PTV sales in 2000, it said.

Alternative TV technologies including liquid crystal on silicon (LCoS), Texas Instruments' Digital Light Processing (DLP) and plasma will make inroads this year in PTV market dominated by CRT-based models, but at "considerable" price premium, CPL predicted. Indeed, DLP sets from Hitachi, Mitsubishi and Panasonic are priced in \$12,000-\$13,000 range, while plasma monitors from Sony and Fujitsu that require separate tuner are \$8,000-\$10,000. LCoS sets are expected hit \$2,000-\$3,000 by 2003-2004, Philips said (see related story this issue). Non-CRT TVs will account for 2% of PTV sales in 2001, possibly jumping to 20% by 2004, CPL said.

LCoS and DLP-based technologies possess "greatest potential to achieve a cost-performance ratio" needed for consumer market, CPL said. Drawback to emerging display technologies continues to be contrast, it said. "Although considerable improvements have been made, some work remains before contrast levels meet the performance of CRT-based projectors in side-by-side video presentations," CPL said. "Achieving pricing parity with CRT-based systems is even more difficult to attain today than performance parity."

Sales of PTVs outside U.S. jumped 59% in 2000 to 835,000 from 525,000. Europe and China had largest sales gains, increasing 87% and 67%, respectively, to 200,000 units. Although China market has "tremendous growth potential," CPL projected that it would remain under one million units annually through 2005 since many homes lacked "space and income to consider a PTV." Some 3-4 million homes in China can accommodate PTV, CPL said. PTV sales in China are projected to leap 75% this year to 350,000 units, while Europe increases 25% to 250,000.

In Japan, market for PTVs is "saturated" based on size of homes and is expected to remain flat at 30,000 units annually this year and beyond, CPL said, while sales in Korea will increase 26% to 120,000.

**PHILIPS CLAIMS TO 'OWN' LCOS TECHNOLOGY:** Philips has lock on liquid crystal on silicon (LCoS) technology, owning 85% of patents covering it including 95% "of the important ones," Chief Technology Officer Ad de Vaan said.

"Philips owns LCoS," de Vaan said in pre-CeBit show news briefing with reporters. He also said Philips "owns the basic reflective lightvalve architecture."

Reaction from Philips' LCoS competitors was swift, with most disputing claim and insisting there were no blocking patents. Philips signed co-development agreement with Hana MicroDisplay Technologies for LCoS technology last year (TVD March 6/00 p16) with plans to focus on 0.7"-0.8" microdisplays at resolutions ranging from XGA (front projectors) to UXGA (PC monitors).

Philips plans to show 25" PC monitor with 3-panel, 0.79" LCoS display with 1,600x1,200 resolution at CeBit show in Hanover, Germany, that starts March 26, but eventually will expand to 33" and larger sizes, de Vaan said. Goal is to bring price of 36" or 40" LCoS-based TV into \$2,000-\$3,000 range by 2003-2004, he said. Philips will unveil single-panel prototype at Society for Information Display (SID) convention in San Jose in June, sources said.



Implications of Philips patent claims could be wide-ranging. Thomson introduced 50" rear-projection TV based on Three-Five Systems' LCoS technology at CES in Jan., while Samsung Electro-Mechanics (SEM) has signed licensing agreement for PC monitors in addition to TVs. Samsung and Thomson are using 3-panel 0.78" microdisplays with 1,280x1,024 resolution and 600-700 lumens brightness that are being produced in "thousands" on way to "tens of thousands" by year-end, Three-Five Senior Microdisplays Dir. Al Davis said. Three-Five plans to ship sample kits for 0.85" microdisplay in April with products containing it by 2002, he said. New 0.85" display will have 1,920x1,200 resolution, 500:1 contrast, 350 lumens (TVD Dec 25 p12).

"We don't believe there are any blocking patents on microdisplays and we have our own portfolio," Davis said. Three-Five also has no plans to introduce single-panel rear-projection display "because we can move to smaller panels and get the cost out" while maintaining better picture quality, he said.

Colorado MicroDisplay (CMD) Mktg. Dir. Rainer Kuhn questioned whether Philips's claims applied to near-eye applications for LCoS that are his company's specialty. CMD has started sample production of 0.25" microdisplay at Hana MicroDisplay for viewfinder applications, with volume quantities expected at \$25 in 2nd quarter, Kuhn said. Display, which has 320x240 resolution, is expected to serve as viewfinder for digital camera being introduced by Polaroid, which signed licensing agreement and made investment in CMD in Dec. Kuhn declined comment.

"Our chief technology officer has been working on LCOS for 20 years and there are a lot of items that are generally accepted practices within the industry," Kuhn said. "We have not seen any [patent] areas to be concerned about."

Among other companies that would be affected by Philips's claims is Displaytech, which has developed microdisplay technology for rear-projection TV and viewfinder applications. Samsung is shipping 43W and 50W TVs based on Displaytech's ferroelectric LCD technology and recently signed licensing agreements with JVC and Concord Camera for digital camcorder and camera, respectively, using 0.24" and 0.19" monochrome microdisplays. Samsung sets, which shipped in limited quantities last fall, use three 0.78" panels, but Displaytech is developing 0.85" version due later this year (TVD Feb 19 p11). Displaytech officials weren't available for comment.

**NATM MEMBERS HUNKER DOWN AS U.S. ECONOMY SLOWS:** As U.S. economy tightens, NATM Buying Corp. members are hunkering down to ride out what many expect to be short-term glitch in sales.

Many NATM dealers carried major appliance inventory into new year, putting crimp in what traditionally is slow sales period to begin with. As result, some, such as Bernie's Audio/Video, trimmed jobs in support operations in Jan., while others tightened spending. Cowboy Maloney's Electric City, for example, cut inventories 20% in Sept. and combined some job responsibilities as middle management and executive departures or retirements arose, Exec. Vp Eddie Maloney said at NATM's annual meeting in Orlando last week. It also had slowdown in Gulfport, Miss., (TVD Jan 10/00 p12) where it opened store last year and has suffered from layoffs at casinos there.

"You have to read the signals and you can't carry any extra expense when you're not making it happen," said Bernie's Pres. Milton Rosenberg, who temporarily shelved plans for another store in New Bedford, Mass., area. "You don't have to necessarily make cuts at the sales level because those tend to run pretty tight. There's no place for people to hide in the stores. Either they're making it or they're not."

Moves by NATM members to tighten operations came as larger national and regional retailers cut jobs. Good Guys and Circuit City laid off combined 750 workers last week (TVD March 5 p15), but some NATM dealers saw action as streamlining of business rather than sign of weakening economy. Several dealers said they expected sales to be flat in first half, pick up in 2nd.

"I don't think business will be that tough and I don't think it's a jump-in-the-foxhole type of situation because there is a slowing of the industry," NATM Pres. Jerry Throgmartin said. "It means you have to be more efficient in your close rates, advertising and operations. When times are good you tend to let overtime run and maybe have more people than you need. We've had several years of pretty good business and you need to look at 'where have we been sloppy?'"



In Detroit, where automakers have announced layoffs and cuts in overtime, ABC Warehouse officials have seen "some impact," but "everybody's market has the same issues and that doesn't mean people aren't coming because most want new products," buyer Robert Frazier said.

While NATM dealers reported strong sales of A/V products, particularly digital TVs, others cited influx of major appliance inventory stemming from purchases made in Dec. that didn't translate into heightened revenues in Jan. or Feb. NATM members, which once offered clone PCs from Pionex and Barron America and build-to-order models from Proteva, also have limited lineups to Compaq and Hewlett-Packard.

"With the clone business, over the years the identity of our stores was suffering, and any time a manufacturer goes out of business it's not good for the consumer and our reputation is affected," Throgmartin said. "We're going with Compaq and Hewlett-Packard, which are brand names that are stable and are going to be there."

Meanwhile, several NATM dealers said that with RadioShack (RS) planning to open store-within-a-store format with Blockbuster, Thomson had "to walk a fine line" in making sure that RCA didn't become RS house brand. Most dealers said RS's RCA offerings had largely been commodity products that hadn't been "disruptive" to market, but "at some point promoting with an RCA brand that is too closely identified with RadioShack, we run the risk of sending customers to RadioShack, and that's not our intent," Throgmartin said.

At same time, NATM dealers got first crack at Zenith's new digital products-oriented strategy that includes ending group sales to buying organizations. Maloney said his chain was likely to opt for digital offerings from Mitsubishi, Sony, Thomson and Toshiba, while others said Zenith's buying requirements for its plasma displays could hamper some deals.

"They were very important to us for analog and a lot of people have weaned off analog, but we haven't completely," ABC Warehouse buyer Robert Lathers said. "It's going to be tough for them in digital products and they want commitments for plasma, but those are \$10,000 products."

NATM has returned Mitsubishi to list of core vendors with which it has group agreements. Roster also includes Thomson and Toshiba. Absent from list is Sony, which was member of core group year ago in supplying 55" analog rear-projection set to NATM as derivative model, Exec. Dir. William Trawick said. Sony will continue as major audio/video vendor for NATM, but won't provide derivative set, he said. NATM's lack of group pact with Mitsubishi following last year's annual spring meeting stemmed from uncertainty over whether 16:9 or 4:3 format would prevail in digital TV, Throgmartin said. "We didn't have a specific target with Mitsubishi as we came out of the meeting [last year] because we couldn't settle on what targets and what formats early enough," he said. "Certainly, as the year progressed, they were a major supplier for us."

As it firmed up vendor agreements, NATM also tweaked group plans. It's scrapping traditional Sept. meeting with vendors in favor of internal 2½-day gathering at member dealer, with first being H.H. Gregg. Goal is to allow dealers to review member's operations to get ideas and offer critique.

"It's a way of having some well-qualified analysts come in and take a look at every part of your operation," Throgmartin said. "We wanted to put together one [annual] meeting that manufacturers wanted to come to and bring all their decision makers. We were in the habit of having 2 meetings a year because we were in the habit of 2 meetings," he said in noting that most dealers also met with vendors at CES in Jan. and at separate product line showings.

Group has no immediate plans to add to its roster of 12 members. NATM lost 5 members last year with departures of Handy Andy, Queen City, Vann's and Video Only and closing of Roberds. As result, group sales slipped to "slightly under" \$3 billion in 2000 from \$3.1 billion previous year, Trawick said. He said he had occasional discussions with former NATM member P.C. Richards about returning to group that it left in 1995. "They can say whatever they want, but they're just one voice and if we were together we would have a much bigger voice," Trawick said of former employer. "We'll sit back and wait, and right now they're doing fine."

NATM also has begun online inventory forecasting through NATMcorp.com (TVD Sept 4 p14) with Whirlpool and expects to add Thomson this month, Toshiba and Sony by spring, said Eric Argen, dir. of dealer programs at JG Sullivan Interactive, which designed and is managing NATMcorp.com. NATM members have been asked to supply vendors with 6-month inventory forecast and have 60-day lock-in period on purchase orders. Vendors are providing product and pricing data. NATMcorp.com won't add e-commerce, but will have links to member Web sites.



**FEB. RETAIL SALES MIXED:** Circuit City expects double-digit sales declines experienced in post-holiday period to continue well into first 6 months of new fiscal year, with some improvement expected later in year, retailer said in announcing sales results for 4th quarter ended Feb. 28.

Somewhat more upbeat picture emerged later in week from Best Buy, which reported minimally higher same-store sales in quarter and 12 months compared with year earlier, but shied away from sales forecasts for coming year. Retailers are expected to shed additional insight on short-term economic outlook when they hold back-to-back conference calls with financial analysts in early April.

Total 4th-quarter sales for core Circuit City Group fell 9% to \$3.18 billion from \$3.48 billion year earlier, same-store sales declining 11%. Factoring out major appliances, from which Circuit City withdrew in 3rd quarter, same-store sales fell 2%. For 12 months ended Feb. 28, total sales dipped 1% to \$10.46 billion from \$10.6 billion, with same-store sales down 4%. Excluding appliances, same-store sales rose 3%. Although same-store sales edged down only 1% in peak holiday month of Dec., decline reached 20% in Jan. and Feb., and company expects trend to continue through first half of new fiscal year. Pres.-CEO Alan McCollough said sluggish same-store sales pace reflected absence of major appliance business, "significant softness" in desktop PC sales, general softness across all product categories and difficult comparison with year-earlier quarter, when same-store sales were up 10% and leap year afforded one additional selling day. Nevertheless, McCollough said Circuit City had strong sales increases in new technologies and in "the new and expanded categories" allocated to selling space formerly occupied by appliances. McCollough told analysts in conference call that "the issue with appliances was that the gross margins were just average, but that the fixed costs associated with running that business were very high."

McCollough repeatedly sidestepped analysts' questions on financial performance of 26 stores that were remodeled last year. Company in Jan. revised remodeling strategy to lower per-store costs and reduce disruption time (TVD Jan 8 p12). McCollough said: "We're not replicating the remodels we did last year. We acknowledged that those in terms of store disruption and in terms of total cost were beyond what we believe were acceptable in going forward."

Circuit City said it expected same-store sales declines of 20% in first 2 quarters, with "low single-digit" drop in 3rd quarter and increase in "mid-single digits" by 4th quarter. Total sales decline of 5% is expected for next fiscal 12 months, it said.

Meanwhile, Best Buy said total sales in 4th quarter ended March 3 rose 26% to \$5.45 billion from \$4.31 billion year earlier and for year were up 23% to \$15.32 billion from \$12.49 billion. Results include sales at Magnolia Hi-Fi and Musicland from 4th-quarter acquisition dates of those chains. Same-store sales rose 1.8% in quarter and 4.9% in year.

"We were pleased with our sales performance for the quarter and the year, given the challenging economic climate," Vice Chmn.-COO Brad Anderson said. "The combination of strong store execution and digital product offerings allowed us to grow market share and achieve our sales goals. In addition, overall store traffic was steady without undue promotional activity."

Best Buy said it expected 4th-quarter per-share income would meet or exceed analysts' estimates of 81¢ per share when it reports results April 3.

Anderson said: "Consumers continued to embrace new digital technology, which accounted for 15% of sales in the 4th quarter, compared with 10% a year ago." He said digital products "all experienced strong sales gains." He said there also was growth in laptops, configure-to-order computers and PDAs, but sales of desktop computers and appliances "remained soft."

**Corporate garbage-pickers** — a.k.a "industrial spies" — won't like PressIT CDestroyer from U.K.'s Rocky Mountain Traders. Sub-\$15 device makes it impossible to retrieve confidential information recorded on CDs. Most PCs now come with CD recorder that can back up data from hard drive onto blank write-once CD-Rs costing half-buck or less. Once written, data are secure on CD and can't be erased or deleted. But when owner decides to discard old backup data, it's vulnerable to being read by other parties. Cutting disc into pieces doesn't prevent that as CD error-correction enables cut discs to be read when reassembled. CDestroyer removes data from CD by trapping disc between 2 abrasive pads, which user twists to scour surface in concentric pattern that data are written. Abrasive removes reflective substrate, making it impossible for laser to read data. In our hands-on evaluation, CDestroyer worked as promised. We tried restoring disc by applying popular "CD scratch repair" product, which uses fine abrasive similar to autobody refinishing compound to buff out scratches on disc. Usually, such remedies are effective because scratches made in radial pattern don't affect CD playback unless they're severe. In case of concentric damage by CDestroyer, though, repair compound didn't help. CDestroyer's manufacturer ([www.pressit.com](http://www.pressit.com)) advises users to take precaution against dusts raised by grinding polycarbonate and metallic surfaces of CD. Product just went on sale in U.K. and will be available in U.S. soon.

**Sage has introduced** dual interface digital display processors for PC LCD monitors, combining timing controller onto single chip. It also is developing separate series using video processing technology from recently acquired Faroudja for front projectors. New SmartMonitor s9350-100 and s9350-135 processors are available in sample quantities and will ship in Oct. for XGA and SXGA resolution monitors at \$28 and \$20, respectively, in monthly volumes of 10,000 units. SmartMonitor processors have 135 MHz programmable microprocessor and are designed to lower OEM cost of LCD monitors to \$415 from \$485 by combining functions including scaling engine and color management onto single IC. Processors will target entry-level product at start, but add UXGA and WUXGA versions with video technology by year-end, Mktg. Dir. Hiten Patel said. Series 8000 processors will be introduced at midyear for projectors and will have many of features as SmartMonitor products with addition of video capabilities, Patel said. SmartMonitor and projector chips will be produced by Taiwan Semiconductor using 0.25-micron process, he said.

**Apple Computer** is expected make long-awaited entry into retail business this fall with opening of company-owned store in Littleton, Colo. Leasing agent for Aspen Grove Mall told trade publication *Shopping Centers Today* that Apple would open 6,200-sq.-ft. store in Nov. Apple's push into retail store business has been long expected and could bring it into conflict with many dealers including CompUSA that have installed Apple store-within-a-store format.



**NASA USING REGION-FREE DVD:** Sony is putting best face on potentially embarrassing situation by conducting poll that awards prizes for picking DVD and CD library for International Space Station (ISS).

Poll is substitute for scuttled March 8 VIP and media junket to launching of Space Shuttle Discovery, which company believed was carrying its \$1,500 FX1 portable DVD players for entertainment of astronauts on ISS. Sony learned belatedly that DVD players already were at station, having been delivered by shuttle Atlantis in early Feb. — and that they had been modified to circumvent DVD regional coding.

Unbeknownst to Sony U.S., NASA gave contract to U.K.-based Techtronics last year to modify portables for use in space. That included reconfiguring electrical operation and connectors to NASA specs, such as replacing Sony batteries so players could work off ISS power supply. It also involved changing Region 1-U.S. portable to play discs from all DVD regions, reflecting multinational makeup of crew. Techtronics is leading modifier of DVD regional coding system that's supposed to prevent movies released in one region from running in players sold in another.

Techtronics said NASA chose Sony portables because they met agency's safety and construction specs most closely and that it was chosen to do region-code hack because job couldn't be performed in U.S.

Although it's certain that region-code hack violates DVD license agreements, it's not clear whether modification also contravenes U.S. Digital Millennium Copyright Act (DMCA), which makes it illegal to circumvent copy-protection systems. Source familiar with DMCA and its application to DVD told us that under current readings of law by U.S. courts, it wasn't likely that mere circumvention of regional-coding would violate DMCA.

That's because regional coding is subset of DVD's overall Content Scrambling System (CSS) encryption that performs "effective access control" under law, source said. However, although Macrovision copy protection isn't encryption per se but, like regional coding, is bit-coded subset of CSS, circumventing Macrovision would violate DMCA in that it's "ordinary function of machine" under law, source said.

Techtronics founder Karl King told us Macrovision wasn't disabled on ISS players because NASA hadn't requested that modification. He confirmed, though, that most recent Techtronics' "MultiMod" hack had option for "VCR Mode" to disable Macrovision copy protection in DVD players.

Techtronics' rationale for VCR Mode is that besides Macrovision's avowed purpose of preventing DVD-to-VCR copying, encoding on DVDs also has unintended side effect that creates visual artifacts on high-end projection TV displays. Source told us that argument whistles-in-wind of legal precedent: U.S. courts since earliest challenges to Macrovision encoding have put burden on TV set makers to adjust their sets for proper playback of Macrovision-encoded programming, as most TV makers long since have done.

Penalties under DMCA can be severe and include civil and criminal actions. Civil actions can include temporary or permanent injunction; damages, recovery of costs and attorneys' fees;

impoundment and destruction of circumventing device or service. Actual damages can include profits from circumventing device while statutory damages can run from \$200 to \$2,500 for each act of circumvention, or device or product. Before final judgment, complaining party can claim statutory damages from \$2,500 to \$25,000 for each device or instance of circumvention. Awards are tripled for repeated violations within 3 years of original judgment. Criminal penalties include fine up to \$500,000 and up to 5 years' imprisonment for first offense, up to \$1 million fine and 10 years in jail for repeat offenses.

King told us Techtronics already was modifying more Sony FX1s for ISS, which will have dozen at least. Sony spokesman told us company wasn't aware that NASA and Techtronics made its players region-code free, and company believes it should not be held responsible for end-user modifications that breach DVD license.

Language of license is vague on that point. It says manufacturers must take reasonable means to secure their decks against circumvention of regional coding — for example, not enabling end-user or others to change region-code by simple mechanical switches or by firmware menus accessible through remote control. Techtronics Multimod entails insertion of chips or chipsets that are within capability of do-it-yourselfers but usually is performed by company's technicians at cost of \$75-\$175. Sony decks and new Toshiba Model 200 are hardest to modify while Panasonic's are easiest, King told us.

Meanwhile, Sony poll to determine space station's DVD/CD library is open to public at Web site ([www.sonydvdsinspace.com](http://www.sonydvdsinspace.com)). Sony spokesman told us movies and music of various genres represented all studios and record labels — not only Sony Pictures and Sony Music titles. Movie selections are drawn mostly from American Film Institute's Top 100 of past century. Grand-prize winner in drawing gets Sony FX1; 10 runners-up and top winner get ISS disc collection. Ironically, Techtronics' Web site ([www.techtronics.com](http://www.techtronics.com)) is running similar poll but offers no prizes.

**Class action suit** against RCA parent Thomson has been settled out of court, company said last week. Case, which originated in Dec. 1998 in N.Y. and Ind., concerned picture quality problems from thermal instability of tuner mounted directly on printed circuit board in variety of TV sets manufactured between Nov. 1992 and Jan. 1996, Thomson said. Company said plaintiffs were eligible to receive cash reimbursement for repairs already performed at customer expense, or manufacturer-direct rebate coupons for future purchase of Thomson products. Claims are being handled by 3rd party administrator (1-877-491-9339 or [www.tobsettlement.com](http://www.tobsettlement.com)), and plaintiffs will be informed by direct mail and national advertisements. Thomson spokesman said company wouldn't disclose cost of settlement, but reserve had been established and costs won't affect company's financial results.

**Noteworthy DVD movies** scheduled for release soon include *Madadayo* (\$34.98) from Fox-Lorber, final film directed by acclaimed late Japanese director Akira Kurosawa. Group of well-regarded war films from Paramount is making May 22 DVD debut in time for Memorial Day at \$22.99. They include *The Bridges at Toko-Ri*, *Catch-22*, *Hell Is for Heroes*. Last is 1962 World War II infantry drama with Steve McQueen and James Coburn that has had little exposure on home video.



**ULTIMATE EARNINGS RISE:** Ultimate Electronics, crediting sharp rise in TV sales, reported 4th-quarter net income increased to \$7.4 million from \$5.1 million year ago and sales 30% to \$170.2 million on 10% gain in same-store sales.

Gross margin edged up to 30.4% from 29.4% year ago as digital TVs accounted for 62% of overall TV sales in quarter. UE sold 10,000 DTVs in quarter, up from 2,010, Pres. David Workman said. Overall TV sales jumped 43% in dollars in quarter and DVD and digital camcorders/cameras 37% and 57%, respectively.

For year ended Jan. 31, UE sold 23,000 DTVs and now accounts for 7-8% of total HDTV retail market, Workman said. That's in contrast to UE's 0.5%-1% share of total CE retail market, he said. In connection with DTV and plasma, UE has increased home custom installation business to 2.5% of overall revenue, he said.

In plasma, UE, which has invested \$2 million in category, is about halfway toward goal of selling 60-100 units per month, Workman said. Despite recent aggressively priced 42W plasma monitors from Sony (\$8,000) and Fujitsu (\$10,000), he said he didn't expect "a huge price drop" in category this year. "Could we reach \$6,000 by the end of the year? Probably," Workman said in response to question in conference call with analysts and investors.

Plasma is key to new "Ultimate Experience" home theater showroom that chain added as part of new store that opened in Phoenix market in Feb. New 200-sq.-ft. showroom has 42W Fujitsu monitor and Bose speakers, latter having been planned originally for separate display.

New outlet also features expanded car audio section. Among other things, selection of mobile video monitors has been increased to 8-10 models from 4 as UE seeks to increase video to 15% of overall mobile business, Workman said. Second display car was installed to demonstrate bass systems, he said.

On store front, UE plans to open 3 more outlets in Phoenix area for total of 8 by year-end, add 2 more in Oklahoma City and open first 3-4 in St. Louis by 4th quarter (TVD Nov 27 p14). UE is considering "multiple markets" for stores in 2002, all of which will be within 1,000 miles of Thornton, Colo., warehouse, Workman said. In opening new stores, UE plans to add 30,000-40,000 sq. ft. to existing 176,000-sq.-ft. warehouse (TVD Sept 18/95 p17) in 60-90 days, he said. Facility will have capacity to handle another 20 stores in addition to UE's existing 37, he said. UE's capital costs are projected to be \$35-\$40 million this year, up from \$20.5 million year ago.

UE also is conducting brand awareness study in Minneapolis area for Audio King chain it acquired there several years ago, Workman said. Results are due this spring, although possible renaming won't occur this year, Workman said.

**Rio started shipping** removable in-dash digital audio player with on-board storage for up to 1,000 hours of music. Rio Car unit is available in 4 versions: 10 GB model at \$1,199; 20 GB at \$1,349; 30 GB at \$1,599; 60 GB at \$1,999. All 4 are available at Rio's e-store, riohome.com. Player ships with AC adapter, mounting tray, 9-to-25-way serial adapter, serial cable, software, USB cable, wireless remote.

**GAME BOY ADVANCE ADDS DETAILS:** Nintendo of America (NOA) said last week its next-generation handheld system Game Boy Advance (GBA) would cost \$99.95 when it made U.S. debut June 11.

In addition to providing price for first time, NOA identified 15 titles to be shipping at start. Only 2 first party titles from Nintendo in bunch are *F-Zero: Maximum Velocity* and *Super Mario Advance*.

Third party titles that constitute rest of slate are *Army Men Advance*, *High Heat Major League Baseball 2002* and *Tony Hawk's Pro Skater* from Activision; *ChuChu Rocket!* from Sega; *Dodge Ball Advance* from Atlus; *Fire Pro Wrestling* from BAM; *Fortress*, *Iridion 3-D* and *Pitfall: The Mayan Adventure* from Majesco; *Rayman* from Ubi Soft; *Ready 2 Rumble Boxing: Round 2* from Midway; *Top Gear GT Championship* and *Tweety and the Magic Jewel* from Kemco.

NOA said "more than 60 exclusive Game Boy Advance titles are expected by Christmas." It said new games would retail for \$29.95-\$39.95.

Company said its new handheld game system would ship in 3 colors — Arctic (white), Glacier (translucent blue), Indigo (violet).

Still undisclosed by our Fri. deadline were specifics on Nintendo's Gamecube debut in U.S., scheduled for fall. NOA Corp. Affairs Vp Perrin Kaplan told us during Toy Fair that more Gamecube information would come at E3 (TVD Feb 19 p9).

Meanwhile, NOA's parent provided wide range of details in Japan on GBA's impending bow there March 21. Nintendo said it would ship 25 GBA titles at outset there.

Another key disclosure on Japan start was that Nintendo signed alliance with Olympus Optical to develop card-swipe system allowing gamers to download Pokemon and other characters from electronic data cards. Cards will carry sounds and visual data. Reuters reported from Japan that Nintendo intended to unveil system — called "card-e" — worldwide later this year. But NOA spokeswoman told us last week no U.S. details were available yet.

**Societe Europeenne des Satellites (SES)** is front-runner to buy GE satellite services subsidiary GE American Communications, although EchoStar also has emerged as potential suitor, *Wall St. Journal* (WSJ) reported in online edition last week. SES was said to be offering \$4.5-\$5 billion in deal that would merge GE's broad N. American satellite presence with SES's technical resources and international satellite fleet. SES would control operations and GE's finance arm, GE Capital, would maintain 25% stake in combined entity and have board representation, WSJ said. While SES is said to have had most detailed discussions with GE, other suitors that could top bid have emerged, including EchoStar, Intelsat and Loral Space & Communications. EchoStar is said to be most eager of those 3 to reach agreement, WSJ said, citing sources familiar with discussions. EchoStar spokesman declined comment. GE Americom has fleet of 15 satellites, 12 of which transmit to U.S. SES and GE Americom are weeks away from agreement with several details, including price, still being worked out, WSJ reported.



**XBOX MAY HAVE BUMPY RIDE:** Microsoft spokeswoman told us Fri. that company had no comment on Merrill Lynch report that said software giant has long road ahead of it before it ever sees any profits from upcoming Xbox videogame console.

Report, by analysts Henry Blodget and Justin Baldauf, said: "Although we think Xbox represents a big opportunity, we do not believe it will become a major contributor to operating profit in the next five years. Moreover, near-term, we believe it will require substantial investment. We estimate \$2 billion in losses before break-even in FY 2005." Break-even point will come, they said, "as profitable game and game royalty revenues increase with growth in the Xbox installed base."

Report said that "if successful, Xbox could generate \$500 million-\$1 billion of operating income by FY 2006." But even by then, Blodget and Baldauf estimated, "operating margins will be only about 20% — far below [Microsoft's] 45% overall margins. By FY 2006, we project revenues of about \$3 billion and operating income of about \$600 million — which is likely to be less than 5% of [Microsoft's] FY 2006 total operating income."

While Microsoft "may be able to drive other (nonvideogame) revenues off of the Xbox platform" — factor they said was not included in their Xbox model — analysts said: "Microsoft has indicated... that this is unlikely to occur in the near term. Moreover, we believe these revenues will be relatively small compared to Xbox's core revenue streams."

"After analyzing the competitive landscape," analysts said: "We conclude that Xbox could become a strong No. 2 or No. 3 (vs. Sony & Nintendo)," but "we believe it will be very challenging for Microsoft to become the industry leader soon."

Merrill Lynch analysts said Sony, at least for now, was in driver's seat: "We believe that the videogame market has network effects that provide significant advantages to the first mover within each generation of consoles. Sony, with the PlayStation 2, has first mover advantage in 128-bit game consoles."

PlayStation 2 (PS2) has "an installed base [worldwide] of over 8 million units today" and "has already attracted over 100 game titles," analysts said: "By the time Xbox is launched, there will likely be over 250 PS2 game titles available and a likely PS2 installed base of nearly 20 million units." Saying that "games drive console sales," analysts pointed out that "Microsoft, by contrast, expects only 20 games available for Xbox when it launches [in Japan and N. America] in fall 2001 — one-tenth the number of games available for PS2 at that time."

Analysts predicted Microsoft would see "Xbox unit sales of slightly over 5 million in FY 2002, peaking at 10 million in FY 2004, about half of Sony's projected PS2 sales for FY 2002."

"Ironically, the more units sold in the early years, the greater the losses," Blodget and Baldauf said. "We estimate that Xbox will have a negative gross margin of about \$125 per box." Of course, that figure must be taken with grain of salt because Microsoft hasn't even announced pricing for its game system. As we reported recently (TVD Feb 19 p9) and Merrill Lynch analysts said in their report, that information — along with list of titles — probably won't be announced by Microsoft

until E3. But they suggested that system would ship at \$375, "based on a component analysis." If true, that price would be considerably greater than PS2, which had starting (and still continuing) \$299 price tag in U.S.

Despite challenges awaiting Microsoft, report said company had "a fighting chance" if it could "offset [its] '2nd mover disadvantage' by leveraging Xbox's superior technical specifications and more 'friendly' development environment." Xbox, analysts said, offers technical specifications and features that competitors Sony and Nintendo can't quite match with their respective PS2 and Gamecube.

But analysts cautioned: "Even if the Xbox experience is truly 'better' for developers and gamers... we believe that overcoming Sony's installed-base advantage will be challenging." They also warned it was "conceivable that Microsoft will fail to make much headway in the console market" at all: "The game business has more in common with the entertainment business than the technology business (it is more art than science), and there have been some spectacular failures in the past. Microsoft's awesome competitive position in the PC market also will likely be less helpful in videogames than it was in office suites and browsers. With growth of its core business stagnating, moreover, Microsoft has less ability to invest money on new projects ad infinitum than it has in the past. Finally, Microsoft may have particular difficulties carving out a strong market position in Japan, where Sony and Nintendo are based."

Analysts predicted that "i Xbox doesn't show strong signs of success within the first 2 years, Microsoft will likely come under increasing pressure to cut its losses and move on."

Separately, reports indicated that Microsoft was denying rumor that Xbox's debut in Japan would be delayed. Merrill Lynch analysts said that, if anything was delayed in Japan, they thought it was more likely games wouldn't be available for rollout there — not system itself. Meanwhile, one report also said Microsoft denied rumors company planned to shut down its game division and lay off employees.

**Region Code Enhancement (RCE)** is used on April 3 *Lawrence of Arabia* DVD release from Sony's Columbia TriStar Home Entertainment, company told us at briefing for \$35 limited-edition 2-disc set last week. Sony first used Region Code Enhancement on DVD movie *The Patriot* last year with mixed results. RCE is supposed to prevent Region 1 N. America DVDs from running on players modified for all-region play, as often is case in Europe and elsewhere. RCE discs can be run on players whose regional code settings can be changed by remote control menu, but shouldn't operate in decks that have been modified for "all region" or "Region 0." In fact, effectiveness of RCE so far has proved variable, often depending on player brand and type of modification. Warner Home Video also has been experimenting with RCE but said it wouldn't implement system until more research was done on hardware-software compatibility.

**Starband Communications** dropped IPO late Fri. citing changed circumstances in securities markets. Starband, subsidiary of Gilat Satellite Networks, filed for IPO last fall seeking to raise \$287.5 million. Among investors were EchoStar and Microsoft. EchoStar has leased space on satellites to Starband for its high-speed Internet access service, while Microsoft has sold it through store-within-a-store format at RadioShack.



**MORE E-TAIL JOBS CUT:** Yet another round of dot-com layoffs was announced by various companies. This time, employees learned their positions were being eliminated at e-tailers Buy.com, Egghead.com, Kozmo.com, Walmart.com.

Egghead said last week it was reducing its staff by 12%, including 40 employees at its Menlo Park, Cal., hq and 37 at its Vancouver, Wash., operations. It said cuts made were across board, including full-time regular employees, temporary workers, contractors.

Explaining why company decided to reduce staffing, Egghead Pres.-CEO Jeff Sheahan, said it was "further step in our ongoing commitment to streamline the business and sharpen the focus on our business customers." He said: "Going forward we will maintain our focus on reducing costs, improving operational efficiency and increasing productivity as we continue our drive toward profitability in the 4th quarter of this year."

Two days after announcing job cuts, Egghead revealed it had obtained \$20 million financing line from IBM Global Financing. In making latter announcement, Egghead Exec. Vp-CFO John Labbett said: "Based on our cash position at the beginning of the year and this new financing, we believe we will have sufficient funds to take us through to profitability. In addition, we are continuing to explore other financing options in order to maintain a solid cash balance."

Buy.com announced restructuring plan that Aliso Viejo, Cal., multicategory e-tailer said was "designed to reduce cash operating expenses." Major part of plan was elimination of 125 jobs at hq, but Buy.com said it also was "significantly reducing expenses related to certain outsourced services." Restructuring also included leaving golf business acquired from buygolf.com and closing sports store. Company said it intended steps to reduce cash expenses by \$29 million on annual basis and, along with other actions already under way, should reduce total annual operating expenses \$70 million.

Buy.com said it expected to take first-quarter pretax charge \$32-\$37 million in restructuring.

Commenting on plan, Buy.com CEO James Roszak said: "We had to make difficult decisions in order to advance our goal of becoming profitable while maintaining a leadership position in e-commerce. To that end, we have identified areas within our operating structure where we are able to streamline our business and reduce our cash operating expenses."

Buy.com's main categories include computer hardware and software, electronics, wireless products and services.

At Walmart.com, 10% of staff (24 employees) saw their jobs eliminated as company also attempted to reduce costs. Layoffs were mostly in marketing and merchandising, although it said it would be adding 50 jobs in such areas as Web site design and engineering. Like Buy.com, company also changed focus of its categories — in this case dropping apparel, cosmetic and other items that didn't fare as well as it had hoped in holiday season.

Walmart.com is joint venture of brick-and-mortar retail giant Wal-Mart and Palo Alto venture capital company Accel Partners.

N.Y.-based one-hour delivery e-tailer Kozmo.com said it was laying off 60 of its 1,500 employees (4% of staff) at corporate hq in Manhattan. Half of cuts were made in Kozmo.com's technology department.

Latest round of cuts was 3rd at company since summer, following 120 layoffs in Jan. when Kozmo closed its operations in Houston and San Diego due to lack of substantial interest in those markets (TVD Jan 22 p18). It still operates in 9 markets, including Boston, N.Y.C. and San Francisco — company's only 3 profitable markets as of last week.

Kozmo said it also was modifying its focus to include more offline business activities. Key part of plan is to start publishing print catalog and concentrate more on telephone orders, which already represent more than 15% of its business since it started testing catalog. Kozmo spokeswoman told us company planned to start distributing 400,000 catalogs in April, at same time it will have toll-free phone line in place.

Kozmo said it would start leasing some of its warehouse space and operations to other retailers, which also could opt to take advantage of Kozmo's one-hour delivery service.

Separately, Forrester report by analyst Robert Rubin said online retailer Webvan was "perilously close to becoming the biggest dot-com bomb of them all." Report said: "To prevent its demise, Webvan should partner with brick-and-mortar grocers to host their online grocery services and rent them capacity in its distribution centers."

Despite apparently never-ending series of dot-com failures, job cuts and restructurings, Chicago outplacement company Challenger Gray & Christmas (CGC) said Web shakeout could be at its peak now and should start to slow. Although more than 10,000 dot-com layoffs were reported for 3rd consecutive month in Feb., number of positions cut in U.S. — 11,649 — was 9% less than in Jan., report said. It quoted CGC's John Challenger as saying: "A lot of companies pointed toward year-end as a make-or-break time, so cuts were really heavy in December-January. So they have pulled back some. It may be a sign we're reaching a peak."

**Ohio U. student** was arrested on criminal copyright infringement charges for distributing free Nintendo videogames online between March 30 and May 31 last year. Indictment alleged that 22-year-old Ryan Carey of Uniontown, O., made illegal ROM copies of Game Boy, NES and Super NES videogames and made them available as free downloads at his Web site, maccarey.com, said Katrina Pflaumer, U.S. attorney for western district of Wash. (where Seattle-based Nintendo has hq) and Charles Mandingo, special agent in FBI's Seattle Div. They said Nintendo of America (NOA) had cooperated fully in investigation. If convicted, Carey could face maximum of 3 years in prison and \$250,000 fine. Pflaumer's office said last week that before Nov. 1997, criminal copyright violations could be prosecuted only if accused infringed copyright for commercial advantage or private financial gain. But it said Congress then expanded copyright laws by criminalizing mere unauthorized distribution by electronic means of at least 10 copies of one or more copyrighted works that had total retail value of more than \$2,500. Amendments, known as No Electronic Theft (NET) Act, were enacted at urging of software trade groups.



**MORE FUNDING FOR PLANETWEB:** Planetweb said last week it closed on Series E round of funding by securing \$33.3 million from Toshiba Corp. and variety of other investors.

Companies that provided Planetweb with funding for first time were Credit Suisse Asset Management, DRW Venture Partners, Scudder Investments, Springboard-Harper, Wit SoundView and WK Technology Fund, company told us. Returning investors, along with Toshiba included EDB Ventures Pte., Infotech Ventures, O,W&W Investments, Vertex Management, Walden International. Although Planetweb said funding was from equity and strategic investors, it wasn't clear at our Fri. deadline which investors had equity relationships with Planetweb and which had strategic ones.

Planetweb Pres.-CEO Ken Soohoo said new funding "will be used for working capital, new product development and employee expansion." He said it also "allows Planetweb to aggressively capitalize on its leadership in our category, and puts the company in a great position to reach its next milestone."

CFO Jeffrey Kuhn said: "We're very pleased to have completed this financing, particularly in light of the very difficult and private equity markets of recent months. It's a real testament to Planetweb's vision, technology and team." Kuhn told us funding also would help company increase its presence in Europe.

Noting that company based at Redwood Shores, Cal., already had large presence in Tokyo, Kuhn said Planetweb now was looking for similar presence in Europe. In addition to office in Tokyo, company has London office already. Kuhn said company wanted to beef up its staffing there in such areas as business development and sales.

Kuhn told us new funding also would help Planetweb expand beyond current client-side business focus. He said he couldn't yet provide many specifics, but said company wanted to develop "a back-end strategy" addressing server side of business equation. Specifics on server solution probably won't be available for "2 quarters or more," but when announcement was made, he promised it would be "significant."

Some of new funding will be used for hiring team to handle that new server-side technology, as well as for business development and marketing. "Some [new employees] have been hired" for those initiatives already, he said. "We are not using the proceeds of this [funding round] to make any acquisitions," he said.

To date, Planetweb has raised \$63 million. Kuhn said latest round of funding was by far most significant in terms of amount raised.

Planetweb late last year became first browser company to be formally linked to Sony's PlayStation 2 (PS2) when Japanese game developer Koei (maker of strategy game *Kessen*) and its Ergosoft subsidiary announced it had formed alliance with Planetweb to provide Web software and middleware tools to PS2 in Japan.

Company demonstrated Web surfing on PS2 at CES. Planetweb is developing technology for Internet-enabled DVD players that, just before CES, Soohoo told us should begin reaching shelves in major tests by midsummer (TVD Jan 1 p11).

Planetweb was first to bring out console browser when it worked with Sega on NetLink for that company's ill-fated 32-bit Saturn.

**GEMSTAR-TV GUIDE LOSS** Gemstar-TV Guide International, taking \$227.5 million amortization charge related to acquisition of TV Guide, reported \$126.2 million net loss in 4th quarter ended Dec. 31. Gemstar-TV Guide had \$358.1 million in consolidated revenue in quarter, down 3% from year ago assuming merger had been completed at that point.

Downturn in revenue was partly result of 7% decline in sales to \$178.7 million in media and services division, which includes print version of TV Guide. Earnings before interest, taxes and amortization (EBITDA) rose 11% to \$55.9 million.

Technology and Licensing business, benefiting from \$6.7 million payment by Motorola, had gain in EBITDA to \$51 million from \$39 million year ago. Revenue jumped to \$76.5 million from \$61.7 million. Interactive platform group, which includes interactive program guide (IPG), narrowed negative EBITDA to \$11.1 million from \$12.2 million a year as revenue rose 67% to \$10.7 million. Investment and holdings business, which includes Superstar/Netlink C-band satellite entertainment programming, had increase in EBITDA to \$16.6 million from \$13.8 million year ago, despite downturn in revenue to \$94.3 million from \$119.1 million. Decline in revenues was attributed to continued decrease in C-band business and transfer of operations to EchoStar.

Gemstar-TV Guide ended year with IPG installed base of 11 million — 6 million cable set-to-boxes (STBs) and 5 million CE products, including 4 million under Thomson RCA brand, Chmn.-CEO Henry Yuen said. Gemstar-TV Guide is continuing to defend patents on IPG technology and Co-Pres. Peter Boylan said those covering listing and one-touch recording were critical for video-on-demand (VoD) and personal video recording (PVR) technology. Company's patent infringement suit against TiVo remains pending despite efforts by outside parties — thought to include Gemstar-TV Guide investor Thomson — to resolve issue.

In electronic book business, Thomson shipped 50,000 units of eBook hardware (TVD Oct 16 p13) at \$299 during holidays, Yuen said. Earlier, he had projected that Thomson would build 100,000 units by year-end (TVD Nov 20 p17). Thomson spokesman declined comment on production figures. Noting that early adopters represented majority of customers thus far, Yuen said 3-4 electronic titles were being sold per registered user each month. Electronic books have been priced in \$14-\$27 range and Gemstar-TV Guide has library of more than 4,000 titles. Company has promoted eBook business via IPG.

First holiday season sales of eBook device surpassed those of handheld PCs in similar debut by "wide margin" at Best Buy (BB), Yuen quoted chain's executives as stating. BB spokeswoman wasn't available for comment.

**Line of humanoid** interactive robotic toys was introduced by Sega in Japan, Reuters said. Human robot line, named "BOT," joined Poo-Chi and other interactive robots that, in U.S., had been marketed by Tiger Electronics. Report said humanoid line would include C-BOT that communicated via digital display face on head and by cellphone; M-BOT, which is expected to dance to music; top-of-line W-BOT, which can walk and avoid obstacles; Y-BOT, which can talk back and learn words. Reuters said line would range in price from ¥1,980 (\$17) for M-BOT to ¥4,980 (\$43) for W-BOT, and Sega and Tiger were expecting to sell more than 1.5 million units in first year. U.S. Tiger spokeswoman didn't return call requesting plans for N. American market.



**NADAPC SCRAPS ICEBOX PLAYER:** NadaPC has scrapped combo countertop TV with DVD/CD player in favor of model with slightly larger screen that will be developed in-house, Pres. Jonathan Strum said.

NadaPC unveiled Interactive Communication Entertainment Box (iCEBOX) last fall in joint venture with Samsung and CMi Worldwide. Device, which featured 9" CRT-based TV with Internet access, was to be given to consumers free in exchange for 3-year commitment to NadaPC's ISP service at \$21.95 per month.

While product was to have been available by Dec., it repeatedly was delayed and was last scheduled for delivery in Feb., Strum said. New model, now expected by midyear, will have 13" TV with 800x600 resolution, Linux operating system, wireless keyboard, remote. Memory and processor speed haven't been finalized, Strum said. It again will be offered free to consumers, but ISP commitment has been shortened to 2 years, Strum said.

"CMi has had trouble bringing that product to market in a timely manner and we felt it would be wrong to make customers wait," said Strum, who estimated NadaPC had "several hundred" preorders for iCEBOX. "We have a more immediate need for that countertop model and once we have one we're ready to move on."

NadaPC is no stranger to changes in product plans. It emerged in 1999 as Freemac, company with plans to give away one million Apple iMac PCs over 2 years in exchange for ISP commitment. Apple executives first said they hadn't heard of Freemac and, after reviewing product, decided not to allow company to buy its PCs wholesale through distributor Ingram Micro.

Freemac was renamed NadaPC and since has emerged as marketer of 27" high-definition-ready (HD) TV (\$199) and new Microsoft Pocket PC-based handheld PC (\$99). Both require 3-year ISP agreement. NadaPC primarily uses Qwest Communications' phone lines for Internet access, but also has negotiated regional agreements, Strum said.

HD-ready set, which was unveiled at CES (TVD Jan 15 p18), will ship in late April. Set will use 27" multiscan tube with 800x600 resolution and 0.7mm dot pitch. It will be sourced from either Thomson's plant in Italy or Toshiba's in Japan, said Princeton Graphics (PG) Business Development Vp Rey Roque, whose company is handling sourcing of tube and assembly of NadaPC. TV will use either QNX or Linux operating system (OS) and have 16 MB memory, 190 MHz processor, 56 kbps modem, connection for digital subscriber line (DSL) service. It's designed around interactive TV platform created by Ch. 1, subsidiary of same holding company that owns PG.

While 27" model, at \$199, is roughly \$800 less than next closest HD-ready competitor, Strum said ISP agreement would eliminate need for any "subsidy whatsoever." However, NadaPC is working on tight margins, industry sources said. Tube at heart of set, which has reduced curve screen, is in \$110-\$120 range and electronics and cabinet add another \$50 before shipping costs, experts said.

NadaPC also is readying handheld PC/CDMA-based cellular phone that will ship in May at \$99 and packaged with 1,500

min. of air time. It also has wireless connectivity via CDPD network, although NadaPC doesn't yet have agreements with cellular or wireless service provider, Strum said. Handheld has 3" LCD with 800x600 resolution and mouth and earpiece for cellphone slightly above and below screen. It has 16 MB memory, 190 MHz Intel processor, chip with 24 min. recording capacity.

NadaPC chose Pocket PC OS over Palm because of its compatibility with Windows desktop system, Strum said. "You're able to use the same tools that people are used to in other devices," he said. Handheld at start will target vertical markets such as real estate, but also will be sold through NadaPC's Web site, Strum said.

\* \* \* \* \*

Sylvania brand has found new home with convergence products. PG, which obtained rights for Sylvania brand for PC monitors in 1998, has extended licensing agreement with Siemens Osram to include convergence products. Sylvania 27", which ships in May-June at \$899, has 56 kbps modem for Internet access and 800x600 resolution display. It will use hi-res Internet and entertainment platform from Ch. 1 Network Services to enable Web browsing and other online functions. PG already has shipped 36" Internet-ready set (\$3,499) to 250 dealers and is readying 32" model (\$1,500) for spring delivery. Company said Sylvania set would be targeted at wider distribution. PG's use of Sylvania brand is limited to convergence products in TV category, since Funai has separate license for standalone sets that it sells through CE retailers and mass merchants.

As Hughes Electronics seeks alternatives to News Corp.'s bid for control company, it's approaching potential investors with well-established ties to DirecTV unit. On short list are GE's NBC-TV, Microsoft and SBC Communications, all of which Hughes Chmn. Michael Smith has approached about taking large stake in company and spinning it off, *Wall St. Journal* reported. Among potential investors, Microsoft has developed Ultimate TV product, which shipped last week, that combines hard drive with DirecTV service. SBC Communications sells DirecTV in its territory. Talks with 3 companies are preliminary and are clearest sign that News Corp.'s proposed acquisition has run into strong opposition from Smith. Hughes is said to be hoping to assemble package that would provide parent General Motors with \$5 billion cash, *Journal* reported. News Corp. proposed \$8 billion going to GM, which owns 30% of Hughes. With breakdown in negotiations, News Corp. is said to have approached EchoStar about possible alliance. EchoStar and News Corp.'s former American Sky Bcstg. (ASkyB) unit proposed merger 4 years ago, but negotiations ended in flurry of breach of contract lawsuits (TVD May 19/97 p4). EchoStar bought ASkyB's assets year later for \$1.25 billion (TVD Dec 7/98 p17) including 28 high-power transponders at 110° W, 2 Loral-built satellites and uplink center in Gilbert, Ariz.

#### THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥120 = \$1, except where noted.



**LEARNING CO. DIVISION SOLD:** Ubi Soft Entertainment said it signed deal with Gores Technology Group for acquisition of entertainment division of Learning Co.

Paris-based Ubi Soft said last week: "This acquisition investment should pay for itself very quickly." It said "the contribution to 2001-2002 market sales is estimated to be more than 40 million Euros (\$37 million) with a positive impact on the profitability of Ubi Soft." But company didn't announce cost of deal. Spokeswoman didn't return call for comment by our Fri. deadline.

Ubi Soft said acquisition was "consistent with" its "selective acquisition strategy of strong brands" and would "bring Ubi Soft a step closer to becoming one of the world's top 5 publishers, with a goal of \$1.5 billion in annual revenues by 2005/2006." Learning Co. deal followed Ubi Soft's acquisition of Red Storm Entertainment in last Aug. and Blue Byte Software in Feb.

Acquisition allows Ubi Soft to become publisher of next 2 entries in popular *Myst* series and grows its catalog by more than 80 titles in all. It said it had been given exclusive publishing rights to 88 titles, including brands *Catz*, *Championship Surfer*, *Chessmaster*, *Dogz*, *Earth 2150: The Moon Project*, *Harpoon*, *The Legend of Alon D'Ar*, *Pool of Radiance*, *Prince of Persia*, *Silent Hunter II*, *Myst III: Exile* for Macintosh and PC will ship May 7. Company said it also "would bring this game to the new-generation consoles." Ubi Soft predicted title would "be the best-selling PC product in the U.S."

Acquisition also helps Ubi Soft fill out its PC selection, which it said "should represent more than a third of its global catalog over the next 12 months."

Ubi Soft said deal "considerably reinforces the presence of the Ubi Soft group in North America... through the integration of the company based in Novato, Cal., as well as through numerous contracts with first-rate American development studios."

Gores said last week, just before deal was finalized, that Learning Co. had achieved operating profit in its first 75 days after it acquired subsidiary in Oct. from Mattel (TVD Oct 9 p22). Latter had paid more than \$3 billion for Learning Co. in May 1999 and division quickly managed to create financial disaster for toy giant — so much so that it was key factor in ouster of Jill Barad as Mattel's CEO-chmn. It took nearly half year for Mattel to find buyer for Learning Co. after announcing last April that it wanted to sell division (TVD April 17 p21). Although price of sale wasn't disclosed, reports indicated it essentially was giveaway.

Despite rumors to contrary, Konami of America (KOA) said last week its much-anticipated PlayStation 2 (PS2) title *Metal Gear Solid 2: Sons of Liberty* would indeed ship in fall. Noting that "a lot of rumors" had been "flying around," as often is case with major titles, KOA spokeswoman told us company wanted to ease consumer minds and let them know that game wouldn't be held off until winter or later. We recently reported that KOA executives told us cutting-edge game, developed by award-winning director Hideo Kojima, would ship in U.S. in Oct. or Nov. at \$49.99 (TVD Feb 19 p16). Company also said playable demonstrator of title would be bundled with its PS2 action game *Zone of the Enders*, shipping at end of this month at \$49.99.

**SEGA TO CUT 300 JOBS:** More job cuts are being made at Sega as result of decision to quit Dreamcast hardware business (TVD Feb 5 p11).

Sega of America (SOA) Mktg. & Corporate Communications Vp Charles Bellfield said company was making "300 voluntary" cuts. Latest job eliminations, like recent ones announced by Sega (TVD Feb 19 p13), are in areas where company found "redundancies," he said, although some are "early retirements." He said latest cuts are confined to "nondevelopment departments," particularly in sales, operations and manufacturing."

Bellfield said latest round of cuts was confined to Japan and "there are no further plans for [cuts relating to] redundancies within America for Sega."

On brighter note, as Sega continued to push on with its plan to provide videogames for PlayStation 2 (PS2) and other game systems, it said it was developing content with Namco for PS2-enabled arcade locations using PS2-based hardware, Bellfield said.

But Sony Computer Entertainment America (SCEA) spokeswoman said agreement was limited to Japan and there were no current plans for any such arrangement in U.S.

Conference and workshop lineup was announced for May's Electronic Entertainment Expo (E3). There will be 5 new workshops and, for first time, series of educational sessions called "In Conversation" that Interactive Digital Software Assn. (IDSA), which runs E3, said would allow attendees to hear and participate in face-to-face conversations with well-known industry experts and media. Conference sessions will be in 5 tracks. In addition to "In Conversation," there will be tracks for business trends, current issues, development, "Life Online." Last will be have 5 sessions, including "Consoles Make the Jump Online," while current issues will have 4 sessions, including "PC Games: The Future Looks Bright." Each of other tracks will have 5 sessions. E3's 6 three-hour workshops will be: "Taking a First Step: A Design Doc Tutorial," "Pitching a Start-Up: The Real Thing," "Open Your Mind to the Creative Possibilities," "How to Build a Successful Game Development Studio," "Road Map to Tomorrow's Games, Tomorrow's Gamer," "Take Control of the New Console Systems." E3 conference will be May 16-18, L.A. Convention Center, with exhibits open May 17-19.

Handspring and Palm are expected to unveil new handheld PCs in coming weeks aimed at high-end of market. Handspring is expected to introduce Visor Edge (\$400) with same memory and processing power as Visor Platinum but with smaller expansion slot that also can handle add-on modules designed for earlier models, *CNETNews.com* reported. At same time, Palm is said to readying m500 series that will be based on new 4.0 operating system (OS). New Palm models will be available with mono (m500, \$399) and color (m505, \$449) screens and will each have 8 MB memory. New handhelds also will have postage-stamp-size expansion slots. Palm last week took wraps off m105 handheld (\$199), stepup version of m100 (\$149) that boosts memory to 8 MB from 2 MB... (Compaq) is said to be readying new version of iPaq handheld PC with 64 MB memory that will ship later this year at \$499. Compaq introduced iPaq handheld PC, which is based on Microsoft's Pocket PC OS, last year with 32 MB memory.



**STUDY DEBUNKS POKEMON ILLNESS:** Fewer than 700 of nearly 12,000 Japanese schoolchildren who became ill following a 1997 *Pokemon* broadcast actually were diagnosed with photosensitive epilepsy. Others who reported various symptoms more likely were responding to “epidemic hysteria.” That’s conclusion of study titled “*Pokemon* Contagion” published in Feb. issue of *Southern Medical Journal*.

Researchers Benjamin Radford of Amherst, N.Y.-based Center for Inquiry and Robert Bartholemew of Dept. of Psychology and Sociology at James Cook U. of N. Queensland, Australia, studied Dec. 16, 1997, incident in Japan, where 681 children were hospitalized with seizure-like symptoms following early evening broadcast of *Pokemon* episode. By next day, following massive media coverage of incident, another 12,000 children were complaining of illnesses following show. As result, broadcaster TV Tokyo suspended animated series. It returned to air 4 months later after no obvious cause could be found for outbreak. Although Nintendo at time expressed concern and apologies, videogame company’s only involvement with TV program was its licensed characters.

What is believed to have triggered illnesses was series of bright and rapidly strobing lights of various colors following explosion of “virus bomb” tossed by *Pokemon* character Pickachu. In particular, rapid changes between colors blue and red were suspected to have caused problem. Show’s producers have insisted that strobe pattern was used many times before without ill effect.

Children’s epileptic-like symptoms included convulsions, altered levels of consciousness, headaches, breathlessness, nausea, vomiting, blurred vision and general malaise, study said. After TV stations repeated strobe sequence in news reports, more children fell ill and sought medical attention. Similar incident had occurred in Britain in 1993, prompting authorities there in 1994 to limit frequency of strobing on TV to 3 flashes per sec. and regulating their brightness level. Although investigation was promised at time, it has yet to be revealed whether TV Tokyo broadcast *Pokemon* episode at brighter-than-usual levels.

Larger numbers of reported illnesses occurred day after program when incident became “the talk of the schoolyards,” study said. But upon investigation, medical authorities could find no physical evidence of photosensitive epilepsy among 12,000 later cases. Study said more likely cause was “epidemic hysteria,” defined as “impairment or loss of sensory or motor function for which there is no organic basis.”

Study’s authors suggested that stress and Japanese cultural influences might have caused “epidemic.” They said Japanese youths were under tremendous academic stress and social pressure to achieve — and that coincidentally many of those complaining of illness were preparing for rigorous make-or-break high school entrance exams when *Pokemon* episode aired. Study cited strong compulsion to conform in Japanese culture and suggested that most of those reporting illness merely wanted to be part of peer group. It said photosensitive epilepsy is estimated at one in 4,000 persons (0.025%) of Japanese population and couldn’t be attributable for higher proportion of children viewers affected by TV episode. Study said no mass illness from TV viewing had been reported before *Pokemon* telecast, or since.

**Olympus America** began shipping Camedia Brio D-100 at \$349. Camera is first product in its new line of point-and-shoot digital still cameras.

**Another hack of DVD Content Scrambling System** was published last week on Internet. Code was written by current and former students at MIT who said they did so as part of 2-day course to prove how easily DVD encryption could be defeated — and how easily computer scientists could run into trouble under Digital Millennium Copyright Act (DMCA). What’s of concern to MPAA and content owners is simplicity of so-called “qrpf” algorithm written by hackers: It takes up only 526 characters or 7 lines in programming language called Perl, so hack can be distributed more easily than DeCSS hack that MPAA has been fighting in courts. Programmers said they believed “qrpf” didn’t violate DMCA because they didn’t publish 5-byte title key needed to perform decryption. Hack was posted on Web last week by David Touretzky, computer scientist at Carnegie Mellon U. who maintains online “gallery” of DVD and other hacks ([www.cs.cmu.edu/~dst/DeCSS/Gallery/](http://www.cs.cmu.edu/~dst/DeCSS/Gallery/)). MPAA last month asked Touretzky to remove Web page, which he refused on basis of academic freedom.

**Amazon.com** opened Free Music Downloads section at its Web site that it said was “designed to help fans discover the music of major-label and independent artists through thousands of free MP3 and Liquid Audio downloads, artist uploads and a unique virtual tip jar.” At debut, Amazon offered exclusive free downloads from Barenaked Ladies, Beastie Boys, Coldplay, Eagles and Pearl Jam, along with hundreds of other free downloads from other major-label artists. Web site also featured nonexclusive free downloads from artists including David Bowie, Nirvana, Smashing Pumpkins, U2. Previously announced “virtual tip jar” enables music fans to support their favorite artists by leaving donations as part of alternate revenue stream — concept that could help independent artists who tend not to make same sort of money that major-label acts do. Amazon said it was offering upcoming Red Hot & Indigo CD for purchase exclusively at Web site for limited time.

**Arush Entertainment** (formerly WEB Corp.) signed multi-title marketing deal with San Francisco-based software delivery provider Gigex. Gigex will unveil 6 “Webisodic” games from publisher Arush across online Gigex Syndicated Network via major Internet portals. Monkey Brains, developed by Utah-based Yobro Productions, is first title in deal and first free episode of puzzle adventure is available for download at [www.gigex.com/Top50.asp](http://www.gigex.com/Top50.asp). Gamers will have option of buying subsequent installments of game online for about \$5 each. Arush Pres. James Perkins said: “We’re excited to get out there through Gigex, in front of millions of potential consumers. Our Webisodic distribution method will attract a broader audience by providing such a low-cost, low-risk way for fans to jump in and enjoy action-packed games within minutes.” World Entertainment Bst. Corp. (WEB Corp.) changed its name to Arush Entertainment last month.

**Matsushita** is aiming to boost overseas sales, including U.S., 70% (\$11.7 billion) over next 3 years through restructuring of business operations abroad. With restructuring, investing in communications networking and infrastructure and developing new products, Matsushita projected overseas sales of ¥3.4 trillion in fiscal year ending March 2004, up from current ¥2 trillion. Matsushita also expected to increase profit margin at its foreign operations to 5% in fiscal 2003-2004, up from current 1%, Yukio Shohtoku, managing dir. of Matsushita’s overseas operations, told news conference in Tokyo last week. Matsushita’s business in N. America and Europe isn’t going as well as China, where margins are 5%, Shohtoku said. He said he was “optimistic” U.S. economy would pick up in 2nd half of year, saying Matsushita wouldn’t be affected by current slowdown.



**NATM Notes:** Despite slowing economy, many NATM members are planning to add stores. **Nebraska Furniture Mart (NFM)** has bought 80-acre tract in Kansas City and plans to open 610,000-sq.-ft. store there by 2003, combining CE/home office with major appliances and furniture. Store, NFM's first major expansion outside Omaha base, will have 130,000-sq.-ft. warehouse with 200,000 sq. ft. dedicated to furniture, rest of 610,000 to CE and major appliances, Vp Jay Buchanan said. Store is designed to give NFM coverage into western Iowa, where it bought Homemakers furniture chain in Des Moines year ago... **Abt Electronics** will open 350,000-sq.-ft. hq/showroom/ warehouse in Glenview, Ill., in Nov., Vp Philip Hannon said. New site, which sits on 26 acres and will replace 110,000-sq.-ft. facility in Morton Grove, Ill., will double size of showroom to 60,000 sq. ft. and more than triple warehouse to 290,000 sq. ft., he said. Expanded warehouse is needed to accommodate Abt's growing e-commerce business in which 97% of orders are from outside Ill., Hannon said, declining to disclose sales figures... **BrandsMart** plans to open store, its 5th, in W. Palm Beach, Fla., by midsummer. Chain purchased 17.9-acre location as part of settlement last year with developer D.R. Lakes. It had sued developer for breach of contract in 1998 (TVD Nov 23/98 p19) alleging that D.R. Lakes was negotiating with another company for higher price. BrandsMart had contract to buy property for \$5.5 million... **H.H. Gregg** will expand into Dayton market with first store in April and plans to add 2nd there by year-end. Move into Dayton gives H.H. Gregg presence in 3 major southern Ohio cities. It acquired former Sun TV & Appliance locations in Cincinnati and Columbus and will open another outlet in home Indianapolis market to give it 41 locations by year-end... **R.C. Willey** will open first store in Henderson, Nev., in Oct., slightly behind original mid-year plan (TVD Sept 4 p18). Its 110,000-sq.-ft. location is first of 3 that are possible for Las Vegas market, Vp Steve Child said... **ABC Warehouse** will open 25,000-30,000-sq.-ft. store in Cadillac, Mich., by midyear, its 39th, and refurbish or relocate 1-2 other locations that feature smaller, 15,000-sq.-ft. format... **Conn's** is planning 8 new stores this year, including 2nd location in Austin and another in Baton Rouge... **Princeton Graphics** Sylvania brand PC monitors made first appearance at NATM meeting. Princeton acquired rights to Sylvania brand PC monitors in 1998.

**Carl Miller**, dean of N.Y.C. area CE salesmen, will retire by midsummer as Thomson combines senior management of eastern and central regions in Indianapolis. Thomson will keep its sales office in Ft. Lee, N.J. Miller, who was vp-gen. mgr., sold CE goods in N.Y.C. market for 42 years, first for GE and later RCA after former acquired company in mid-1980s. Thomson later purchased RCA. Miller navigated rough-and-tumble world of N.Y.C. CE market in career that spanned from Friendly Frost to Crazy Eddie's, P.C. Richards, Newmark & Lewis, Tops Appliance City, The Wiz, others. It also covered arrival of national chains Best Buy and Circuit City. "I think Carl brought something unique to the east coast market and he's built relationships over more than 30 years, which in itself is remarkable," said William Trawick, exec. dir. of NATM Buying Corp., who met Miller as buyer at P.C. Richards.

**Pacific Century Cyber Works (PCCW)** made bid to buy Activision, British press report said last week. Spokeswoman for game maker didn't return call by our Fri. deadline to comment on report, which said Chinese new media company PCCW offered to buy Activision for \$25 per share. Report also said Activision made cuts in its U.K. mktg. dept. and closed its creative services dept., deciding to outsource its graphic design and artwork.

## Consumer Electronics Personals

**Jim Taylor**, ex-Daikin U.S. Comtec Labs and onetime Microsoft DVD Evangelist, joins Sonic Solutions as chief of DVD technology, remains pres. and technical dir., DVD Assn... **Carl Miller**, Thomson eastern sales region vp-gen. mgr., to retire in mid-summer... **Robert Friedman**, ex-New Line Cinema, named AOLTV pres... **Scott Woodworth**, ex-Solectron, appointed Pacific Broadband Communications manufacturing and operations vp... Toys "R" Us Pres.-CEO **John Eyer** to assume chmn. post at next shareholders' meeting, replacing **Michael Goldstein**, who will remain a dir... **Kevin Phillips** promoted to senior vp-store operations, replaced as senior vp-Southeast Div. by **Rose Reza**, ex-Wal-Mart... **Jeffrey Blackburn** appointed Amazon.com world-wide digital gen. mgr... **Rafael Fernandez**, ex-Miami-Dade (Fla.) Police Dept., joins RIAA as vp-Latin American music... **Albert Shuldiner** joins iBiquity Digital as vp & gen. counsel... **Evan Ramstad**, *Wall St. Journal* reporter who covered CE-related issues, leaving to join Wilson Assoc., Dallas-based communications, consulting and video production firm.

**Hitachi** won't introduce consumer version of 32W plasma display recently shown in Japan until 2002, but will have it available for commercial applications, Exec. Vp Gary Bennett said. Hitachi, which is sourcing plasma panel from its joint venture with Fujitsu, is expected to ship standalone monitor in Japan in April, followed by version combined with satellite receiver... **Viewsonic** is shipping 50W plasma display for commercial market priced at \$12,999. Panel, which appears to be sourced from Matsushita, has 1,280x768 resolution, 550:1 contrast. It will be sold through value-added resellers (VARs) and A/V dealers catering to professional market, Viewsonic said. Market for 50W plasma appears to be slowly emerging, with product expected from Bang & Olufsen, Marantz and Runco in addition to those already marketed by NEC, Matsushita, Pioneer... **Samsung**, which has shown 42W and 50W plasma displays, won't introduce model for U.S. consumer market this year, but is likely to have them available for business applications, TV Mktg. Mgr. James Sandusky said. In addition to standard projection and direct-view TV, Samsung plans to focus on expanding distribution of 43W and 50W sets containing Displaytech's ferroelectric LCD (FLCD) technology, he said. Samsung shipped limited number of FLCD-equipped sets last fall for in-store displays... **Princeton Graphics** (PG), seeking to steal march in low-end LCD monitor market, has delivered 17" model at \$899. Monitor has 1,280x1,024 resolution, 400:1 contrast, 250 candelas, weighs 19.8 lbs. New 17" is coming in at price that to date has been occupied by 15", which since has moved into \$699-\$799 range. PG's previous 17" had retail of more than \$1,000, but it achieved lower price via redesigned application-specific integrated circuit (ASIC), Business Development Vp Rey Roque said... **Sony** last week unveiled LCD front projector featuring center-mounted lens at \$14,000. Standard front projector has lens on right side. VPL-FX50 has 3,500 lumens, three 1.3" LCD panels, 1,024x768 resolution, weighs 23 lbs.

**Panasonic** parent **Matsushita** said it would establish wholly owned sales hq in Dubai, United Arab Emirates. New company, **Panasonic Marketing Middle East FZE (PMM)**, will begin operating April 1 with capital of 4 million dirhams (about \$1 million) and 36 employees. Functions of existing Middle East Office in Dubai that administers other Middle East offices will be absorbed by new sales hq, Matsushita said. Existing sales company in region, **Panasonic Gulf FZE (PGF)**, will become part of PMM and continue operation of re-exporting products to neighboring countries where there are no sales agents.





# TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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**DTV CENTER CONSIDERED** by NAB, MSTV. Goal would be to promote new technology. Fisher pushes must-carry, better DTV receivers. (P. 2)

**CH. 52-59 PROCESS BEGINS:** FCC rulemaking to set rules for use of spectrum after DTV transition. Proposals for band-clearing 'voluntary.' (P. 3)

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**ECHOSTAR NET LOSS NARROWS** in 4th quarter to \$172 million from \$220 million year ago despite sharp rise in marketing costs. (P. 17)

**DIGITAL DOWNLOADS REMAIN CONCERN** for music retailers who attended last week's NARM convention in Fla. (P. 18)

**NEW FIGHT BREAKS OUT OVER ENCRYPTING TV BROADCASTS:** In fresh twist on old dispute, Hollywood studios, major broadcast networks, consumer electronics manufacturers and software developers are battling over whether over-the-air TV signals should be encrypted like digital programming carried over cable and satellite. Led by CBS, ABC and Fox, broadcasters are staging fight against 5C copy protection technology in Congress and at FCC, arguing that technology wouldn't prevent their terrestrial TV broadcasts from being copied repeatedly by consumers or distributed by Internet pirates. But they are fiercely opposed by consumer electronics industry, which is pushing to preserve home copying rights of consumers for over-the-air programming. Meanwhile, 7 major Hollywood studios are split over issue, with 5 backing broadcasters but 2 willing to break ranks and adopt 5C technology. 5C group is composed of Hitachi, Intel, Matsushita, Sony, Toshiba.

New lobbying war broke into open late last week as broadcasters pressed their case in congressional testimony, CEA-backed Home Recording Rights Coalition (HRRS) sent letter to FCC Chmn. Powell and 5C software developers worked out compromise digital copyright licensing agreement with Warner Bros. and Sony Pictures Entertainment. Moves followed March 2 letter to Powell by 12 key lawmakers, who called for greater copyright protection for over-the-air TV signals as broadcasters go digital. They warned that "the digital transition will slow considerably" and free, over-the-air TV would suffer if proposed 5C technology were adopted because program producers would move their shows to cable and satellite channels "where protections are clearly stronger."

CBS Exec. Vp Martin Franks hammered that point home again March 15 in his testimony at House Telecom Subcommittee hearing. Expressing concern that "the copy protection scheme that is presently being discussed leaves us behind," he said CBS had "absolutely no objection to our viewers' being able to record us off air for their own viewing." But, he said, "without some measure of copy protection that makes unlawful piracy, particularly over the Internet, more



difficult, we fear that premium content, whether it is *Titanic* or *Survivor*, will not be made available to over-the-air broadcasters and will instead migrate to cable and satellite where its airing is more secure from piracy.”

In spite of protests from broadcasters and their fellow movie studios, Warner Bros. and Sony said they would go ahead with 5C licensing agreement covering digital programming transmitted over cable lines. Testifying at same hearing as Franks, Warner Bros. Exec. Vp/Chief Technology Officer Chris Cooksen conceded that lack of copyright protection for over-the-air TV could lead to “unauthorized retransmission over the Internet” and “would delay the consumer benefits of what we can do with existing technology.” But, he said, Warner Bros. planned to sign 5C deal anyway because “we do not want to delay digital TV until as-yet-undeveloped technology comes into being.” Cooksen said: “We wish there was a silver bullet technology to protect broadcast transmissions — but we haven’t been able to find one to date that doesn’t create more problems than it solves.”

CEA’s HRRC entered fray anew March 16 with its own letter to Powell. Responding to key lawmakers’ concerns, group said encrypting free, over-the-air TV signals would undermine home recording rights enshrined by Congress. It also contended that such “diminished fair use rights” would create “a poor incentive for consumers to enter the DTV world,” delaying nation’s digital transition. And it warned FCC and Congress against taking steps “based on an assumption that the motion picture industry would jointly withhold its product from the marketplace.” In letter, CEA Pres.-HRRC Chmn. Gary Shapiro specifically called for “certain boundaries” in examining issue: (1) No consideration of encryption of free, terrestrial TV broadcasts. (2) No imposition on ability to record free terrestrial broadcasts for private, noncommercial use. (3) Extension of any legislation tackling redistribution of broadcast programming over Internet to “all products capable of storing and uploading broadcast signals,” presumably including cable and satellite set-top boxes.

**DTV CENTER POSSIBLE:** Broadcasters will consider setting up new technology development center to help manage technology transition as result of meeting March 13 at NAB, according to Greg Schmidt of LIN TV, acting co-pres. of MSTV. He said there was “strong consensus” at meeting of broadcast executives and officials of NAB and MSTV that “we need to put some resources in” to create entity that “over the next few years could end up being something quite substantial.” Schmidt and MSTV staff will begin drawing up tentative business plan for center for final decision later, he told us. Preliminary plan could be submitted to broadcasters as early as NAB convention, he said.

“We’re seeing a sea change in broadcasters’ relationship to technology,” Schmidt said. “There is a strong feeling that we need to be more aggressive in managing technology development.” One official said new technology center could function similarly to cable’s CableLabs. Broadcasters already have Advanced TV Technology Center (ATTC), which originally was created to test DTV, and it could have role. ATTC “is obviously a resource that we would look at very hard,” Schmidt said, but new center would need to have major broadcaster role in promoting new technology, as well as in testing. He said part of planning process was determining what ATTC could do, and what functions might be subcontracted or given to another entity.

In addition, MSTV staffers will seek approval from financial contributors to recent VSB-COFDM to use some remaining funds to begin working on ways to improve DTV technology, Schmidt said. Meeting was intended to inform broadcasters about improvements in DTV transmission system, and no final decisions were made, we’re told.

Meanwhile, DTV must-carry not only is important to speed DTV transition, it also is needed to assure continued diversity in TV programming, Cox TV Pres. Andrew Fisher said. He told Media Institute March 14 that, in era of broadcast consolidation, DTV transition was necessary to preserve locally controlled TV, which in turn was critical to diversity. But for DTV to succeed, “we have got to get carried on cable,” he said. Fisher said there’s not single “viable” retransmission consent agreement for DTV carriage outside network-owned stations. He said cable “must be told to carry” DTV, probably by govt.: “Stonewalling is not in the cable, broadcast or public interest.”

Fisher said transition would be aided by improved and affordable DTV display devices, as well as additional DTV programming. He also said there needed to be “healthy relationship” with broadcast networks, rather than increased pressure to carry all network programming. It’s “a very difficult time,” Fisher said, and transition “won’t happen unless there is equilibrium in the network-affiliate relationship.” Asked about current DTV standard, Fisher said he was confident VSB would continue to “improve markedly.”

FCC Chmn. Powell and Rep. Dingell (D-Mich.), ranking minority member of House Commerce Committee, are among speakers at Mich. State U.’s 2nd annual Quello Center seminar on telecom policy April 4 at Capital Hilton — Russ White, 517-432-0923.

Tax exemption bill for DTV equipment cleared Ga. Senate committee last week and was awaiting action by full Senate. Sponsor, Sen. Jeanette Jamieson (D-Toccoa) said it would provide \$18 million in tax benefits to stations that installed DTV equipment.



**CH. 52-59 PROCESS BEGINS:** In move to free up spectrum for advanced wireless services, FCC began rulemaking that began process of tapping Ch. 52-59 in 700 MHz band for auction. Channels must be auctioned before Sept. 30, 2002, one year after Sept. 12 auction start for Ch. 60-69. Commission approved item unanimously, with Comr. Tristani dissenting on voluntary band-clearing proposals to help relocate incumbent broadcasters ahead of 2006 digital TV deadline. FCC officials didn't address President Bush's budget blueprint that would delay several wireless auctions, including proposed deferral of Ch. 52-59 auction until 2006.

Rulemaking is to set rules for allocating and using spectrum after broadcasters leave channels, and don't affect broadcast usage, officials said. FCC Chmn. Powell stressed proposal made clear agency would "continue to fully protect those who continue to broadcast in the band." Proposals for band-clearing "are indeed voluntary," he said. Rulemaking proposes adopting voluntary band-clearing policy for upper channels of band for Ch. 52-59. Wireless Bureau attorney William Stafford said notice also sought comment on whether different band-clearing policy should be adopted. Incumbent broadcasters will be allowed to remain in band until end of DTV transition.

Tristani's dissent touched on objections she raised previously to voluntary band-clearing plan for upper channels. She would prefer that requests to clear incumbent broadcasters be handled on case-by-case basis. Tristani said that in 1997, FCC adopted table of allotments for introducing digital TV, stipulating Ch. 60-69 spectrum could be recovered early. But she said policy indicated other reclaimed spectrum could be recovered only upon end of DTV transition. Policy was based on decision not to locate all stations' DTV channel allotments in core broadcast spectrum of Ch. 2-51, so FCC put 165 DTV stations in Ch. 52-59 pending final payment in core channels. In 1997 when Congress postponed 52-59 auction, lawmakers didn't require FCC to institute early spectrum recovery, Tristani said. "Unless Congress directs this agency otherwise, I do not believe we should change course," she said. "The DTV transition should be guided by sound principles of spectrum management, not auction consequences."

FCC officials didn't address potential impact of Bush budget proposal (TVD March 5 p1) that would defer Ch. 52-59 auction to 2006. Budget has received chilly reception on Capitol Hill, although Administration officials have expressed interest in moving this auction to time closer to when spectrum actually would be available. Existing 2002 deadline was established by 1997's balanced budget act. About 100 analog and 165 digital TV stations are now on lower 700 MHz band, which FCC said was 4 times as many incumbents per channel compared with upper channels.

**CWA called for full FCC audit of AT&T Broadband's** cable franchises for alleged violations of agency's public disclosure rules. Union said it found in preliminary survey of dozen AT&T franchise locations that company management had refused public access to records, didn't make files available to public, maintained incomplete and outdated information. CWA told FCC that "especially troubling is the failure of AT&T franchises to maintain complete signal leakage logs and proof-of-performance records" that would demonstrate compliance with Commission's technical standards for cable operators. Union said Commission also should levy financial penalty "commensurate with the record of violation of these rules."

**AT&T ASKS FCC TO SUSPEND DEADLINE:** AT&T urged FCC to suspend its deadlines for MSO to shed key cable assets to comply with agency's MediaOne order last year, following March 2 U.S. Appeals Court, D.C., decision striking down agency's cable ownership limits (TVD March 5 p3). Meeting with FCC's Office of Gen. Counsel and Cable Bureau March 8, AT&T lobbyists suggested that agency "suspend the deadlines for AT&T's compliance steps pending further action by the Commission in light of the court's decision." Request was revealed in brief ex parte letter by AT&T, which now exceeds 30% ownership cap because of MediaOne deal.

Move by AT&T came as it faced May 19 deadline to sell its 25.5% stake in Time Warner Entertainment (TWE), spin off Liberty Media Group and other programming interests or shed cable systems with 9.7 million subscribers. Under FCC's order approving AT&T's \$44 billion purchase of MediaOne last June, company must tell Commission whether it can comply with order by March 20. AT&T has been seeking to sell its TWE holding back to AOL Time Warner and spin off Liberty Media but both strategies have run into obstacles, casting doubt on its ability to meet those deadlines.

AT&T's move also came as FCC commissioners and staff continued to grapple with their response to appeals court ruling declaring agency's ownership cap unconstitutional. FCC Chmn. Powell has said ruling could lead to reconsideration of Commission's requirement that AT&T sell key cable assets. Comr. Furchtgott-Roth has recommended that agency suspend its compliance deadlines and consider dropping its conditions (TVD March 12 p2).

Cable Bureau spokeswoman declined comment on AT&T's request. AT&T spokesman declined to elaborate on ex parte filing.

**FCC denied request** by Viacom for postponement of deadline for company to come into compliance with TV ownership cap as condition of transfer of CBS Corp. and other subsidiaries to Viacom. In its application for interim relief, Viacom had contended that it was likely to prevail in pending challenge to lawfulness of rule itself and said it would suffer irreparable injury as result of complying with condition. Rule prohibits grant, transfer or assignment of any TV licence to any entity if it would result in its having cognizable interest in TV stations with aggregate national audience reach exceeding 35%. FCC said Viacom, to be successful in such request for relief, must demonstrate: (1) It had substantial likelihood of succeeding on merits. (2) It would suffer irreparable harm with grant. (3) Grant wouldn't substantially harm others. (4) Relief would be in public interest. Commission concluded that Viacom had failed to demonstrate that postponement was justified. In dissent, Comr. Furchtgott-Roth said that while he reserved judgment on ultimate review of 35% ownership cap, he believed that facts before Commission and recent decision by U.S. Appeals Court, D.C., invalidating agency's cable ownership cap warranted interim relief sought by Viacom.

**Sony Bcst. Pres.** Edward Grebow will keynote MSTV meeting April 23 during NAB convention in Las Vegas. Session also will feature panel on broadcast spectrum, with Cox TV Pres. Andrew Fisher, Cingular Vp Brian Fontes, Senate Commerce Committee staffer Paula Ford, PCIA Pres. Jay Kitchen, FCC Chief of Staff Marsha McBride, Paxson Chmn. Lowell Paxson, House Telecom Subcommittee staffer Jessica Wallace.



**RADIO TRANSFERS OKAYED:** Despite sharply divided Commission, FCC Mass Media Bureau approved 32 radio station license transfers in 26 markets, mostly for Clear Channel and Cumulus Media, clearing 75% of backlog of long-standing license transfer applications. Approvals March 12 sparked strong objecting comments by Comrs. Ness and Tristani, and support by Chmn. Powell and Comr. Furchtgott-Roth. Ness said FCC should have begun systematic review of FCC licensing process at same time that decisions were announced, but Powell said implementation could be reviewed as part of pending rulemaking on radio market definitions. NAB Pres. Edward Fritts called announcement of action on radio licenses "welcome news."

Approval of license transfers "confounds the Commission's primary obligation to implement a federal broadcast communications policy that serves the public interest," Tristani said, and "departed without reason from its prior standards and... set the public interest adrift on uncharted seas." Ness said the approvals showed "the critical need for an over-arching Commission policy for processing radio license transfer applications fairly and expeditiously."

However, Furchtgott-Roth said Commission also should have acted on 11 other pending applications. He said delay in acting on license transfers, based on FCC policy of "flagging" some applications, was "government at its worst," and Telecom Act meant that if station transfer complied with Act's numerical limits "this Commission's 'competitive' analysis is at an end."

Powell said FCC had "struggled to find a legally sustainable basis for disposing of these cases," noting that radio consolidation had been "unprecedented" since Telecom Act. Concentration concerns caused Mass Media Bureau to "flag" transactions that would cause high levels of concentration. Tristani said virtually all of deals approved would give 2 stations combined 75% of local ad market, and 2 of markets would end up with 2 stations controlling 100%.

Question has been whether Commission has authority to conduct separate competitive analysis, Powell said, and action has been delayed while it tried to answer question. He said he didn't believe public interest was served by inaction, so he asked Mass Media Bureau to decide cases. Bureau will continue processing rest of backlog over next several weeks, he said. Any FCC policy decision on numerical limits on station ownership must comply with Telecom Act, Powell said.

Policy of "flagging" some applications was "arbitrary decision of a bureau in an agency unanswerable to any law or authority but its own," Furchtgott-Roth said. "No rules for flagging were ever written; no rules were proposed for public comment [or] reviewed by the Commission; no rules were available for parties to review... and no rules were available to challenge in court."

Tristani said license transfers "appear to flatly contravene the Commission's duty to ensure [they] serve the public interest." She said Telecom Act didn't remove FCC obligation to conduct public interest analysis, and approvals "raise a significant question whether the FCC has a coherent approach to determine if the public interest is served when reviewing competitive concerns."

Actions "should not be viewed as the beginning of carte blanche approvals" of station transfers, Ness warned repeatedly, "but rather as the end of undue government delay... I sound the alarm over the growing levels of local radio ownership concentration. Applicants have pushed the regulatory envelope beyond recognition."

**GOVT. DTV ROLE SEEN:** Impediments to DTV transition may be "too great to overcome" without additional govt. intervention, Rep. Dingell (D-Mich.) said at House Telecom Subcommittee hearing last week. He said "under normal circumstances" it would be best to allow "unfettered marketplace" determine transition, but private sector resolution of must-carry, copyright protection and technical standards issues were impeded by govt.-mandated 2006 transition deadline and return of analog spectrum. "A hands-off approach is made even more difficult because the very existence of a date-certain law creates an imbalance in the bargaining power between the parties," Dingell said.

Ranking Democrat Markey (Mass.) criticized 1997 Budget Act's "ill-conceived" scheduling of Ch. 60-69 analog spectrum auctions without requiring manufacturers to build dual analog/digital capability into TV receivers. He earlier backed dual capability, and House staffer said Markey might offer standalone bill this spring that would require manufacturers to develop dual capability in all new TV sets.

CEA urged Subcommittee to reject govt.-mandated digital capability. Speaking for CEA, Thomson Multimedia Govt. Relations Dir. David Arland said digital tuner requirement "would only force prices up" and trigger consumer backlash. Mandate would be counterproductive to meeting DTV transition in light of falling HDTV set prices, he said, citing example of RCA model to be introduced next month for \$2,999, down from \$3,499 last year, he said. Thomson announced average 21% cut in fully capable DTV receiver prices, effective in April.

Rep. Shimkus (R-Ill.) asked whether excluding broadcast TV from protections against such copyright infringement would result in "Napster-like" scenario in which unprotected broadcast TV signals could be retransmitted over Internet. Rep. Stearns (R-Fla.) said that could have negative impact on ability of TV broadcasters to sign licensing agreements with content providers, who would be reluctant to see programs rerouted to Web. Programmer source said hearing made clear "that Congress continues to be concerned about the fact that 5C technology discriminates against free over-the-air TV and that 5C technology will delay the digital TV transition."

CBS Exec. Vp Martin Franks criticized govt.'s simultaneous talk of leaving most contentious issues of DTV to marketplace while incorporating planned reclaiming of analog spectrum into budget policy: "Left to the marketplace, the digital transition will happen, but it will take time and there will be dislocations, very likely including some for viewers/consumers. On the other hand, if auction revenue is paramount, government will have to play some greater role, at least step up its jawboning, to help resolve some of the outstanding issues."

**FCC began rulemaking on transition of Bcst. Auxiliary Service (BAS) to digital.** Commission also proposed conforming some rules of BAS, which is used for electronic newsgathering and studio-transmitter links, with those of Cable TV Relay Service (CARS) and fixed microwave service. FCC said new rules would allow end-to-end digital broadcasting in any BAS band and would simplify rules and increase spectrum efficiency. Commission also proposed to allow movie and TV producers to use wireless assist video devices on unused TV channels as long as incumbent users were protected from interference.



**PARTIES DIFFER ON BROADCAST:** House Telecom Subcommittee Chmn. Upton (R-Mich.) and Senate Commerce Committee ranking Democrat Hollings (S.C.) highlighted differences in legislative approaches to be expected this year from Republicans and Democrats on ownership caps and programming content regulation. Speaking at NAB state leadership conference in Washington March 12, Upton also said he opposed White House proposal (TVD March 5 p1) to require lease fees for broadcasters keeping analog spectrum beyond 2006 digital TV transition deadline.

Upton said he wanted to eliminate "long outdated" newspaper/broadcast industry cross-ownership restrictions since there was "incredibly competitive marketplace, augmented by many new sources of news through cable and the Internet." However, Hollings said that if Congress lifted ownership caps, "gone will be regular over-the-air broadcasting as we know it." He said ending ownership restrictions would hurt diversity and local control of programming. "There's a fever afloat in Washington to deregulate, deregulate, deregulate" that has led to industry consolidation that hurts consumers in other industries, Hollings said: "It's time you all learned a lesson."

Upton said he wasn't "suggesting a heavy-handed government role" in TV violence, but recommended govt. keep close eye on violent entertainment. Hollings, however, recently introduced "safe harbor" legislation that would require FCC to study effectiveness of V-chip and content ratings system and possible mandatory air time for nonviolent programming. Senate Commerce Committee approved similar Hollings legislation 16-1 in 1995, 19-1 in 1997 and 17-1 in 2000.

Upton blasted Bush plan to require lease fees for analog spectrum beyond DTV transition date: "In my view, broadcasters already face enough obstacles in the transition. A so-called 'squatter's tax' would be piling on. We're going to be throwing the flag on that one." Hollings didn't address Bush plan, but advocated must-carry for cable if limited to requiring cable companies to provide one digital broadcast channel rather than up to 6 standard-definition channels.

"I am still quite bullish on digital television," FCC Chmn. Powell said, but said there may have been too much optimism. He said "the government hand should be slightly less" involved in transition, without saying where he would reduce govt.'s role. NAB Pres. Edward Fritts said that for digital to succeed, "we need 3 simple requirements: (1) There must be a DTV tuner in every set. (2) There must be a requirement that digital TV sets be interoperable with cable. (3) There must be a requirement that the cable gatekeepers carry free digital broadcast channels."

First Amendment is "very difficult" for govt. action or involvement, Powell said, and it's hard to write rules "with clarity" in that area. As nonelected regulator, "I don't have a lot of confidence" about imposing his views on others, he said, and FCC majority of "3 of the 5 of us" shouldn't be establishing rules on First Amendment issues. TV ownership restrictions, he said, are "a continuing challenge" at Commission and in Congress. He said he believed rules were more applicable to diverse ownership, rather than concentration, and that they had "broad implications" on First Amendment issues. Recent Appeals Court ruling rejecting per-subscriber cable ownership limits (TVD March 5 p3) "I think does have an impact" on TV rules, Powell said.

Wireless "is hot," chmn. said, and "ultimately you run the risk that there will be government trade-offs" for spectrum. He urged broadcasters to keep that in mind when making their business plans. On in-band, on-channel digital radio, Powell said there's "rightfully a healthy amount of optimism" that new service will succeed.

Mass Media Bureau Chief Roy Stewart said when he became chief in Oct. 1989, Bureau had 400 staffers. Today, it's down to 210, he said, citing backlog of 4,700 LPTV applications, 1,700 for low-power FMs. Of latter applications, he said about 55% would be returned because they didn't meet agency requirements. On DTV must-carry, Stewart said, "we're trying to get you to come to us" with facts and figures "so we can build a record." Acting Gen. Counsel Jane Mago said Commission asked Appeals Court to reconsider its declaration that EEO rules were unconstitutional (TVD Jan 22 p2) because agency felt court hadn't given proper "deference" to options in rules. Enforcement Bureau Chief David Solomon said Bureau was stepping up enforcement activities in several areas, including technical and unauthorized transfers of control. With coming of LPFM, he said he expected increase in pirate stations. Despite widely reported charges that TV stations "gouged" public by overcharging political candidates (TVD March 12 p5), Solomon said FCC hadn't received any complaints on alleged overcharges.

**Mont. Sens. Burns (R) and Baucus (D)** sent letter to President Bush pushing Mont. PSC Comr. Bob Rowe (D) appointment to FCC. They said Rowe "is widely respected on both sides of the aisle for his expertise and evenhandedness. His ability to bring people together and move forward would be a great addition to the new team being assembled at the FCC." Burns and Baucus acknowledged that Senate Commerce Committee ranking Democrat Hollings (S.C.) should get to fill first of 2 expected Democratic openings on Commission, but asked that Rowe be considered for 2nd. That would hurt chances of Andy Levin, staffer for House Commerce Committee ranking Democrat Dingell (Mich.). Sources recently have told us that Levin's nomination was far from certain, although Dingell had publicly stumped for him.

**Despite NBC's pledge** of 2 year commitment, XFL football "won't be on the network next year in prime time or any other time period," according to NBC source. Weekend daytime is out, source said, because NBC will air Winter Olympics from Salt Lake City next Feb. NBC Pres. Robert Wright attended XFL game in Orlando March 10 and reportedly commented, "it's too much like the NFL." XFL CEO Vince McMahon in L.A. March 12 assured coaches of West Coast XFL teams that there would be XFL football in 2002, with or without NBC's participation. After encouraging opening weekend, XFL ratings have dipped to 2.4 in last 2 weeks on NBC's prime-time telecasts, and combined with UPN and TNN Sun. games, rating is 4.3 — well below minimum guaranteed to advertisers. Ads on recent XFL telecasts on NBC have been only about 50% sold out.

**Rep. Shows (D-Miss.)** introduced HR-1005 to restrict broadcast of violent programming to after hours "when children are reasonably likely to comprise a substantial portion of the audience" unless programming was rated to enable electronic blocking. Bill was referred to House Commerce Committee. Reps. Blagojevich (D-Ill.), Cramer (D-Ala.), Sanchez (D-Cal.), Hart (R-Pa.), Lucas (D-Ky.) and Smith (R-N.J.) are co-sponsors.



**POLITICAL ADS HIT:** Alliance for Better Campaigns report “got it all wrong” in asserting that broadcasters in elections last year “gouged” political candidates and charged exorbitant air time rates, NAB officials said. NAB Pres. Edward Fritts told press briefing in Washington that broadcasters “are abiding by the rules set forth by the Congress and administered by the FCC... The risks are too high and the rewards too low” for stations to break the law, he said. Meanwhile, TV industry — network and local stations — was target of broad criticism in Washington last week on its performance during political campaigns last fall.

NAB Gen. Counsel Jack Goodman said stations didn’t steer candidates to premium spots; rather, candidates were willing to pay premium rates for fixed ad spots to ensure greater visibility. Goodman said no rate complaints had been filed at FCC by candidates in last 5 years, affirming NAB position that price gouging wasn’t occurring. He said “lowest unit charge” (LUC) provision in law requires broadcasters before primaries and elections to charge same discount rates for single ad spots enjoyed by commercial advertisers that buy bulk ad “packages.” Contrary to Alliance claim, LUC provision has kept rates down, Goodman said.

In response, Alliance Exec. Dir. Paul Taylor said NAB ignored premise of group’s report that broadcasters were taking advantage of law, under which LUC was supposed to prevent price gouging in political ads but provided loophole enabling broadcasters to raise ad rates exponentially. He said report acknowledged station compliance with law and emphasized need for legislative fix to close loophole.

Taylor said Alliance review of 16,000 station rate contracts with candidates at 10 network affiliates in large markets revealed rate increases 50%-200% in months leading up to elections. He agreed contracts fluctuated from market to market, “but it is absolutely crystal clear that market rates are going up throughout the country.” Candidates are deterred from buying lowest available rate since stations can bump ads if higher bid is offered, and aren’t eager to buy expensive fixed time slots, he said.

Spokeswoman for Sen. Torricelli (D-N.J.) said campaign finance law didn’t serve public interest. “Any politician you speak to” will agree that broadcasters charge candidates excessive rates, she said. Torricelli doesn’t plan legislation that would “dictate news coverage of the networks or television stations or infringe on their constitutional rights to cover the political process,” she said.

Retired CBS correspondent Walter Cronkite said “our country is for sale today” through campaign contributions, and media haven’t made public “sufficiently alarmed.” He said industry “not only profited but profiteered” from 2000 campaigns. ABC correspondent Sam Donaldson generally defended TV’s performance, saying “I don’t believe we fell down” and all-in-all TV networks “did a pretty good job... I don’t think we in the press corps drive campaigns.”

Washington seminar on “The Future of Campaigns on TV” was sponsored by Annenberg Public Policy Center. Limiting contributions to candidates “is an important first step” toward reform, said Cronkite. Special interests, he said, “are corrupting... the entire political process.”

In last fall’s campaigns, content analysis of candidates’ views on TV was “almost zero,” said Norman Ornstein of

American Enterprise Institute and co-chmn. of 1998 Gore Commission on public interest requirements of TV stations in digital era. He said NBC- and CBS-owned stations, both of which made commitments of time to candidates last fall, didn’t fulfill their obligations and performance of “ABC was a disgrace.” Big part of problem, said Candy Altman of Hearst-Argyle TV, is getting local candidates to talk about issues and what’s relevant in campaigns.

CNN correspondent John King said “network news will die if they don’t stay relevant” to voters’ views: “We should just pack it in and go home... It’s incumbent upon us to make judgments as to what is relevant” to public.

**FCC decisions to speed DTV transition** actually could “slow or stymie the transition” unless they’re changed, NAB, MSTV and ALTV said in joint petition for reconsideration (MM 00-39). Petition said many of decisions were based on what they considered unrealistic 2006 deadline for analog channel giveback, and were done “virtually in the abstract” since there was little real-world experience with DTV. Decisions “disproportionately and unfairly burden broadcasters without advancing the goals of a speedy and effective digital rollout,” broadcasters said. They asked FCC to reconsider decision not to establish minimum performance thresholds for DTV receivers, saying they were “necessary step in remedying many of the performance shortfalls experienced by DTV viewers.” They said recent testing of 8-VSB system showed that market wasn’t enough on receiver improvements: “While receiver improvements are being made, progress is slow and inadequate.” Other changes sought by broadcasters include: (1) Current deadlines for broadcasters to replicate their existing signal service area and choose which will become their final DTV channel are “premature.” (2) Tougher principal community coverage requirement would “create undue hardships.”

**Radio and TV stations** should begin developing content for broadband Internet market as they work on station Web sites, Radio-TV News Dirs. Foundation (RTNDF) said in new study. It said broadcasters had good opportunity to develop expertise and audience loyalty as broadband Internet connections proliferated. Broadband will require more use of streaming media, said report by Michael Murrie of Pepperdine U., but stations should “think in terms of chunks of audio and video, rather than entire news programs.” He said Web sites should carry brief individual stories and should “take advantage of recognizable reporters and anchors.” Study said most broadcast stations already had Web sites, but traffic to many of them was light because they mainly were promotional vehicles with little attractive content. But it said broadcasters had great opportunity on Web because Web users “still prefer traditional brand names in news sources,” and because stations could promote their sites easily. Murrie warned that it was difficult for stations to make money from sites by selling only local banner ads, and profits weren’t likely for at least 2 years. He said sites might have to turn to sponsorships, national ads and e-commerce to generate additional revenue.

**Scientific-Atlanta** announced tender offer to buy outstanding shares of PowerTV it didn’t own already. Tender is being made to offer liquidity to PowerTV employees and other shareholders because of absence of public market for PowerTV shares under current conditions, company said. Scientific-Atlanta, which owns 85% of PowerTV, said if all other shares owned were tendered, it would record \$45 million of goodwill to be amortized over 5 years.



**SOMERS DEFENDS RECORD, ADMITS SLOWDOWN:**

Seeking to provide "a reality check," AT&T Broadband CEO Daniel Somers angrily defended company's performance last year and predicted it would fare even better this year. Speaking at CableLabs press briefing in Westminster, Colo., March 14, Somers also confirmed that MSO would slow its aggressive rebuild program this year to target its capital spending better and boost its cash flow, margins, customer service. Most dramatically, Somers tried to downplay recent reports that AT&T Chmn. Michael Armstrong wanted to take his place once broadband unit was spun off as independent company. "I've got one hell of a job," Somers said. "I'm still here in Denver. I'll be here as long as they and I want me here. Everything else is bullshit. I'm glad he wants my job but so do 400 other people."

While acknowledging that AT&T Broadband's cash flow fell in 4th quarter, Somers disputed notion that MSO had performed poorly or even worse than expected. Arguing that MSO "did a lot of investment spending" to upgrade its plant and sign up digital video, high-speed data and cable telephony subscribers, he stressed that it added 2.4 million new revenue-generating units (RGUs) among those 3 new services. He also emphasized AT&T's drive to sign up cable telephony customers, contending that company expanded its customer base "faster than many of our people thought" and "created the largest telephone company not on copper in the history of mankind."

Somers dismissed speculation that AT&T Broadband would weaken, or even abandon, its commitment to cable telephony this year because of high cost and steep operational hurdles. Disputing idea that AT&T would wait for potentially cheaper IP-based telephony service to develop, he said cable telephony was too lucrative to neglect, even temporarily: "Telephony is a hard business but boy, it's one hell of a good business. Why would I walk away from a customer paying over \$50 a month?"

Somers said AT&T Broadband, like other leading MSOs, was testing IP-based telephony and saw great promise in it. But, asserting that technology wasn't ready for commercial rollout yet, he said MSO wouldn't rush to market with it.

Despite his defense of AT&T Broadband's heavy capital spending over last 2 years, Somers said MSO would take break this year to focus its capital on cable systems with most potential and beef up its financial strength. While he said company still was "investing very heavily" in plant upgrades and service rollouts, he declined to disclose how much. "We're trying to target our capital a little bit better," he said. "I don't need to jump the engine anymore."

Even with capital slowdown, Somers said AT&T Broadband expected to add 25% more RGUs in 2001 than it did last year. He said he expected MSO's take rates for 3 new services to match pace set in 2nd half of 2000. "This year will be a better year for our company," he said. "We'll end this year much stronger and much healthier financially."

**Neb. Attorney Gen.** Don Stenberg said TV ads depicting sex and violence that run during family programming were "almost defective" and that some states could be persuaded to pursue issue further. Stenberg made his comments to MPAA Pres. Jack Valenti at meeting of National Assn. of Attorneys Gen. (NAAG) in Washington March 14. Stenberg said ads showed violence and sex during programming intended to be appropriate for family viewing. Valenti said he believed there now was less sex and violence during movie trailers and ads than there had been in past.

**AUCTION DELAY UPSETTING:** Commercial broadcasters and their lawyers who sat through seminar last week at FCC on upcoming auctions of FM frequencies were said to be "outraged" when Commission announced auction's postponement just few min. before nearly 5-hour session ended (TVD March 12 p8). About 50 minority potential bidders, on other hand, were "elated" by delay, said spokesman-attorney David Honig. New date for auction is Dec. 5 (postponed from May 9).

Only reason for delay given by Louis Siglos, deputy chief-auctions of Wireless Bureau, was "administrative convenience" and he refused to answer questions, according to participant. Honig said postponement meant many more minorities were likely to participate in auctions for 351 FM frequencies. "It's the best possible result," he said.

Commercial broadcasters (at least one of whom traveled from as far away as Wyo. for session), and their lawyers were upset because postponement wasn't announced until near end of meeting. "Lawyers had been sitting there for hours — all nonbillable," one said. FCC staffers must have known at start of meeting that auction was going to be postponed, "so why in the hell didn't they tell anybody," another lawyer asked.

Minority Media & Telecom Council held workshop in Washington for potential minority bidders March 8 and 9 as scheduled. Participants also had attended FCC seminar and many more minorities attended workshop because they were in town for Commission's meeting, Honig said. Minority bidders would have been hard-pressed to prepare necessary technical work in time to participate under earlier deadline, he said.

**FCC denied petition** for reconsideration of its June decision to approve AT&T-MediaOne merger. In order adopted Feb. 8 but not released until March 14, FCC rejected arguments for review in joint petition by Consumers Union, Consumer Federation of America and Media Access Project. Rejecting petitioners' contention that agency's decision was tainted by violation of ex parte rules, Commission said it had "relied on no other information or arguments" that were not part of voluminous record compiled in proceeding. Petitioners had alleged that AT&T had hundreds of meetings with Commission staff without filing adequate notification of substantive issues presented, violating agency's rules. As for charge that Commission's "overly generous" determination to give AT&T 12 months to come into compliance with cable ownership limits was "arbitrary and capricious," FCC said decision rested on its finding that special circumstances warranted additional time and that grant, as conditioned, served public interest. Order doesn't address any of issues presented to FCC by U.S. Appeals Court, D.C., in remanding agency's limits on cable horizontal and vertical ownership, Commission said.

**Despite provisioning** and customer service problems, DSL continues to gain market share on cable modems, Harris Interactive said. Harris said its Consumer TechPoll study showed that DSL's share of broadband users market rose to 39% in Jan. from 24% last April, while cable modems' share shrank to 51% from 65% in same period. It said DSL connections accounted for 75% of all new broadband subscribers over 9 months, but cable modems for just one in 6 new customers. Harris researchers said cable modem subscribers generally were more satisfied with their service but DSL was gaining ground because of its greater marketing and improving service area coverage. Survey found that number of U.S. broadband households reached 5.1 million in Jan., up from 3.6 million last April.



**DBS DEFENDS SPECTRUM:** Northpoint urged FCC to license its service "without further delay," in comments filed in proceeding on Multichannel Video Distribution and Data Services (MVDDS). However, Satellite Bcstg. & Communications Assn. (SBCA) is fighting to keep terrestrial services out of DBS bands because of interference concerns. Boeing, SBCA and DBS interests opposed Commission action, but most others backed new service.

SBCA "remains adamant" in its "opposition to allowing Northpoint or any other terrestrial MVDDS providers to share the DBS spectrum," Pres. Charles Hewitt said. He repeated that tests by DirecTV and EchoStar had "proven the proposed Northpoint system would cause ruinous interference." He said "the Commission has handled this process in reverse order by mandating sharing of the spectrum" assigned to DBS and then trying to create "an evidentiary record." If FCC must license terrestrial companies, DBS wants service to be introduced "one market at a time."

EchoStar said FCC conclusion on spectrum sharing was wrong because "ubiquitous satellite service and ubiquitous terrestrial" cannot share same frequencies. EchoStar said Northpoint could best serve public by buying LMDS or wireless cable license, either at auction or in secondary market. DirecTV said idea that Northpoint would operate in DBS downlink band without causing interference was untenable. DirecTV said Northpoint's proposed MVDDS was nothing more than fixed wireless service offering video and broadband capabilities and would be better off in another frequency band.

Northpoint opposed auction, saying: "Northpoint's technology created spectrum out of thin air by re-using spectrum already in service, but without displacing incumbent users." Its attorney, Kellogg Huber, said terrestrial technology used by Northpoint could share spectrum with up to 10 satellite companies.

Minority Media & Telecom Council (MMTC) backed Northpoint, saying it would aid minorities and rural residents while "increasing the diversity of voices available to all citizens." Pegasus, breaking ranks with DBS industry, possibly because of desire to implement Northpoint-type system, said while it was concerned about potential interference to DBS subscribers, it viewed MVDDS as "important new opportunity to provide service through another platform." Pegasus urged FCC to use "explicit operating requirements" for MVDDS to reduce interference.

In other comments: (1) APTS wants "same rights and responsibilities" on local signal carriage imposed on MVDDS operators as on DBS and cable industries. (2) Joint broadcaster filing said Pegasus and Satellite Receivers licenses shouldn't be considered in proceeding because they came after deadline, "obviating the need for an auction." (3) Boeing said "tremendous effort that has been invested in developing NGSO FSS networks will in all probability go to waste" if FCC authorized "new, favored terrestrial service" to operate without safeguards against interference. (4) NRTC supported auction after filing window was established to allow other parties to compete for spectrum. It said Pioneer's Preference and special treatment Northpoint seemed to think it was entitled to because it developed technology was specifically prohibited by law.

**Radio station owners** donating licenses and assets to non-profit fine arts and performing arts groups would be given tax break under bill Rep. Andrews (D-N.J.) introduced March 15. HR-1050 would amend IRS Code "to allow credits against income tax."

**AT&T SPELLS OUT MULTIPLE-ISP TESTS:** Looking beyond its small technical and operational test of multiple-ISP choice in Boulder, Colo., AT&T Broadband plans to start larger marketing trial in Boulder in May and much bigger trial in Boston area in fall. Speaking at CableLabs media briefing in Westminster, Colo., March 14, AT&T Broadband Senior Vp Susan Marshall said MSO would test carriage of up to 10 ISPs in each market as it prepared for commercial rollout of service in major cable markets, starting in mid-2002. She said company also would test choice of transmission speeds and prices, as well as choice of other new services. "We are very, very committed to this," she said, saying that MSO had spent \$20 million preparing for its trial in Boulder and was likely to spend another \$20 million for Boston pilot.

AT&T's unveiling of its ramp-up plans came as FCC continued to weigh responses to its open access inquiry last fall. It also came as AOL Time Warner continued to conduct its similar trial of multiple-ISP choice in Columbus, O., and Comcast and Cox prepared to begin their own small tests. Marshall said AT&T officials hoped that trials "will convince the government not to get involved" in regulating open access: "We think that left to our own devices, market forces are going to work."

Marshall said AT&T Broadband, which is testing its "broadband choice" service in more than 300 Boulder homes after first promoting it to 9,000 households, would extend its marketing reach to as many as 18,000 Boulder households in 2nd phase. In Boston area, she said, MSO will greatly increase that number, offering service to tens of thousands of homes. "Boulder is not really giving us a lot of scale information," she said. "That's why Boston is important to us."

Marshall said AT&T Broadband engineers would limit number of ISPs in each market to no more than 10 for now because of concerns about overloading company's policy-based routing technology. Currently in Boulder, AT&T Broadband is testing carriage of 4 ISPs — AT&T WorldNet, EarthLink, Excite@Home and Juno Online Services — with 4 others gearing up. AOL Time Warner, while invited to participate by AT&T, is not among those 8.

In Boulder and Boston, Marshall said, MSO will offer subscribers choice of 3 or 4 differently priced "speed tiers," similar to DSL providers, as well as parental control, personalization, other features. Customers will be able to choose more than one ISP, and ISPs will be able to bill subscribers directly. Marshall said she expected they would bill about same \$39.95 per month as AT&T charged customers for its Excite@Home house brand.

AT&T officials said they saw further revenue possibilities from charging for other advanced services, such as home networking, firewall, home monitoring, videophone, home security, antivirus protection. They also saw potential in charging for "quality of service" feature, which would give higher network priority to such urgent data streams as voice messages. They are counting on signing up more data subscribers, thanks to marketing efforts of participating ISPs.

**Discovery Communications** announced \$700 million private debt placement agreement. Transaction is Discovery's first private placement issuance and proceeds will be used for general corporate purposes including paying down some of bank debt, company said. Merrill Lynch was agent. Discovery said action was largest private media transaction in last 10 years.



## Personals

Jay Kernis, ex-CBS, appointed senior vp-programming, NPR... **Jean Stock**, pres., Canal France International, named secy. gen., European Bcstg. Union, replacing **Jean-Bernard Münch**... **James Rosenthal** promoted to pres., New Line TV... Promotions at WFYI Indianapolis TelePlex: **Jeanelle Adamak** and **Alan Cloe** to exec. vps; **Steve Jensen** to vp-engineering; **James Duvall** to vp-audio services and radio station mgr.; **Gail Thomas-Strong** to dir.-learning services; **Donald Newman** to dir.-Ind. Reading & Information Services; **Thomas Ewing** to dir.-corp. development... **James Lichtman** advanced to senior litigation counsel, NBC... **Edward Hill** promoted to corporate dir.-imaging and format development, Citadel Communications... **Kathleen Keefe**, ex-Post-Newsweek Stations, becomes vp-sales, Hearst-Argyle TV... **Ileen Reich**, ex-New Line Cinema, named senior vp-publicity, Columbia Tristar Worldwide Mktg.

**Marianne Goode**, ex-Rondor, joins Lifetime TV as vp-music... **David Lazzo**, ex-KCFX-FM Kansas City, named midwest account executive, Fox Sports Net... **Scott Ray**, ex-BarterTrust, appointed exec. vp-CFO, OpenTV, replacing **Randy Livingston**, who moves to Stanford U... **Clark Bunting**, ex-Animal Planet, named exec. vp-gen. mgr., Discovery Channel, succeeding **Michael Quattrone**.

**Peter Shields**, Wiley, Rein & Fielding, named pres.-elect, Federal Communications Bar Assn.; **Andrew McBride**, ex-Cooper, Carvin & Rosenthal, named partner, Wiley, Rein & Fielding... Ex-FCC Gen. Counsel **Christopher Wright** will move to Harris, Wiltshire & Grannis April 2 to head its appellate practice... **Tori Clarke**, former NCTA vp-public affairs, nominated to be Asst. Defense Secy.-Public Affairs... **Linda Kinney** promoted to acting assoc. gen. counsel, FCC... Advanced to shareholders (partners) **Verner, Liipfert, Bernhard, McPherson & Hand**: **Marla Grossman** and **Julian Shepard**, of counsel... **Jonathan Nuechterlien**, ex-FCC, joins Wilmer, Cutler & Pickering as partner.

Changes at BigBand Networks: **James Rodgers**, ex-PowerTV, named COO; **Ed Thompson**, ex-Harmonic, appointed vp-business development for cable networks... **Michael Pirrone**, ex-Vyvx, named vp-strategic sales for broadcast and cable industries, GeoVideo Networks... **Leo Hindery**, HL Capital, elected to Keynote Systems board... **Jan Aggerbeck**, ex-@Network, appointed CEO, 2netFX... **Jay Levine**, ex-AOL Time Warner, becomes vp-deputy controller, Warner Music Group... CNET reporter **Patrick Ross**, ex-Communications Daily, receives Maxwell Media Award for coverage of cable.

**Network affiliate conventions** are dying for all but CBS, only one of Big 4 TV networks still planning full-scale affiliates' convention. ABC said that to "increase participation" and "enhance face-to-face dialog" it would revert to 5 one-day regional meetings in June — N.Y., L.A., Chicago, Atlanta, Houston. Just week ago, network had said it planned general affiliates' convention May 22-23 in Anaheim to celebrate opening of parent Disney's California Experience theme park. Fox and NBC TV Networks have abolished their annual affiliate conventions, saying they planned teleconferences to replace affiliate gatherings and will invite stations to upfront presentations of new fall schedules to advertisers and agencies in spring. CBS meeting with affiliates still is scheduled May 30-31 at Bellagio Hotel, Las Vegas.



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Utah legislature passed and sent to Gov. Michael Leavitt (R) bill (HB-149) that would limit authority of municipalities to own and operate cable and telecom facilities. Measure would bar local govts. that issue bonds to finance capital costs from paying origination, financing or other carrying costs from general funds or other enterprise funds. NCTA spokesman said 13 states so far had enacted measures to level playing field for private cable operators: Cal., Conn., Fla., Ga., Ill., Minn., Nev., N.H., Ohio, Okla., R.I., Tenn., Vt. Similar measure was in works in Wis., he said.



# Consumer Electronics

A Section of Television Digest with Consumer Electronics

## STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending March 2, and year to date:

	FEB.24 - MARCH 2	2000 WEEK	% CHANGE	FEB.17- FEB.23	9 WEEKS 2001	9 WEEKS 2000	% CHANGE
TOTAL COLOR TV	555,926	458,433	+ 21.3	625,665	4,124,828*	4,101,644	+ 0.6
DIRECT-VIEW**	535,396	436,982	+ 22.5	604,951	3,963,727*	3,888,775	+ 1.9
TV ONLY#....	432,485	356,132	+ 21.4	484,857	3,348,149	3,296,060	+ 1.6
TV/VCR COMBO.	102,911*	80,850	+ 27.3	120,094*	615,578*	592,715	+ 3.9
PROJECTION...	20,530	21,451	- 4.3	20,714	161,101	212,869	- 24.3
TOTAL VCR**...	529,921	426,788	+ 24.2	499,761	2,972,104	3,453,311	- 13.9
HOME DECKS...	427,010	345,938	+ 23.4	379,667	2,356,526	2,860,596	- 17.6
CAMCORDERS.....	158,015	46,798	+237.7	86,641	707,825*	644,376	+ 9.8
DVD PLAYERS.....	244,393*	61,248	+299.0	165,542	1,372,280*	832,314	+ 64.9

Direct-view TV 5-week moving average#: 2001-402,681; 2000-386,700 (up 4.1%).  
 Projection TV 5-week moving average: 2001-18,355; 2000-24,735 (up 25.8%).  
 VCR deck 5-week moving average: 2001-319,261; 2000-346,477 (down 7.8%).  
 TV/VCR 5-week moving average: 2001-79,195\*; 2000-76,271 (up 3.8%).  
 Camcorder 5-week moving average: 2001-99,547; 2000-69,538 (up 43.2%).  
 DVD player 5-week moving average: 2001-160,050\*; 2000-92,457 (up 73.1%).

\* Record for period. \*\* Includes TV/VCR combinations. # Excludes TV/VCR combinations.

Note: Analog sets only included in figures on direct-view TVs, TV/VCR combos, projection TVs; analog and digital models included in camcorders.

**SONY AND MITSUBISHI PUSH DTV COPY PROTECTION:** Mitsubishi has joined Sony in introducing digital TVs (DTVs) with copy-protected IEEE-1394 connection in what appears to be first step toward establishing de facto standard and setting up showdown with Hollywood studios. At same time, Thomson will trim some RCA HDTV prices 21% effective April 1 in effort to expand market.

While there was little evidence last week that Hollywood studios had made commitment to providing content for DTV broadcasts using Digital Transmission Content Protection (DTCP) system, Mitsubishi Product Develop Mgr. Martin Zanfino said company was willing to take risk in order to spur market. Upcoming Sony DTVs will have two IEEE-1394 connectors with DTCP developed by 5C group — Hitachi, Intel, Panasonic, Sony, Toshiba. However, use of 5C system for terrestrial TVD broadcasts was criticized at House Telecom Subcommittee hearing last week (see report, Bcst.-Cable section).

Major break occurred when Sony Pictures and Warner Bros. split with other studios and appeared on verge of signing copy protection licensing deal for digital cable and satellite transmission with 5C. Not included in pact is over-air broadcasts, which other studios have argued should be part of any protection agreement. Warner Bros. and Sony Pictures were early supporters of DTCP (TVD Jan 17/00 p10).

"It has been important to us because copy protection is an important ingredient to the larger digital rights management that's going to be necessary when the Internet has capabilities that are better than they are today," HBO Senior Technology Operations Vp Robert Zitter said. "The longer this process takes the greater the risk of not having the tools in place to manage what people do with the content based on the Internet. We don't want to have happen in the video



world what occurred with music. We need to get this technology business done so the hardware people can start to implement it."

Mitsubishi was short on specifics of new HDTVs, including sizes, prices and availability, but said sets would have IEEE-1394 connections with 5C copy protection and Java-level Home Audio Video interoperability (HAVi) control software. Technology will be implemented in several HDTVs that "will be priced low enough that we'll continue to have a significant market share," Zanfino said. Sony is expected to ship 34W (\$4,000), 57W (\$5,000) and 65W (\$6,000) sets in fall with DTCP copy protection (TVD March 5 p13). It was Sony last year that scrapped plans for integrated HDTVs owing to debate over modulation standard.

Mitsubishi and Sony introductions of DTCP-equipped sets could heavily influence market since they had combined 53% share of DTV sales of 530,000 units in 2000, according to NPD Intellect. Overall, including projection and direct view, Sony had 32% share and Mitsubishi 21%, NPD said. Latter dropped direct-view sets in 1999. In projection TV, which sold 425,000 units in 2000, Mitsubishi had 26% share, followed by Sony (23%) and Hitachi (22%), it said.

"We believe that Hollywood is not being particularly time-sensitive in making any decisions and that we may just have to get a groundswell and come up with a de facto standard," CE executive said. "To some extent, I think electronics manufacturers and Hollywood are waiting to see who blinks first, but we believe that 5C is viable."

Not surprisingly, Mitsubishi and Sony push received support from others in CE industry. Toshiba and Samsung won't have 5C-equipped HDTVs this year, but are likely to add models in 2002, officials said. Panasonic, meanwhile, which was among first to have IEEE-1394 connections on products, removed them from DirecTV receiver/HD decoder after satellite service provider objected to passing content through them, Panasonic TV Gen. Mgr. William Manion said. DirecTV officials weren't available for comment.

"We didn't have enough time in the product development cycle to create a clear enough user interface to indicate to the user that this is ATSC content that can pass through it and this is DirecTV content that can't," Mannion said. "We didn't want the consumer to say 'how come I can't record this?' We have not abandoned IEEE-1394 and we'll continue to do it, but the content issue is what we're concerned about."

Mute on 5C copy protection push were Thomson and Zenith, which had proposed Extended Conditional Access (XCA) system they developed that used renewable smart card instead of security code embedded in hardware. Thomson Senior Exec. Vp-COO James Meyer said year ago that smart card was superior alternative to DTCP because it permitted simple renewal or replacement in event copy protection system was hacked. Zenith won't introduce XCA-equipped sets this year, spokesman said Fri. "It's [XCA is] something we're still looking at, but as industry consensus builds around something, we'll be there," he said. "Whatever the industry moves toward, we'll end up supporting."

Thomson also isn't planning to introduce XCA-based products this year and in pursuing set-top box business in U.S. cable market is likely to seek 5C license, Govt. Relations Dir. David Arland said. Thomson has agreement with Canal Plus in France to implement XCA copy protection. "We have no plans, for the moment, to implement 1394 or 5C in our television product because there aren't any cable boxes to respond to it anyway. It's great that other manufacturers are going ahead with it, but there are so few cable operators able to take advantage of it that it's a moot issue for now."

Other intriguing aspect of Mitsubishi's HDTV sets is Java-level HAVi implementation, more costly software alternative and specs for which haven't been finalized. While using Java software "adds more" to fixed engineering costs of TV, "it doesn't add much to materials" bill, Zanfino said. "The processor and memory hardware is relatively inexpensive, but the man hours to design these advanced applications add to the cost," he said. Toshiba, strong HAVi supporter, won't add technology to sets until spec is complete, Toshiba Asst. Mktg. Vp Scott Ramirez said. "You won't see anything from us until we can be sure that the full HAVi spec is complete and when that is done, we'll make a decision," he said.

Receiving mixed reviews was Digital Visual Interface (DVI) connection that some CE manufacturers were considering adding to sets. DVI, which has major support from Intel and was developed by Silicon Image, isn't part of Mitsubishi's product strategy because "it is not networkable, controllable or recordable," company said. "Devices that support DVI interface are really encouraging the demise of 'Fair Use' home recording rights because the DVI signal is not recordable."



Mannion said DVI technology needed to “evolve further before being fully suited for consumer applications.” Major criticism of DVI has been its relatively complex nature. “DVI is coming, there is no question about that, but is it the simplest method for moving data from a set-top box to a TV?” Mannion asked. “What I’m looking for is something simple for consumers that they can plug in and it works.”

Thomson, meanwhile, said it would cut price on 38W direct-view HDTV to \$2,999 from \$3,499 and 61W rear-projection model to \$3,999 from \$8,000 in 1999. Direct-view model resumed shipping this month after being pulled from market in Nov. (TVD Nov 20 p15) after tests revealed potential for color purity problems in some sets. Thomson also is reducing prices on 32", 36", 52" and 61" HD-ready sets. It will put retail of HD set-top decoder at \$549, price that anchors low-end of market and down from \$649 last year (TVD Aug 21 p11). Thomson also is readying 50W rear-projection TV based on Three-Five Systems' liquid crystal on silicon (LCoS) microdisplay technology that's expected to yield \$2,000-\$3,000 models in 2-3 years.

To some extent, Thomson is following lead of Matsushita, which introduced 47W HD-ready rear-projection set at CES in Jan. with \$1,999 price that many manufacturers conceded they were being forced to meet. Zenith has said it would have 27" HD-ready model at \$999 and Mitsubishi earlier this year cut retail price \$500 on several HD-ready sets (TVD Jan 8 p10).

New Thomson pricing is being driven by: (1) Consumer demand for improved displays. (2) “Competitive” pricing pressures. (3) “Explosion of crisp digital video” available on disc and via satellite, Govt. Relations Dir. David Arland testified March 15 before House Telecom Subcommittee.

\* \* \* \* \*

While Mitsubishi wouldn't comment, sets based on Texas Instruments' Digital Light Processing (DLP) technology would appear to be likely candidate for copy-protected IEEE-1394 connection. Mitsubishi so far has shipped “small number” of DLP-equipped 65W sets in U.S. that were assembled in Japan in Dec., but slowed introduction here after encountering “start-up bug” in moving production to factory in Mexicali, Mexico, Zanfino said. Assembly of 65W along same line that builds 73" set was to begin in Feb., but now starts this month, he said. “We’re literally grinding through a couple of minor production issues now and we’ll release a significant number [of sets] soon,” he said. Panasonic was first to ship 52W DLP-based set last fall and Hitachi is expected to add 61W model in first half.

**DISSENSION PERSISTS ON DVD-AUDIO WATERMARKING:** With just 2 weeks to go before Warner introduces first 25 DVD-Audio titles for U.K. and Europe, questions remain on audible effects digital watermarking might add to music — and effectiveness of watermarking as copy protection method.

Topics were debated hotly this month at 2 seminars we covered in London, one sponsored by Audio Engineering Society (AES) and Assn. of Professional Recording Services (APRS), other by Music Producers Guild, DVD Assn. of Europe (DVDAE) and disc replicator Discronics. Secondary issue involves proper “repurposing” of 1970s-era analog “quadrophonic” recordings now being exhumed from record labels' vaults to remaster content for new multichannel digital discs.

Argument in favor of watermarking was made by IFPI's Technical Dir. Paul Jessop but read by APRS seminar Chmn. Peter Filleul because Jessop was in Japan at meeting of Secure Digital Music Initiative (SDMI). Change in plans caused Jessop to drop large passage in his speech because SDMI has now dropped its Phase 2 plans to use double watermarking system, with one mark sufficiently robust to withstand MP3 compression and other mark deliberately weaker so it would be lost from material sent over Internet or ripped to blank CD through MP3 encoder. “Screen” in player looks for watermarks and rejects any music that contains only stronger mark.

Change of policy was reported in cryptic statement that SDMI issued from Tokyo: “At a prior meeting, the group had approved a target date for a Phase II technology. In Tokyo, SDMI participants agreed to adhere to a detailed schedule for specific elements of this plan.” SDMI has yet to respond to requests for clarification. Statement by Verance Pres. David Liebowitz, whose watermark has been adopted by SDMI, was similarly vague: “SDMI continues to proceed on a positive schedule. What has happened is a reevaluation of what the industries really need for a SDMI protection system in a dynamic technology environment,” he said. “Thus, consideration of a system to detect when a CD has been compressed without authorization is no longer considered a high priority [recognizing that broadband systems will minimize the need to compress the content in the first place].”

Verance response raised more questions. Although broadband systems that can deliver 500 kbps or more by phone or cable are available in U.S., Europe and other regions still are limited to 56 kbps modem links. And even with broad-



band, compression is considered desirable because it lets large files travel faster, making it possible to download CD in seconds.

SDMI's decision to abandon dual watermarking more likely follows failure of system to work reliably, speakers at London seminars suggested. They included Christian Neubauer of Fraunhofer Institute, which invented the MP3 and AAC compression systems.

"Every watermark introduces distortion, and there is still no widely accepted test for evaluating this distortion," Neubauer said. "Watermark encoders work like perceptual compression encoders. If music has already been compressed there is less space in which to conceal the watermark," he said. "The data rate cannot be guaranteed and neither can security. To make the mark inaudible, embedding must be controlled by the signal characteristics. So there can be no mark during silence. Perceptual encoders will work on the borderline between data capacity and affordability. That is not good for cryptography and compromises security."

Neubauer warned that SDMI's decision to build watermark detectors into DVD-Audio decks, DVD recorders and MP3 portables was inherently flawed. "Every watermark can be hacked and will be hacked if there is sufficient motivation and opportunity. That is why we say it is not a good idea to distribute the watermark extractor by building a watermark detector into every piece of consumer equipment. You are simply providing hackers with a tool for attack."

Technique to strip watermark from music signal and make it audible was demonstrated by its developer, Malcolm Hawksford, prof. at U. of Essex. By making mark audible, listeners can get fix on kind of distortion it adds, he said. Sound is very much like "tizz" that leaks from personal stereo headphones. Speaker said that once reviewers knew what sort of distortion to listen for, they would be more likely to hear and identify it.

Warner DVD-Audio titles seem to have watermark. Graham Sharpless, Discronics gen. mgr.-innovations/technology and point man for DVD-Audio in Europe, said Warner assured him that all its discs were watermarked. Similar avowal had been made to us at U.S. launch by Warner DVD-Audio's Jordan Rost, who said label felt comfortable with "compromise" that watermark afforded between level of copy protection and sound quality of DVD-Audio discs.

But at London session, Sharpless revealed what SDMI and Verance never had admitted despite widespread speculation and information from off-record sources: That Oct. 1, 2000, deadline for building watermark detectors into DVD-Audio players was missed because of problems with technology and chips. Panasonic/Technics never has divulged whether players it has been selling in U.S. since last fall have watermark detectors. Those models now are being closed out at about 70% discount off original \$1,000-\$1,200 MSRP as new ones move into pipeline next month.

At each event, Sharpless stressed importance of indexing system used for DVD-Audio. No video screen is needed, he said: "Last June, when the first players were launched, I wondered why we need DVD-A. But now I see the possibilities. The disc is structured like a CD, which makes it ideal for in-car use. I think that may be the killer app and companies like Mercedes are already planning to install players."

Sharpless said DVD-Audio disc could have audio zone and video zone "which means one disc does it all with higher bit rate, 9.6 Mbps for DVD-A against 6.144 Mbps for DVD-Video. Eventually, DVD-Video players will all play DVD-Audio discs. The format will replace CD for many people".

But skeptics noted that argument seemed to overlook existing features of DVD-Video. Red Book music CD can index 99 individual tracks, each with 99 index points. DVD-Video can index 99 titles, each with 99 chapters. Therefore, if DVD-Video is used for audio instead of video it has same indexing capability as CD. In comparison, DVD-Audio can index 9 groups, each with 99 tracks and each with 99 index points. Observers said it was questionable whether end-users would need 88,209 index points. Point might be moot: With rare exception of specialty-label classical music discs, now 18-year-old CD format never has exploited indexing capability — and it's good bet that average end-user isn't aware of it or likely to use it.

DVD-Audio watermarking issue has put pressure on Super Audio CD camp, Paul Reynolds of Philips said. Year ago, format's developers Philips and Sony were adamant that there would be no analog watermarking on SACD. "In reality, nobody wants it," Reynolds said. "But the commercial reality is that the majors can say 'watermark the music or forget it.' We were worried about being forced into watermarking. But the arrival of DVD-Audio changed things. Now



there seems to be a different discussion," he said. "The majors now recognize that the key selling point for these new systems is quality."

London seminars also highlighted confusion over copy control for DVD-Audio — and fact that there still was no authoritative source of information on issue.

Content Protection for Prerecorded Media (CPPM) system for DVD-Audio was developed by 4C Group (IBM, Intel, Matsushita and Toshiba) after DVD-Video's Content Scrambling System (CSS) was hacked. It has same purpose as CSS but it supposedly is tougher — CSS can be hacked by just 7 lines of computer code. If attempt is made to copy DVD-Audio disc — in PC, for example — copy won't contain CPPM's hidden key codes and thus won't run in DVD player. It's claimed that CPPM doesn't affect sound quality of disc.

Verance watermark for SDMI works differently. It buries digital code in music's analog waveform. That serves 2 purposes: (1) It identifies original source of music after copying, or transmission over airwaves or Internet. (2) It controls recorders and players that are "compliant" in that they have built-in circuitry to detect watermark. Compliant player looks only for watermark and doesn't alter it in any way. Watermark tells compliant recorder how many copies it can make and at what quality level. Meanwhile, compliant recorder can modify mark, to tell whether copy is first or 2nd generation. Modified mark then controls subsequent ability to make recordings.

Debate over marks and copying aside, DVD-Audio will have slow growth. In cautionary assertion, Bill Foster, former editor of respected U.K. replication monthly *One to One*, said: "The major bottleneck is in authoring. There are tools available, but using them is not for the faint-hearted". That contention had been voiced earlier by executives of U.S. disc replicators and confirmed by Warner executive in U.S.

Foster applauded Warner's use of Video Zone on its DVD-Audio discs, which duplicates DVD-Audio tracks in DVD-Video's Dolby Digital surround sound so that they can be heard through conventional DVD-Video player. But he said he regretted that Warner had made DVD-Audio's video clips and other graphic displays unplayable in DVD-Video players, although "I'm told it's hackable" he said — incrementally searching through tracks will do trick on some DVD-Video players, we're told.

"BMG and Universal are threatening to leave off the Video Zone altogether because there is no copy protection" Foster said. Warner executives in U.S. have told us studio made DVD-Audio tracks playable on DVD-Video players in order to introduce installed base of DVD-Video owners to incremental advantages of multichannel DVD-Audio sound, but that studio left out DVD-Audio's video and graphics to give installed base incentive to upgrade to DVD-Audio players.

Interesting legal note on Video Zone popped up in presentation by Bob Stuart of U.K. high-end hardware maker Meridian Audio. He told seminar that Video Zone must be limited to 10 min. or disc can be classified as "video" and therefore available for rental. With major exception of Japan, whose music industry and retailers reached royalty agreement on CD rentals, prerecorded music isn't rented elsewhere, although libraries make loans. Foster warned that exceeding 12 min. of video also would boost MPEG royalty fee to 4 cents per disc from one cent.

Uttering taboo term SACD, Foster said there already were more than 350 SACD titles: "SACD will benefit if DVD-A creates a void. So far, Warner is the only major company backing the format." Although not discussed at London sessions, Sony in U.S. has announced reductions in once-stratospheric pricing of SACD hardware down to levels of discounted and upcoming DVD-Audio players.

As in past, clearest technical information came from Stuart at Meridian. He explained how DVD-Audio disc could store infinitely flexible mix of audio sound quality levels: 78 min. high-resolution surround, 13 hours at CD quality or 25 hours of monaural for audio books.

"MLP lossless packing recaptures dead air, for instance when the system is not using all 24 bits or all of the frequency spectrum, or when there is redundancy with a mono sound in several channels," he said, alluding to Meridian Lossless Packing algorithm (MLP). "The encoder guesses what is coming next, then checks it, and only codes the difference between prediction and reality. MLP works at variable data rates. If you use just one channel, you can get 25 hours of talking book material on a single disc."

Stuart was blunt on questionable uses of MLP: "Denon has just put all 9 Beethoven symphonies on one disc. It's audio shovelware," he said, allusion to long-since-abandoned marketing ploy of PC makers to load "free" software of questionable quality or utility on PCs in attempt to differentiate commodity hardware from that of other "me-too" brands.



"The marketing people may want 96/24 coding, but it's sometimes completely inappropriate for older material," Stuart said. "You need less bits for lower quality. With MLP you could use 23 bits and a bandwidth of 30 kHz," referring to specs needed for "audio shovelware" of music originally recorded under conditions less stringent than today's.

Other members of recording community voiced optimism for DVD-Audio. Rolf Hartley of Sonic Solutions said: "We, too, were skeptical about DVD-A but we realized there was a business when we got a call from someone saying they wanted to do that 9,6,K audio thing. Surround is what's exciting. You can mine the vaults for old quad recordings," he said, alluding to 4 incompatible formats of 4-channel sound from 1970s that bombed owing to hardware/software incompatibilities, as well as other drawbacks such as audible artifacts and possible overuse of special effects by recording engineers. Hartley's enthusiasm for remastering old 4-channel quad masters had been expounded in U.S. for making music CDs in analog Dolby Surround — format that was largely ignored with exceptions such as speciality label Telarc's titles and BMG-owned RCA Victor's Grammy-winning *The Celtic Harp* CD from Irish traditional music group The Chieftains in 1993.

Ironically, London DVD-Audio demonstrations recalled snafus of early hype for "quad" in 1970s. For example, Warner's DVD-Audio demonstration disc compared sound of 5.1 channel and stereo renditions of selections from *Carmina Burana* and artists Fleetwood Mac, Natalie Merchant and Emerson, Lake and Palmer. Warner Music International Vp-Mktg. Andy Murray preempted criticism by disclaiming responsibility for U.S.-supplied demonstrator disc, whose blatant increase in volume level of surround channels on DVD-Audio tracks made stereo versions seem anemic by comparison.

In other comments critical of DVD-Audio, Andrew Walton of K & A Productions warned that clumsy use of center channel was "counterproductive — it can make the front image collapse into mono." Stuart said some recording engineers were putting ambience in center channel to widen image of sound stage. Walton's demonstration of Vivaldi's *The Four Seasons* in original surround sound recording won kudos from audience of audio professionals. "Using a high sampling rate doesn't make as big an effect as recording in surround," he said.

From London talks, it seemed all that was gold didn't glitter. Demonstration by Abbey Road Interactive engineers entailing what they called "faux" surround went over like lead balloon among studio pros. Handel's *Music for the Royal Fireworks* was recorded decades ago on analog stereo tape. EMI Classics now plans DVD-Audio surround reissue reprocessed from original. Engineers played original, then version reprocessed as DVD-Audio. Audience's silence was deafening. Re-do for DVD-Audio had muddled sound that didn't impress audience of professional engineers. Abbey Road engineer running demonstration gave knowing and professional response to audience clapping with one hand: "It will be up to EMI Classics to decide how they describe the recording."

In contrast, spontaneous applause greeted demonstration by Andrew Evans of The Pavement. Live concerts recorded by artists Underworld and David Gray put seminar attendees right in center of concerts' audiences. Each recording was DVD-Video disc playable on installed base of 35 million DVD-Video players worldwide and 100 million PCs with DVD drives as well as several million Sony PlayStation 2 games consoles that also play DVD with 5.1 surround.

Despite this, it seemed unlikely that DVD-video would be carrier for music with surround sound. "In the 1970s a lot of money went into putting 4-channel surround into the can. A lot of it never saw the light of day," said Malcolm Cecil, jazz musician who as engineer worked on Stevie Wonder's first 4 albums. "The Big 5 record companies now control the industry," Cecil said. "I was at a surround sound conference in Los Angeles recently and I asked BMG why they were not putting any surround material out on DVD," he said. "An executive got up and said, 'It's because of my sister and my brother-in-law. They said they just would not allow 5 loudspeakers into their living room.'"

"That's what we are up against. We've got to get around people like the BMG man's sister and brother-in-law. We've got to give people an experience they can't get any other way — something visceral. Remember that it all started with George Lucas and *Star Wars*." Cecil called DVD-Audio surround "an amazing, beautiful format. I see it being very big in the games market, with children playing games in a 5.1 sound pod. We've got to make it exciting or people are just not going to buy".

\* \* \* \* \*

Warner's Murray, charged with DVD debut in 35 countries outside of U.S., said "there will be in-store material, and we are liaising with the hardware companies" on introduction. "We wanted 50 titles, but there should now be 28" at April 6 debut, he said. Most are titles Warner already has issued in U.S. Murray also confirmed that Warner would package DVD-Audio discs in Super Jewel Box, which is larger than conventional CD Jewel Box to differentiate it from smaller music CD boxes and larger DVD-Video packaging yet fit in home and retail storage racks. Other benefit would be that and small print now used for DVD-Audio jackets and liner notes would be more readable, he said.



**THOMSON-NEC PLASMA VENTURE:** Thomson and NEC have created joint venture to develop and build plasma display panels (PDPs) in most recent sign of companies seeking partners to share in PDP production costs.

NEC, which builds 42W and 50W PDPs and already is supplier to Thomson, joins Fujitsu in forming joint venture. Fujitsu signed agreement with Hitachi in 1998 (TVD Aug 24/98 p16) and added Sony year ago. Other plasma producers, including Panasonic, Pioneer LG Electronics and Samsung, have remained independent.

Round of deal-making comes as CE manufacturers seek to establish plasma presence in U.S. Thomson had planned to ship 42W (\$11,999) in first quarter 2000 (TVD Oct 4/99 p18), but only recently has begun delivering product. And that was after Thomson opted for 42W over 50W that it also had shown out of concern for tight supply of larger size. Toshiba also had said as recently as last summer that it had no plans for consumer PDP and instead would focus on Canon joint venture that's developing surface-conduction electron-emitter (SCEE) displays. But that changed at CES when it introduced 50W plasma panel sourced from Matsushita.

"We needed to get position on retail shelves so that when we do come out with SED there will be a place to sell it," Asst. Mktg. Vp Scott Ramirez said.

Separately, NEC said it had sold 3 million shares of Thomson stock, reducing its stake in company to 5.25% (13.9 million shares), from 6.3%. Despite sale, NEC said it would keep seat on Thomson board and remain "strategic partner" via alliances in plasma, semiconductors and DVD-ROM. NEC, along with Alcatel, DirecTV and Microsoft, acquired 7.5% stake in Thomson in 1998 (TVD Aug 3/98 p10), investment that was reduced to less than 7% when company went public.

Meanwhile, Toshiba last week unveiled 20.8" LCD with 3,200x2,400 resolution, 200 candelas, 250:1 contrast ratio. Monitor, which will be sold under Toshiba brand at \$3,000, started production in Japan in Jan. and is expected in U.S. market by 2nd half, spokesman said. He said Toshiba was targeting sales of 3,000 units in first year on market.

**Region Code Enhancement** isn't applied to limited-edition DVD reissue of *Lawrence of Arabia*, contrary to last week's report. We tested disc in variety of players with modified regional coding settings that should have refused access to movie, but played it without hesitation. Spokesman for Sony's Columbia TriStar Home Entertainment (CTHE) told us company had misinformed reporters at briefing for \$34.95 classic. Although movie's 3-month-long film-to-video transfer was performed in high definition at Sony lab, most significant improvements for DVD reissue were made in soundtrack, studio said. Soundtrack on original 1962 optical master had no noise reduction, so track was cleaned up with Sonic Solutions work station then mixed for 5.1 channel digital surround. Comparison even with 1988 director's cut showed clearly audible improvements in clarity and location of dialog, as well as soundstage for ambient effects. Besides movie, 2-DVD set has value-added features that include making-of documentary; original promotional featurettes, theatrical trailers and ads, newsreel footage of 1962 N.Y.C. premiere; interactive elements accessible through DVD-ROM on PCs. Street date is April 3.

**BLOCKBUSTER-DIRECTV VoD?:** Blockbuster's split with Enron over proposed video-on-demand (VoD) service will drive it to seek other alliances, with DirecTV expected to be among front-runners, industry sources said.

While source close to DirecTV indicated VoD agreement had yet to be discussed with Blockbuster, he said video rental chain's parting with Enron removed "significant barrier" to possible alliance. Indeed, Blockbuster announced VoD development agreement with TiVo last year and latter was said to be in discussions with DirecTV on launching service this year using combo satellite receiver/personal video recorder (PVR) (TVD Jan 8 p12).

"This removes a very significant barrier because up until now, Blockbuster's agreement with Enron could be viewed as competitive with our plans," source said. Blockbuster spokesman wasn't available for comment, but chain and Enron said they would continue to pursue business through separate VoD agreements. Enron spokeswoman said company had had "discussions" with film studios but no agreements had been reached.

Whether or not Blockbuster forges pact with DirecTV, it wasn't likely to matter unless studios provided programming for service. Enron Broadband Services Chmn.-CEO Kenneth Rice said exclusive deal with Blockbuster hadn't yielded "quantity and quality of movies needed to drive demand" for VoD. Indeed, while Blockbuster had distribution agreements with MGM and Vivendi Universal, it lacked deal with parent Viacom's Paramount Pictures Div. And while service was said to have library of 200 titles, it delivered only one MGM movie in pay-per-view window to its customers. Some studios, namely Sony Pictures and Walt Disney Co., were said to have own plans for VoD.

End of 3-month test of VoD (TVD Dec 25 p14) with Enron that involved 800 homes in American Fork, Utah, N.Y.C., Portland and Seattle, was abrupt. In Feb., Enron Broadband Services Dir. Bradford Brooks indicated commercial trials were expected to be completed in April and InterTrust's digital rights management technology would be added to service (TVD March 5 p11). Blockbuster New Media Pres. Mark Gillman said in Dec. that service would roll out nationally in 2nd half 2001. But Blockbuster CEO John Antioco said in Feb. that future of project would hinge on availability of content.

Blockbuster and Enron also suffered by negotiating separate deals with studios. While Universal signed pact with Blockbuster, it didn't have similar agreement with Enron, which operated VoD service's fiber network, source close to studio said.

**Macrovision DVD copy protection** will be used by Artisan Entertainment for all of studio's releases in next 3 years. Companies said Artisan had option to extend copy protection to its VHS titles. Independent studio controls library of more than 6,300 titles that includes *The Terminator*, *Terminator 2: Judgment Day*, *Basic Instinct*, *Dirty Dancing*, *On Golden Pond*, *The Blair Witch Project*. Macrovision introduced DVD copy protection in 1997, and Carol Flaherty, vp-video copy protection, said it now was used on more than 75% of all DVD movies distributed by MPA studios, as well as by corporate, educational and special interest rights owners.

**Friedman, Billings, Ramsey & Co. (FBR)** brokerage said it began coverage of XM Satellite Radio Holdings with "Accumulate" rating and 12-month price target range of \$25-\$40 per share.



**ECHOSTAR LOSS NARROWS:** EchoStar, despite sharp rise in marketing costs, reported 4th-quarter net loss narrowed to \$172 million from \$220 million year ago on 56% rise in revenue to \$805 million.

Total marketing expenses rose in quarter to \$345.2 million from \$235.1 million due, in part, to Digital Dynamite (DD) consumer promotion and "very aggressive pricing" from DirecTV, CEO Charles Ergen told analysts in conference call. DD, since renamed Digital Home Plan, offered consumers several purchase options including single receiver and America's Top 100 programming package at \$35.99 per month. It required \$49 upfront payment and one-year commitment to programming. EchoStar added 495,000 net new subscribers in quarter and 1.85 million in year for total of 5.26 million.

Increase in marketing drove up per-subscriber acquisition costs in quarter, including capital expenses, to \$548 from \$385 year ago (TVD March 20 p15). EchoStar earlier had projected subscriber acquisition costs in \$475-\$500 range. Monthly churn was 1.4%, analysts said.

"We had about \$10 to \$20 million in operational inefficiencies throughout the year and we spent a little bit more to get to the subscriber numbers," Ergen said, and EchoStar will seek to generate savings this year by improving customer service applications.

Revenue from Digital Sky Highway (DISH) in 4th quarter rose to \$919.1 million from \$675.8 million while equipment and integration service sales, largely to Bell ExpressVu in Canada and Via Digital in Spain, jumped to \$82.5 million from \$75.4 million. Satellite services revenue dipped to \$10.4 million from \$12.7 million. Revenue per subscriber increased to \$46.47, up from \$45.36 in 3rd quarter, but 50¢ short of internal goals due to Digital Home program, Ergen said.

While number of new subscribers was up sharply, acquisitions were hampered by slowdown in U.S. economy starting in Aug., Ergen said. EchoStar added 950,000 subscribers in 2nd half 2000 but would have had 50,000 more in "normal economy," he said.

On hardware side, EchoStar has scrapped plans for satellite receiver/DVD player until latter adds recording feature, Ergen said. EchoStar had planned to introduce combo player last fall under own and JVC brands at \$399 (TVD July 24 p19). "It didn't make sense to burden our set-top box with a DVD player... at least not until it's recordable," Ergen said.

In interactive services, EchoStar had OpenTV software in about one million receivers at year-end and plans to have it in 4 million more by end of this year, but technology won't have "material" impact on revenue until 2002, Ergen said. Currently, weather is only interactive service available through OpenTV, although latter is expected to add 6 other applications this year. EchoStar also is combining OpenTV-equipped receiver with 30 GB personal video recorder (PVR) that could serve as base for video-on-demand service (see related story), Ergen said. In adding OpenTV product, EchoStar is replacing combo WebTV DISHplayer that sold 225,000 units since being introduced with hard drive in 1999. DISHplayer had been priced at \$399, but later dropped to \$199. "We needed to control our own destiny and we took our lumps there last year," he said.

In addition, Wink Communications' interactive ad technology will be in million DISH receivers by 3rd-4th quarter, Ergen said.

While EchoStar has introduced medium power satellite-based Internet access service via Starband and plans Ka-band version with Wildblue for 2002, it's also considering entry in digital subscriber line (DSL) market, Ergen said. It sells Starband satellite modem at \$449, plus \$199 for installation and has priced service at \$99, which includes subscription to DISH Network's America's Top 150 programming package.

EchoStar earlier had weighed buying DSL provider (TVD Sept 25 p16) but Ergen said it now was focusing on signing alliance with RBOC. EchoStar had planned to have DSL accords by year-end 2000. Pressure to enter DSL business has increased since DirecTV announced agreement in Dec. to buy provider Telocity. "The combination of satellite broadband and DSL are in our future and we will be a player there," Ergen said.

On local channel front, EchoStar could provide service in Top 50 U.S. markets by early 2002 with debuts of spot beam satellites EchoStar 7 and 8 starting late this year. It currently has local channel service in 34 markets. EchoStar 7 and 8 will have thirty-two 120 w transponders each and will be launched at Cape Canaveral and Kazakhstan to 119° W and 110° W respectively. EchoStar is expected to launch Ka/Ku-band satellite to 121° W by mid-2002. With new satellites, EchoStar will shift primary broadcast operations to Gilbert, Ariz., facility it acquired from News Corp. Current broadcast center is Cheyenne, Wyo. It has budgeted \$600-\$900 million for capital costs this year including satellite construction.

EchoStar also has requested FCC approval to boost ownership in VisionStar to 90% (\$2.8 million) from 49%, it said in annual 10K. VisionStar has FCC Ka-band license and is building satellite to launch to 113° W. EchoStar so far has provided less than \$10 million to VisionStar for satellite construction, but may supply another \$79.5 million this year pending FCC decision.

\* \* \* \* \*

While rumors continued swirl around EchoStar, including possible acquisition of GE Americom Communications satellite fleet and talks with News Corp. (TVD March 12 p15, 19), Ergen declined comment on possible negotiations. But EchoStar will "explore all those options" that could boost shareholder value, he said. EchoStar and News Corp.'s American Sky Bcstg. (ASkyB) announced proposed merger in Feb. 1997, but negotiations collapsed several months later and ended with breach-of-contract lawsuits. EchoStar acquired News Corp./MCIWorldcomm licenses for satellite slots at 110° W year later.

**Circuit City** has new shareholder. Mexican businessman Carlos Slim Helu, whose Grupo Sanborns bought CompUSA year ago (TVD Jan 31/00 p14) and has 14% stake in OfficeMax, has purchased 12.1 million shares (5.9%) of Circuit City stock. Slim, who said in SEC filing he intended stake as passive investment, has reputation for buying shares in struggling companies. CompUSA and OfficeMax stumbled in last year in downturn in desktop PC sales, while Circuit City sought to right itself after dropping major appliances and embarking on new store format last year. Circuit City spokesman declined comment. Slim bought small stake in OfficeMax year ago, but gradually increased investment. OfficeMax responded by adopting shareholder rights plan (TVD March 20 p14). Separately, Circuit City has hired consulting firm Bain & Co. to enhance its computerized cash registers and improve its inventory management system.



**DOWNLOADS REMAIN CONCERN:** Despite recent court ruling against Napster, retailer frustration over digital downloading of music was clearly evident at 43rd annual National Assn. of Recording Merchandisers (NARM) convention in Orlando last week.

NARM Pres. Pamela Horovitz addressed download issue and attempted to ease some of those concerns in her opening comments at convention. She said consumers “like acquiring things — especially music — last year, over \$14 billion worth of music.” But she said: “That number doesn’t really reflect how much they love music, because more than 50 million [people] spent countless hours downloading songs. Some of the reports say over 250 million just in one week... The value can’t even be calculated.”

However, Horovitz cautioned retailers that while downloads remained very real concern, it was in their best interests to understand complexities of situation. She told them to “listen carefully to both sides” in debate. She said retailers needed to understand their customers’ views as well as their own. She advised them: “Take careful notes and speak the truth about them. If your sales are down, take time to look at all the reasons why.”

Horovitz later told reporters in news conference that “retailers really kind of feel” as if they were caught “in the crossfires right now” with content providers on one side trying to protect their copyrighted media and consumers on other who liked file sharing, which in many cases winds up being sharing of free music. “We are a little disturbed by the language” that has been used by those in debate on issue, she said.

Although court ordered Napster earlier this month to prevent access to all music files in its service that violated copyrights, many copyrighted recordings still were available via Napster last week. More importantly, retailers at convention were well aware that plenty of services still were available online from companies other than Napster that allowed consumers to do same thing.

Like Recording Industry Assn. of America (RIAA) and music labels, retailers argue that consumers’ ability to download free music online is cutting into sales. But independent retailers we talked with at convention said they blamed not only consumers, but music labels as well, for confusion. More than one of those retailers told us they didn’t blame consumers for not wanting to pay \$18 for average CD. In addition to faulting labels for their pricing, one retailer we spoke to said average consumer was unaware of how little average independent retailer made off each CD. He complained about ability of national retailers to get recordings from labels at lower prices than he could.

In first part of 2-day digital music “supersession” at NARM, panelist Aram Sinnreich, senior analyst at Jupiter Media Metrix, said research indicated Napster users were 45% more likely to have increased music purchases than non-Napster users. But retailers seemed skeptical of that finding.

There was good news for music retailers in Orlando. In 2nd part of supersession, Jon Fay, vp, Mercer Management Consulting, said in 2 surveys of 1,800 mostly college student, respondents in Dec. and Feb. showed there was clearly continuing role for traditional retailers. For one thing, he said, many

consumers continue to say there still are certain advantages — including service — to buying music in real stores as opposed to downloading songs. Consumers also still like entire packaged music experience — jewel cases, lyrics, photos, etc.

Prerecorded discs also have advantage of being seen as more “permanent.” In one of video clips Fay showed of survey participants, one college student who was strong proponent of free digital downloads pointed out that there was another drawback to having only digital download music collection. He said computer could shut down and erase all of one’s files — especially if virus struck. That exact nightmare scenario had happened to him already, he said, and he hadn’t made backup copy of music files.

Fay said research had failed to prove definitively whether digital downloading of music was “cannibalistic” in relation to traditional music retailing or “complementary.” Although many college students already have built large collections of digital downloads — and that is key buying demographic for popular music — Fay said survey showed that most consumers’ digital download collections were distinct from their prerecorded CD collections. Many consumers at this point, he said, seemed to be using services such as Napster to download music they may never have gone out to store and purchased.

Separately, Horovitz said NARM still was waiting for judge to rule in its legal battle with Sony Music. NARM filed suit against label last year shortly before group’s 2000 convention, arguing, for one thing, against Sony’s use of hyperlinks in their CDs and inserts in CD packaging that were sending consumers to Sony and its online partners’ Web sites to sell them merchandise (TVD Feb 7/00 p13). Sony Music, as result, pulled out of last year’s convention.

Sony Music had limited role once again this year, although NARM Exec. Vp James Donio said Sony did take part in scholarship awards program at convention. Horovitz said “we’re disappointed” about Sony’s position, and “it would have been better for all of us if Sony was here” in more active role.

**Sand-and-sandals extravaganzas** from prevideo days seem to be hot movie genre for DVD reissues lately. Besides April 3 release of 1962 *Lawrence of Arabia* from Sony’s Columbia TriStar, Fox offers digitally restored collector’s edition of 1964 *Cleopatra* on same day and Warner shipped similarly reprocessed *Ben Hur* (1959) last week. What all multidisc epics have in common is high-definition digital reworking of video footage, soundtracks cleaned up and remixed for 5.1-channel digital surround, host of value-added features such as making-of documentaries, interviews with participants, original featurettes, trailers. Other common features are long running times and extreme widescreen aspect ratios that might make letterboxed movies difficult to view on even largest direct-view TVs. At 4 hours 3 min., *Cleopatra* (\$26.98) was longest movie ever made at time of its release. Five Star Collection 3-DVD set is lengthy, too, with nearly 10 hours of programming that includes 2-hour documentary on Elizabeth Taylor/Richard Burton movie that nearly bankrupted 20th Century Fox. At 2.76:1 aspect ratio, *Ben Hur* (\$24.98) had widest ratio used theatrically up to that time, with result that more than half its width was lost when panned-and-scanned for 4:3 ratio broadcasts. DVD sets are for Region 1 viewing and don’t appear to use Region Code Enhancement to prevent operation on players with modified regional code settings.



**SONY-CONNECTIX FIGHT ENDS:** Long legal dispute between Sony Computer Entertainment (SCE) and Connectix finally came to end last week as companies announced joint technology agreement and resolution of all legal issues relating to Connectix Virtual Game Station (CVGS) emulation software.

As part of agreement, companies said SCE will acquire from Connectix all assets related to VGS emulation technology, which enables consumers to play many PlayStation games on their computers. Connectix also will continue to offer current version of CVGS for Macintosh and Windows until June 30 and will provide continuing support to existing users. But all further emulation development for PlayStation console will proceed under terms of joint agreement, companies said.

SCE first filed suit against Connectix in Jan. 1999, shortly after San Mateo, Cal., company unveiled CVGS (TVD Feb 1/99 p17). SCE's claims included copyright and trademark infringement. SCE also said Connectix had compromised trade secrets and engaged in unfair competition.

Although SCE asked for temporary restraining order on CVGS shipments, U.S. Dist. Court Judge Charles Legge, San Francisco, in Feb. 1999, rejected that motion. In May 2000, Legge dismissed all of Sony's copyright and infringement claims against Connectix by throwing out majority of counts in suit (TVD May 22/00 p15).

SCE also filed separate patent infringement suit against Connectix in Feb. 2000. Although SCE dropped that suit in summer, it quickly refiled amended version dropping about half of its claims (TVD July 10/00 p13). Connectix Pres. Roy McDonald told us in Oct. (TVD Oct 16/00 p17) that he was confident legal squabble would soon "just go away." But Sony Computer Entertainment America (SCEA) spokeswoman told us then that although her company was disappointed with recent rulings against it in court, it was going ahead with its fight because "it has a responsibility to protect its intellectual property."

Commenting on last week's announcement, McDonald told us: "Our position has been all along that it was in the best interest of both companies" to stop legal fight and work together. He also said agreement would be "great for consumers."

McDonald said that while jury trial finally was scheduled to begin this month on 2 of points in Sony's original suit, trial "was vacated" as result of agreement. He told us trial date never even had been set up for 2nd suit. McDonald declined to disclose financial terms of joint agreement.

"The agreement with SCE gives us the resources to move rapidly into a wide range of exciting new applications for our core emulation and virtual machine technologies, McDonald said: "We believe this collaboration can lead to improved development tools, innovative consumer products and productive enterprise solutions."

When asked whether agreement with Sony might lead to development of PlayStation 2 (PS2) emulation software, McDonald told us his company was in "a broad range of discussions with Sony." He said Connectix also was "definitely looking at" creating emulation software for other game console systems already on market or to be available later, as well as all computer platforms.

SCEA's spokeswoman didn't get back to us by our Fri. deadline to comment on why company had decided to enter into

agreement with Connectix and drop its suits. Only comment available from Sony last week was from SCE Senior Research and Development Vp Shinichi Okamoto, who said: "We look forward to significant advances in emulation technology as a result of our cooperation with Connectix, who owns excellent technology in this field."

Status of Sony's similar legal fight against Bleem couldn't be learned last week.

**Forgotten-but-not-gone** Enhanced CD (ECD) format reemerged in U.K. last week, bringing with it potential for consumer confusion. ECD single of *Uptown Girl* by Westlife has 2 music tracks and video version of title track that's viewable on PCs through CD-ROM or DVD-ROM drive — but not on standalone DVD-Video players. Philips and Sony developed ECD in 1994 and Microsoft endorsed it in 1995, but it took several more years before Windows PCs could cope with ECDs; some still can't. ECD looks like ordinary music CD and first part of disc has audio tracks that run in conventional CD player. After audio, ECD has extra track with computer information. That's indexed so that only PC can read — track is invisible to CD players. Track usually has menu to access song lyrics, artists' photos and biographies plus music video of CD track. Confusion is possible because ECD video doesn't use MPEG compression such as DVD or Video CD, so it won't play as video on DVD player. Instead, ECD uses PC video compression such as Quicktime to create relatively small file with sub-CD and Video CD quality. So, if ECD is put into DVD player, it behaves like music CD and plays only 2 music tracks. ECD jacket notes for BMG's *Uptown Girl* don't explain compatibility issue. When played on PCs, ECD's compressed images occupy small part of monitor screen and often have jerky motion and stuttered sound because even advanced PCs can't decode and process program quickly enough. PC tekkies often remedy that by copying ECD's video file to PC's hard disc. *Uptown Girl* file requires 60 Mb of disc space.

**Double-density CD-R/RW (DD-R/RW)** will make debut next month from Sony in U.S., company said. Expanded storage systems is designed for PC use and, compared with 650 Mb blank CDs, has 1.3 Gb capacity. It also can play and record all conventional CD formats such as CD-R and CD-RW, Sony said. Capacity is doubled downsizing disc's track pitch and minimum track length, changing error-correction parameters, expanding address-format. Drive costs \$249 and comes with Windows PC software bundle for creating backup discs and copy-protected music downloads. Separate utility can compress data on disc to double capacity to 2.6 GB, Sony said. Blank DD-Rs will cost \$2, DD-R/Ws \$3. Format was created with CD co-developer Philips, but latter said it wouldn't market DD-R/RW owing to planned introduction later this year of DVD+RW recorders with 4.7 GB capacity on rewritable DVD blanks. Previously, Philips executives told us company wouldn't back DD-R/RW because format wasn't backward compatible with Red and Orange Book CDs, although it could be made so. Sony declined to divulge added cost of building backward compatibility into product.

**Five new PlayStation 2 (PS2)** games from 3DO were approved by Sony Computer Entertainment America (SCEA). Games — all shipping this month — are *Army Men: Air Attack* (March 27); *Army Men: Green Rogue* (March 20); *Army Men: Sarge's Heroes* (March 21); *High Heat Major League Baseball 2002* (March 27); *Warriors of Might and Magic* (March 20). Titles bring total number of PS2 games from 3DO to 7. *AquaAqua* and *World Destruction League: Thunder Tanks* already are shipping.



**DATAPLAY SUPPORT GROWS:** List of major supporters for DataPlay's new digital media format grew last week as BMG jumped aboard bandwagon. Companies signed deal in which BMG said it would make its new releases available on DataPlay's digital media discs, which offer as much as 500 MB storage on 2 sides and are only slightly larger than quarter.

BMG endorsement means that Boulder, Colo.-based DataPlay now has support of 3 of top 5 music labels. As we reported (TVD Jan 15 p15), DataPlay already had signed deals with EMI and Universal Music. Latter also is largest DataPlay equity holder. Manufacturing partners already include Creative Labs, Eiger Labs, Samsung, Toshiba.

DataPlay was exhibitor at National Assn. of Recording Merchandisers (NARM) convention in Orlando last week (see separate reports, this issue). There, DataPlay Mktg. Vp Raymond Uhler said company already had signed deals with 100 companies that planned to have devices available that could play DataPlay discs. In addition to music players, he said devices would include digital cameras and other peripherals. However, manufacturers have yet to announce details on specific products that will ship.

Samsung Electronics Senior Business Development Mgr. Christopher Cudina, who was at NARM last week, said his company "was putting together a business and marketing plan" and had yet to decide what its first DataPlay product would be. But he said Samsung would have music player of some type available later this year in time for DataPlay debut. On display at DataPlay booth at NARM were 2 potential applications of digital media format by Samsung: Yepp portable music player and mini system. Cudina said Samsung also was planning to come out with variety of other different types of DataPlay products after that.

Uhler told us company was "planning on launching in the 4th quarter, in time for Christmas." At that time, he said, there will be "hundreds of titles" available from 3 software supporters. In addition to prerecorded music, he said, company will start shipping blank media in partnership with Imation. Latter will be distributor for DataPlay's blank media, which will be priced at \$5-\$12 per disc.

Uhler also told us DataPlay was "in discussions with all" of largest retailers, which he said had been "very supportive of the media and the devices." But he declined to identify dealers who would be selling DataPlay product at start.

Unique feature of DataPlay that labels and retailers have expressed interest in, he told us, is "ContentKey," distribution/marketing/e-commerce tool that allows labels to put more than one full-length recording on each prerecorded disc. Additional recordings, such as catalog titles, can be placed on disc in locked position through that feature. Consumers then have to go online to label or retailer Web sites where they can unlock — in only couple of seconds — any or all of those other recordings by paying extra charge. Feature provides easy opportunity for repeat business, Uhler said. DataPlay technology also allows music companies to add interviews, photos, videos and other extra features, in much same way as DVD-Audio, on same disc.

DataPlay said its 500 MB discs could hold more than 11 hours of music downloads or 5 complete recordings in CD quality, along with hundreds of high-resolution photos and even dozens of games.

Specific prerecorded titles that will be available at outset have yet to be announced. But DataPlay showed off wall of recordings in DataPlay packaging at NARM from artists including Lenny Kravitz and Steely Dan.

Also at NARM, only few feet from DataPlay on exhibit floor, was I-Jam Multimedia, which is attempting to win support for its own format. As we reported in Sept., I-Jam unveiled License Plate (LP) format that used Iomega's PocketZip discs as basis for secure method of distributing prerecorded music, books, classic radio shows, digital magazines (TVD Sept 25/00 p20).

I-Jam Pres. Doug Marrison told us in Sept. that company planned to test select recordings from independent music label TVT Records on LPs at Best Buy, e-tailer MediaBay.com and Tower Records in Oct. But he told us last week test was scrapped after his company's digital music players were delayed until Jan.

Marrison told us last week that I-Jam now planned to offer LPs in June, when 100 MB discs will be available. Current disc allows only 40 Mb, he said.

At start, he said, company is "hoping to have 500" prerecorded music and 1,000 spoken word titles available on LPs. Although company has yet to sign on any major label support for LP, Marrison said it was close to deal with one major label and was hoping to sign up other 4 majors "one at a time" after that. Company still is looking for additional retail and manufacturer support. Whether Best Buy, MediaBay and Tower still plan to endorse LP was unclear. Marrison said company also was close to deal with major CE company. But he declined to identify music label or CE company that I-Jam was close to signing on.

Marrison admitted that DataPlay seemed to have leg up on I-Jam in terms of support from major companies, but he said: "If [DataPlay] was real, it'd be a very sexy product." He expressed skepticism that DataPlay would be able to have as much product available for its 4th quarter rollout as it claimed. He also questioned whether public would express any interest in ContentKey feature of DataPlay discs.

**DVD-Audio's chance for success** was debated at 43rd annual National Assn. of Recording Merchandisers (NARM) convention in Orlando last week. Adams Media Research Pres. Tom Adams said in first part of digital music "supersession" that there was much promise in format and it could be "potential savior of copyrighted music and packaged sales." Noting that DVD-Audio files were superior in quality to MP3 files and CDs, he said as consumers got used to DVD-Audio, "appeal of compressed, flat-sounding MP3s could wane." But Jupiter Media Metrix Senior Analyst Aram Sinnreich said he doubted DVD-Audio ever would take off, saying format didn't present enough "value proposition" for consumers. DVD-Audio, he said, is "going to be a really hard sell" and will "probably never escape from the specialty markets" — certainly not until prices come down, anyway. Adams countered that DVD-Audio as format had good chance of spreading into more homes because it was likely to start being included more and more as additional feature of DVD-Video players. He said history of entire CE industry had been that particular format was introduced, prices soon came down and then manufacturers started looking for new format to replace it. (See separate reports on NARM, this issue.)



**ELECTRONICS BOUTIQUE PROFIT UP:** Introductions this year of all well-publicized next-generation gaming platforms figure prominently in projections by Electronics Boutique (EB) to significantly boost profitability for its 2002 fiscal year.

EB said net profit declined 15.5% in 14-week 4th quarter ended Feb. 3 to \$13.1 million (58¢ per share) from \$15.5 million in 13-week period ended Jan. 29, 2000. However, revenue rose 5.9% to \$334 million from \$315 million despite same-store sales drop of 6.3%. For fiscal 12 months, profit fell to \$14.9 million (66¢) from \$22.8 million (\$1.10) as revenue climbed 5.5% to \$770.8 million from \$730.4 million, although same-store sales for year fell 4.5%. EB blamed same-store declines on lower sales of PlayStation and Nintendo 64 software, PC software and Pokemon-related merchandise. However, it said declines were partly offset by higher videogame hardware sales of Sega Dreamcast and late-Oct. PlayStation 2 (PS2) debut.

EB didn't offer profit projection for fiscal 2002 other than to say it expected "a significant improvement," particularly in 3rd and 4th quarters. It expects sales for year to jump 30% to \$1 billion on new-store openings (175 are planned for Australia, Canada, New Zealand and U.S.) and bounce from introductions of Nintendo Gamecube, Game Boy Advance and Microsoft Xbox, as well as better allocations of PS2 hardware.

EB said it expected 60% leap in year-over-year sales in videogame category in fiscal 2002. Jeffrey Griffiths, senior vp-mdsg. & distribution, told analysts in conference call that forecast assumed that all new gaming platforms would ship this year. He said company studied new platform starts of past and combined historical data on its own market share, hardware-software "tie" ratios and other information with research from IDG. He said projections assumed that Microsoft would bow Xbox in U.S. in Oct. at \$299 and that Nintendo would follow suit with Gamecube in Nov. at \$199.

Griffiths said EB was projecting first-year Xbox and Gamecube console sales in U.S. of 1.6 million and 1.4 million, respectively. Responding to analyst's question, he said PS2 allocations since Feb. had been filling pipeline at rate that was ahead of EB's projections, but he said company believed Sony would fall slightly short of its goal of shipping 3 million PS2 consoles in U.S. by March 31 close of its current fiscal year. However, Griffiths said "the more important number" would be whether Sony met its target of shipping 7 million consoles in U.S. in next fiscal 12 months.

Responding to another questioner, he said EB software tie ratios on PS2 had remained steady at 3-1/2 to 1, but were expected to increase significantly in fiscal 2002 to 8-1. He said EB projected tie rates of 5-1 on Xbox, 4-1 on Gamecube, 4-1 on Game Boy Advance.

TiVo said loss for month ending Jan. 31 grew to \$18.5 million from \$8.8 million year ago as revenue rose to \$989,000 from \$134,000. Total costs and expenses soared to \$20.2 million from \$9.5 million in year as hardware subsidies jumped to \$6.6 million from \$2.2 million. TiVo released monthly financial statement as it switched fiscal year-end to Jan. 31 from Dec. 31. For year, TiVo said net loss surged to \$216.6 million up from \$73.5 million loss year ago as revenue climbed to \$4.7 million from \$357,000. Total costs and expenses jumped to \$84.5 million from \$75.1 million.

Gloomy online buying study said total spending through online sales dropped to \$3 billion in Jan. from \$6.1 billion in Dec. Study, by National Retail Federation and Forrester Research, in conjunction with Greenfield Online, also said number of households online dropped to 13.3 million in Jan. from nearly 20 million in Dec. Study said online buyers spent average of \$228 per person in Jan. — down from \$308 month earlier. Toys and videogames saw largest falloff, dropping to \$125 million from nearly \$600 million in Dec., report said. But Forrester Research Dir. James McQuivey said 50% decline in spending was "exactly what we would expect of the postholiday season, not a reflection of how consumers feel about shopping on the Internet."

Matsushita said Fri. it planned to slash group assets by \$8.17 billion over 3 years starting in April as it tried to improve return on investment. Under plan, which was part of new strategy unveiled in Nov., Matsushita's group assets will be cut by 12% from their total net worth of \$68 billion at end of Dec. Company is targeting group sales of \$74.3 billion in fiscal year ending March 2004. It said it expected group operating profit of \$1.8 million yen in year ending March 31 on sales of \$62.4 billion. Separately, Matsushita declined comment on rumors that it might extend LCD joint venture with Toshiba to include CRTs for TVs and/or PC monitors. Sources said announcement had been expected Fri., but plans were scuttled at last min. and potential deal was in limbo.

Wayne Inouye will be paid \$480,000 base salary in each of 2 years of contract at eMachines, where he became CEO March 5 (TVD March 5 p18), filing at SEC showed. He also will be paid signing bonus of \$2,357,850 within 30 days, \$738,225 of which Inouye must repay if he leaves company or is terminated for cause before April 24, 2002. Emachines also granted Inouye 4 million stock options that will vest over 2-year term of contract. Company will pay Inouye \$1 million from escrow account to be established within 30 days as hedge against risk that options will be worthless when Inouye is ready to trade them in.

Nintendo of Europe (NOE) said it wouldn't exhibit at this year's European Computer Trade Show (ECTS) in London as it has in past. Instead, NOE said, it will be having its own Nintendo Show 2001 at yet-to-be announced venue in central London Sept. 1-2. Nintendo starts shipping its next-generation handheld system, Game Boy Advance, this month and next-generation console, Gamecube, later this year. Although Nintendo was at last year's ECTS, various other main players in game industry — including Sega — were not. This year's ECTS will be held Sept. 2-4.

Electronic Entertainment Expo (E3) announced that this year's show would kick off with keynote panel including Microsoft Games Div. Senior Vp-Chief Xbox Officer Robert Bach, Nintendo of America Exec. Vp Peter Main and Sony Computer Entertainment America Pres.-COO Kaz Hirai. Keynote is 9 a.m. May 17 — first day exhibits will be open at show.

#### THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥123 = \$1, except where noted.



**Good Guys (GG)** warned last week that same-store sales growth for first half of new fiscal year would be lower than 5 months ended Feb. 28 as same-store sales rose 6% to \$415 million from \$391.5 million year earlier. However, sales slowed in Feb., "reflecting the overall decline in retail spending" and chain's decision "not to duplicate" promotions from year ago, GG said. Chain will maintain profitability in fiscal 2002, it said... **Harvey Electronics**, citing \$170,000 in operating losses and pre-opening expenses, said first-quarter net income declined to \$323,000 from \$440,000 year ago. Revenue increased 17.3% to \$11.6 million on 15.3% rise in same-store sales. It said \$120,000 of operating loss was tied to opening of new Bang & Olufsen store in Greenwich, Conn., and start of Web site last Oct. "It's [Greenwich B&O store] a brand new store and it's just slow to get running so we fully expected that," Karp said. Remaining \$50,000 was for preconstruction cost of Eatontown, N.J., store that opens in April. Custom installation accounted for 34% of revenue in quarter, up from 23% year ago, and chain will "sustain the growth" by adding new programs. Among those will be service to install wireless local area networks (LANs) either with internal staff or through partnership, Pres. Franklin Karp said. "We have the clientele that understands what it is and they have it at work so why wouldn't they want it at home?" he asked. Sales of audio products represented 63-64% of revenue, down 1-2% from year ago, while video was in 36-37% range with 2% increase due in part to sales of high-end products, Karp said.

**TVT Records** said same "willful infringement of copyrights" found to be unlawful in Universal Music Group's copyright case against MP3.com were found to be applicable in TVT's filing against MP3.com. Judge Jed Rakoff, U.S. Dist. Court, N.Y.C., ruled in favor of independent music label TVT's motion for partial summary judgment last week, saying: "The court finds plaintiffs may recover statutory damages for infringements of both the composition and the recording of the same works." TVT said "this marks the first time that the courts have agreed with awarding damages for both rights holders," saying that composition and master recording "are separate rights." But in his ruling, Rakoff said: "All issues, whether factual or legal, relating to the validity of plaintiffs' copyright certificates are deferred to the time of trial." Each company had made cross-motions for partial summary judgment. TVT said major issue to be decided at trial was whether technical error in filing of copyright registration could make it ineligible for damages. Music label said "the debate right now" was "whether sound recordings can be construed as a work for hire" and "what damages should be rewarded to TVT Records." Judge set court date of 9 a.m. March 26. Separately, MP3.com announced bow of Transfer2Device, service that gives portable devices instant access to catalog of songs at company's Web site.

**Limited-play VHS movie** sellthrough tape from Disney's Buena Vista Home Entertainment (BVHE) is no more than experiment, spokesman for studio told us last week. Tape is called "2view" as it permits only 2 viewings of movie before being erased for use as blank recording cassette. BVHE plans May trial with movie *Coyote Ugly* in Netherlands, where 2view will sell for equivalent of \$4-\$6. Video retailers in Europe have expressed concern about 2view's release too close to movie's rental street date and sellthrough release, for fear they'll have to lower rental prices to compete. BHVE has agreed to 8-week window for 2view after rentals and about 4 months before sellthrough. As for U.S. plans, BHVE spokesman told us: "It is just a test taken in one country, and it is not a format we are committed to."

## Consumer Electronics Personals

**Larry McKinney**, retires as Thomson Multimedia vp-worldwide DVD Product Management, succeeded by Brand Management Gen. Mgr. **Gregory Bosler**, who also adds responsibilities for digital camera, camcorders, VCRs... **Rod King**, ex-Fuji Photofilm, named SmartDisk senior sales & mktg vp... **John Metcalf**, ex-WaferTech, appointed CFO, Colo. MicroDisplay... Singing Machine COO **John Klecha** adds pres. title... Ex-Sen. **Bill Bradley** (D-N.J.), nominated for seat on Kodak board... **Scott Ray**, ex-BarterTrust, named Open TV exec. vp-CFO, replacing **Randy Livingston**, who joins Stanford U. as CFO-vp business affairs.

**Zany Brainy (ZB)** has defaulted on \$115 million credit facility and hired final adviser to weigh options including sale of chain. ZB, which has struggled since acquiring rival Noodle Kidoodle (TVD July 31 p19), had credit line sliced to \$50.7 million after bank appraisal found chain had violated requirement that borrowings not exceed 85% of value of inventory. As of March 13, ZB had \$49.7 million of outstanding borrowings under agreement, it said in SEC filing. In wake of default, ZB said it would meet with largest creditors to discuss possible restructuring of unsecured debt. While ZB indicated in Dec. that operating cash flow and credit facility would be enough to fund operations for 12 months, it now doesn't have enough money to cover that period, it said. In light of financial troubles, ZB has hired William Blair & Co. to "explore strategic alternatives," including sale. It also is negotiating forbearance agreement with bank and is seeking to either refinance existing credit facility or secure junior loan to supplement it, ZB said. ZB has suffered in wake of purchase of NK last year that created 163-store chain. Educational software titles, which were once ZB staple, had double-digit declines in first half of 2000, forcing chain to add video games to mix. It also invested heavily in online business in joint venture with Online Retail Partners (ORP). Companies parted ways earlier this year (TVD Jan 22 p20). ORP had agreed to absorb losses up to \$20.1 million investment, figure that was exceeded last fall.

**Palm and Handspring** are being sued by NCR Corp., which claims they infringed on 13-year-old patents for handheld PCs. NCR said in suit filed in U.S. Dist. Court, Wilmington, Del., that it had patented handheld PC with docking station in 1987. It said Palm and Handspring had been in violation of patents for years with their devices. NCR said its researchers 20 years ago designed device that handled and transmitted data and fit into user's hand. Device incorporated many of same tools as are in personal digital assistants' current handheld PCs. Included with NCR's product was docking station that allowed it to connect to other devices, suit said. Handspring spokeswoman said suit was "without merit" and Palm declined comment... **Sony** unveiled new version of Clie handheld PC with improved screen resolution and ability to play music downloaded with special version of its Memory Stick. New handheld uses Motorola's 33 MHz Dragonball VZ chip and has 8 MB memory. Rechargeable lithium-ion battery will power Clie for 15 days of organizer use or 11 hours of music playback, Sony said. Screen was upgraded to 320x320 pixel resolution from current 160x160. In Japan, Sony is offering software for downloading TV program guides and maps as well as program that lets users watch TV programs that are downloaded onto Memory Stick. Up to 160 min. of color images can be stored on 128 MB Memory Stick, Sony said. New Clie is expected to sell for \$416 in Japan.





# TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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### Broadcast - Cable

**TRISTANI BLASTS FCC** for not enforcing 'clear' TV indecency law. She plans to leave agency 'toward end of year.' (P. 1)

**FCC SUSPENDS DEADLINES** for AT&T cable divestiture. Tristani dissents, AT&T cheers, consumer groups complain. (P. 2)

**ALLIANCE DISPUTES NAB** on political price gouging. Group sends free-time bill to Hill. Senate passes LUC changes. (P. 3)

**FCC SAYS COURT ERRED** in not severing Option B from EEO rules. State groups say court acted properly. (P. 4)

**BARBS EXCHANGED AS STRIKE NEARS:** TV executives, writers feud over money. ABC, Fox say they're best prepared. (P. 4)

**U.S., GREECE SETTLE PIRACY** dispute over unauthorized use of American movies, TV shows. MPAA pleased. (P. 5)

**TRISTANI BLASTS FCC OVER INDECENCY LAW:** Whether it's "the new [Powell] Commission or prior Commissions," FCC hasn't been enforcing provisions of Communications Act banning indecent programming on broadcast TV and radio, Comr. Tristani charged. "We have a very clear law" on indecency, she told our affiliated publication *Communications Daily* in explaining her objections to several recent Enforcement Bureau actions dismissing indecency complaints. Law already has been upheld many times by courts, so there's no First Amendment issue or need for congressional action, she said in interview: "This is about protecting our children."

Asked what she would have Bureau do differently, Tristani said: "I would make sure that every complaint we receive... wasn't prejudged [by Bureau] as to whether these cases were indecent or not... One thing I ought to make clear. I'm looking at every letter" Bureau sends out dismissing complaints — many of which never become public. As for commissioners, "we receive [indecency] complaints in our e-mail all the time" that she doesn't pass on to Bureau "unless they are very specific... I'm not concerned about giving the Bureau additional things to do. I'm more concerned about what they're supposed to be doing and not doing properly."

When asked, she said Bureau shouldn't be out seeking indecency violations and taping programs: "No, I don't think so. I don't think that's the proper role of government." Asked for reaction to Tristani's statements, official of Enforcement Bureau responded: "Officially, no comment."

Another area where Tristani disagrees with staff actions is recent approval of 32 radio station transfers by Mass Media Bureau — action highly praised by Chmn. Powell for breaking backlog. "Certainly, many of them should have been designated for hearing" under public interest mandate, Tristani told us. She said Commission needed "clear guidelines"

### Consumer Electronics

**GAME BOY ADVANCE PROFIT PLAN** imposed by Nintendo, much to frustration of retailers and 3rd party game makers. (P. 9)

**DVD RECORDING CAMPS RATTLE SABRES** at CeBit show last week in Germany, where incompatible formats each put most positive spin on latest alliances. (P. 10)

**TWEETER REBRANDING PROGRAM** will deepen this spring when it drops Bryn Mawr, Douglas TV and United Audio names. (P. 12)

**AMAZON, BEST BUY SILENT** on reports they are in discussions to form strategic alliance. (P. 12)

**BEST BUY U.S. EXPANSION** will be complete with 650 stores by 2004, 8 leases signed for move into Canada in 2002. (P. 13)

**NINTENDO DEBUTS GAME BOY ADVANCE** in Japan. It says retailers sold out of 650,000 pieces of hardware. (P. 14)



about when such applications should be approved but said she wouldn't propose any before leaving FCC because "I hear what my colleagues are saying and I can guess what my future colleagues'" positions will be in Republican Administration. What's being lost in industry consolidation, she said, is diversity of ownership and voices.

On petition by ABC, NBC and CBS affiliates asking FCC to open inquiry into TV network practices, she said it was "very interesting... I hope the Commission gives it the attention it deserves." She declined to discuss merits of affiliates' charges, saying "it's one of those proceedings that may or may not be restricted" on ex parte contacts.

Tristani said "I'm still undecided" about when to resign from FCC to return to her native N.M. to seek elected office, but "it'll be sometime toward the end of the year... It was a very difficult decision" not to run for House seat last year, she said, and she didn't because Clinton Administration asked her to remain at FCC until after Nov. election. Asked whether it was then-Vice President Gore who personally asked her to stay at FCC, she said: "I'll just say it was the Administration."

Tristani, Democrat, said she was considering running for governor, House or Senate but "right now, I'm focusing on the Senate." Sen. Domenici (R), now in his 5th term, is up for reelection in 2002 — as is Republican Gov. Gary Johnson, who isn't eligible to seek reelection because of term limits.

**FCC SUSPENDS AT&T SALE DEADLINES:** FCC let AT&T off hook on MediaOne deal compliance conditions March 16, suspending 2 pending deadlines for company to dispose of cable assets. In 3-1 vote, Commission said it was dropping deadlines to give itself "an opportunity to determine the relationship, if any," between obligations imposed on AT&T-MediaOne acquisition and recent U.S. Appeals Court, D.C., ruling that held cable ownership limits to be unconstitutional. Brief order covers May 19 deadline for AT&T to sell its 25.5% stake in Time Warner Entertainment (TWE), spin off Liberty Media or shed cable systems with 9.7 million subscribers and March 20 deadline for AT&T to say whether it could comply. FCC declined to say when it would decide whether to seek rehearing by appellate court, appeal to U.S. Supreme Court or change limits.

Suspension of deadlines lifts pressure off AT&T to sell its TWE stake back to AOL Time Warner (AOL TW) or spin off Liberty Media over next 2 months. Although AT&T has been trying to do both to slice its huge debt load, it has run into resistance from AOL TW in negotiating price for TWE stake and needs favorable tax ruling from IRS to proceed with Liberty Media spinoff. If AT&T couldn't have met May 19 divestiture deadline, it would have had to start process to put its TWE stake in trust until it could carry out sale. AT&T said it continued to negotiate TWE sale with AOL TW, even though 2 companies had passed their latest March 15 deadline for settling matter.

Move came week after AT&T and FCC Comr. Furchtgott-Roth urged Commission to take step because of March 2 court decision striking down cable's 30% ownership cap (TVD March 19 p3). Furchtgott-Roth also urged Commission to drop AT&T divestiture conditions in wake of court action. Ruling is relevant because FCC found AT&T to have 42% share of pay-TV market after its purchase of MediaOne last June, well in excess of cap.

Suspension of AT&T divestiture conditions came same day as FCC rejected Viacom's bid to suspend its deadlines for selling local TV stations that exceeded Commission's 35% ownership cap for broadcasters. Viacom, which faces May 4 deadline to sell stations because of its \$50.2 billion purchase of CBS last spring, had argued that it should be granted relief at least partly because of cable cap ruling. But, again in 3-1 vote, Commission turned down Viacom's request, saying company had failed to prove postponement was justified. Viacom said it would appeal decision to U.S. Appeals Court, D.C., which also is hearing challenge to broadcast ownership limits.

FCC Chmn. Powell said that while cable ownership cap was "not the sole basis on which the Commission imposed conditions" on MediaOne deal, agency "unquestionably relied on substantially similar rationale" pulled from rule that appellate court struck down. "Given that fact, it is only prudent for the Commission to suspend its enforcement of the condition until it has adequate time to carefully consider the impact of the court's decisions on the conditions," he said. "Our action should not be read as eliminating the condition, but only as suspending the established benchmarks for compliance pending further consideration."

In separate statement, Comr. Ness stressed that "our action today is a suspension, not an elimination of the conditions" imposed upon AT&T. While she voted for order, Ness said she was "deeply concerned about increasing levels of concentration across the media industries," including "the relative dearth of nonvertically integrated cable television programmers and the difficulty such programmers have in reaching wide audiences."



**Comr. Tristani, lone dissenter in case**, blasted action, arguing that it “effectively eliminates the requirement that AT&T divest” its TWE holdings and “eviscerates the public interest protections” in agency’s original MediaOne order. She also called move “premature and unjustified” in absence of final court order or formal AT&T request for relief.

**AT&T hailed Commission’s move.** “The FCC has taken a reasonable, measured step today in light of the Appeals Court ruling earlier this month,” AT&T Gen. Counsel James Cicconi said. But consumer groups criticized FCC’s action. Gene Kimmelman, co-dir. of Consumers Union’s Washington office, said: “It sends a clear signal that under new leadership, the FCC does not plan to impose meaningful ownership limits on cable monopolies.”

**ALLIANCE BACKS GOUGING CHARGE:** NAB’s answer to charges that broadcasters “gouged” candidates in 2000 campaign by legally overcharging under provisions of lowest unit charge (LUC) of Communications Act (TVD March 19 p6) “does not rebut a single claim” of such gouging made by Alliance for Better Campaigns. At least, that’s position of Alliance in letter — along with proposed bill that would require TV stations to give free time to candidates — sent to all members of Congress and media last week.

Letters arrived in congressional offices as Senate March 20 passed amendment 70-30 to campaign reform legislation that would significantly change LUC requirements. Amendment, by Sen. Toricelli (D-N.J.), would require stations to offer LUC for any time period in preceding year before election on nonpreemptible basis. Under current law, candidate purchases under LUC are preemptible — which TV’s critics charge has led to industry “gouging” of candidates to pay higher rate to guarantee time and place of their spots.

Immediately after its passage, NAB attacked Toricelli amendment as “multimillion windfall” for candidates. NAB Pres. Edward Fritts said it wouldn’t reduce cost of running for office but “rather will unleash a torrent of negative attack ads. Only in Washington can this be called reform.” Day after it approved Toricelli proposal to McCain-Feingold campaign finance reform bill, Senate adopted amendment to require candidate to appear personally in any ad mentioning his opponent by name to qualify for LUC.

In letter to members of Congress, Alliance Exec. Dir. Paul Taylor said that rather than rebutting gouging charge, NAB’s statement “affirms the report’s central conclusion... that the LUC system that governs the pricing of broadcast ads for candidates has become an empty shell... Our report documents how television stations kept jacking up those ‘multiple lowest unit charges’ throughout the campaign season last fall.” NAB response, Taylor said, also documents “the pressure on candidates to buy ads at the most expensive of these ever-rising” LUCs.

Collapse of LUC system is “a powerful argument in support” of mandatory free TV time for candidates, Taylor said. Moreover, he said, mandatory free time “would be an appropriate way to reclaim... a small public interest payback for the \$70 billion in free [DTV] spectrum that Congress granted” TV stations in upcoming switch to digital transmissions.

In unrelated development, study released last week reported that in top 75 TV markets during 2000 campaigns, 839,243 political commercials were aired, up from 302,377 in 1998 — non-Presidential election year. Study, by U. of Wis. political scientist Kenneth Goldstein and Brennan Center at N.Y.U. School of Law, said TV campaign spots in 2000 cost total of \$623 million by “conservative estimate” and were “fueled by an avalanche of soft

money.” Local spots for congressional candidates totaled 314,023, up from 235,791 in 1998 election cycle, study reported, while ads by interest groups increased to 409,496 from 66,586. Presidential candidates in 2000 ran 115,724 TV spots, study said. Democrats had “slight advantage” in advocacy ads last year, Republicans in 1998. Without campaign finance reform, “new factors may well make the 2002 campaign worse,” Goldstein said. “Between congressional redistricting and an evenly divided Senate... we will only see a continued and dramatic increase in soft money television advertising of every kind.”

**Communications lawyers** on Washington Legal Foundation panel split 2-2 last week on whether major revamp of FCC was needed immediately. “It’s hard to disagree about the need to overhaul the FCC,” said attorney Nick Allard of Latham & Watkins, who called for abolishing 4 of 5 commission seats and actively involving Commerce Dept. and NTIA in regulation of various communications industries. Moderator and former FCC Chmn. Richard Wiley sharply disagreed with Allard, arguing that what FCC needed was more delegation of authority to staff and more rapid decisions. Wiley said that could be accomplished with present structure — and “Chmn. Powell can get it done.” Because of congressional respect for Powell, any agency reform “is going to come first from the FCC itself,” rather than from Hill, Wiley predicted. Charles Kennedy of Morrison & Foerster generally agreed with Allard, while David Poe of LeBoeuf, Lamb, Greene & MacRae partly sided with Wiley. Commission doesn’t need revamping for short term, Poe said, but major overhaul may be necessary in long term. Kennedy said FCC operations were “outmoded... We are going to have to make some fundamental changes... if things don’t turn around.” Allard listed 10 questions that must be answered about FCC’s future, including whether competition was prerequisite for deregulation or vice versa and whether Commission’s current structure made sense. Poe said Powell had shown that “he’s not afraid to grapple” with tough issues and that there were many “ambiguities and contradictions” in Telecom Act. He said “statutory reform” of FCC was needed but it would be very hard to get Congress to pass legislation on issue. On DTV, Poe said FCC had tried to push broadcasters into new technology but “you can’t make a market if the market isn’t there.”

**Coalition of 21 broadcasters** and others urged FCC to delay its pending auction of 700 MHz spectrum yet another time so that they could have more time to work out private deals to vacate TV Ch. 60-69. Led by Paxson, group representing 42% of 99 analog stations now operating in that spectrum petitioned Commission to postpone auction to next Jan. from Sept. 12. Group, which also includes Entravision Holdings, Jovan Bestg., Pappas Telecasting, Shop at Home and Sinclair Best. Group, proposed 8-step band-clearing plan that generally would allow in-band broadcasters to switch to their digital slot or another station’s analog position. Paxson Chmn. Lowell Paxson said he expected more broadcasters to sign petition in next few weeks.



**FCC SAYS COURT ERRED ON EEO RULES:** Option B of EEO rules isn't essential to FCC's goal of ensuring that broadcasters "engage in broad outreach in recruiting new employees," agency told U.S. Appeals Court, D.C., March 21 in support of its petition for partial reconsideration of court order that dismissed rule "in its entirety." In throwing out rules, court had said Option B "put official pressure on broadcasters to recruit minority candidates, thus creating a race-based classification that is not narrowly tailored to support a compelling government interest and is therefore unconstitutional" (TVD Jan 22 p2). In unusual move just one work day after Commission sought partial consideration (TVD March 5 p6), court sought more information from Commission.

In response, agency said Option B was drafted "at the request of broadcasters to provide them with flexibility." Under EEO rules, Option A required stations to undertake 4 specific employee recruitment initiatives, while Option B gave licensees option to craft their own "outreach program." FCC said court's order "pointed to nothing [in record], and we are aware of nothing" to support ruling that Option B would "substantially alter" broadcasters' recruitment practices to favor minorities and women. Broadcasters choosing Option B "who report few or no women and minority applicants will not face an automatic investigation," FCC told court. Several groups have filed in support of Commission's reconsideration request, including Minority Media & Telecom Council, National Organization for Women, Office of Communications of United Church of Christ.

Responding to Commission, coalition of 50 state broadcaster associations (which had appealed rules after they were adopted last year) told court that FCC "has tried to rewrite history to claim that Option B was some sort of independent 'add-on'... adopted only to accommodate broadcasters' requests." But, they said, in adopting new EEO requirements to replace those court ruled unconstitutional in *Mo. Lutheran Church* case in 1998, FCC "made it clear that Option B was an integral part" of new rules. Commission, broadcasters said, failed to "present any valid arguments" for court to reconsider its decision. They said agency had "consistently misread" same court's decision in *Lutheran Church* case "to focus on so-called processing guidelines rather than to acknowledge this court's clear holding [in 1998] that the entire affirmative action rule was unconstitutional."

L.A. officials met with FCC staff recently to press for open access requirements on all cable operators and cable must-carry status for local Hispanic broadcasting station. In March 13 ex parte filing with Commission, L.A. officials urged agency to adopt "a uniform national open access policy" that matched or went beyond obligations imposed on AOL Time Warner by FTC and FCC. Otherwise, "some consumers in the same jurisdiction will have the benefits of open access while others will not," they argued. In separate must-carry case, city officials urged FCC to reverse itself and approve must-carry bid by KJLA Ventura, which presents bilingual programming. They called agency's failure to grant request "inequitable result" that denied more than one million Hispanic viewers access to KJLA's programming.

**EchoStar Chmn.** Charles Ergen and News Corp. Chmn. Rupert Murdoch, who are engaged in merger talks, top list of individuals with ties to satellite industry on Forbes 400 list of world's wealthiest people. Ergen and Murdoch are listed as tied for 16<sup>th</sup>, each with estimated net worth of \$11 billion. New ICO-Teledesic Chmn. Craig McCaw is No. 31 at \$7.7 billion.

**BARBS FLARE AS WRITER STRIKE NEARS:** Movie and TV writers "are being completely unrealistic" in stalled Writers Guild of America (WGA) negotiations with studios as strike deadline nears, Disney Pres. Robert Iger said. "You have got to wonder what is in their minds," he said at March 22 news conference at ABC hq in Burbank, Cal. Jeffrey Katzenberg of DreamWorks contended that if studios acceded to writers' demands, it would bankrupt production industry in 3 years.

WGA countered that its proposal sought only \$99.7 million in additional fees from studios over 3 years. Producers, on other hand, contend figure is more like \$227.4 million and, when all other benefits (such as residuals) are factored in, 3-year cost to programmers would be about \$1.6 billion. Studios said WGA figures were way low because they were based on minimum fees paid to writers, while nearly all TV and film writers were paid above scale.

WGA negotiator Charles Slocum called studio figures inaccurate: "There is nothing new here and nothing that makes us want to change the numbers we put out." He said it was absurd to say that Guild's request would bankrupt studios. Writers, he said, are seeking extra \$33 million per year "probably out of \$40 billion to \$50 billion in revenue" of studios.

WGA's 3-year contract with studios expires May 1, and talks between 2 sides broke off earlier this month after 6 weeks (TVD March 5 p6). Studios also are facing negotiations with Screen Actors Guild and American Federation of TV & Radio Artists, whose contracts expire June 30. L.A. economist has estimated that it would cost city's economy more than \$250 million per week if strikes shut down TV and movie industries.

In preparation for strikes, TV networks are moving toward reality and other nonscripted programming in planning fall schedules. ABC Entertainment Co-Chmn. Stu Bloomberg told advertisers in N.Y. March 21 that ABC was "best prepared" network for strike — citing possible increased episodes of *Who Wants to Be a Millionaire* and *Whose Line Is It Anyway?* as stop-gap measures. Day earlier, Fox Entertainment Chmn. Gail Berman told advertisers that network had more scripted shows already on hand than its rivals.

**Gemstar-TV Guide International** signed its 2nd major cable carriage deal in month, sealing 20-year agreement with Comcast for MSO to offer Gemstar's interactive program guide (IPG) to digital cable subscribers. Comcast will offer Gemstar's advanced program guide to nearly all of its current 1.5 million digital cable subscribers and future digital customers in return for up to 15% of guide's ad revenue and up to 50% of guide's TV commerce revenue. Most notably, Comcast agreed to offer Gemstar's IPG on its Scientific-Atlanta digital set-top boxes, which now feature only box manufacturer's house brand guide. Pact with Comcast also calls for MSO to offer Gemstar's TV Games Network horse racing channel in 2 states where TV betting is legal. New carriage agreement follows similar deal between Gemstar and Charter Communications in Feb.

**ISurfTV**, which aims to compete against Gemstar-TV Guide International in emerging interactive program guide market, won its first patent from U.S. Patent Office. Patent covers use of 3-D technology in interactive TV portals and program guides. Company said it had more than 70 other patents pending.



**U.S., GREECE SETTLE TV PIRACY DISPUTE:** U.S., European Union (EU) and Greece informed World Trade Organization (WTO) that they had reached "a mutually satisfactory solution" to problem of American movies and TV programs' being pirated by Greek broadcast stations. In releases by U.S. Trade Representative (USTR) Robert Zoellick and EU late last week, 3 parties said they finally settled dispute after more than 10 years of complaints by American film industry about rampant copyright violations. MPAA officials, who pressed for end to problem, said settlement resolved worst case of over-the-air TV piracy in world by far. "I think the problem is solved now," said MPAA Trade & Federal Affairs Vp Bonnie Richardson. "Obviously, we'll keep an eye on it."

Although theft of U.S. cable and satellite TV signals is quite common around globe, Greece stood out because its local, regional and often national TV channels routinely showed American films and TV shows without obtaining copyright approval. MPAA officials said Greek stations simply took American movie and TV series videotapes and ran them on air. "Analog, terrestrial TV piracy is a very rare thing," Richardson said. "In Europe, Asia, South America, it just doesn't happen very often."

MPAA officials estimated that Greek TV piracy rate reached 100% at its zenith in 1980s, after country's national TV monopoly was broken. They said piracy rate still hovered near 50% mark as recently as 1997, when they said problem cost U.S. and other non-Greek motion picture producers \$50 million annually. Piracy rate since has dropped to estimated 5%, costing film producers \$5-\$10 million per year.

At MPAA's prodding, U.S. began dispute settlement proceedings in WTO against Greece and European Community nearly 3 years ago, charging that Greece didn't provide adequate standards of copyright protection and enforcement. Since then, Greece has passed law to close TV stations immediately after they were found to be infringing on copyrights. Country also has begun prosecuting offending stations much more quickly and aggressively, winning first criminal convictions for TV piracy. Now, under settlement, Greece has agreed to take action against any surge in piracy and to keep enforcing intellectual property laws.

MPAA Chmn. Jack Valenti praised Zoellick for gaining commitment from Greek govt. to "take effective enforcement measures" against unlicensed TV stations. Valenti said case "illustrated how effective this new multilateral trade tool (WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS) can be in ensuring full respect for U.S. intellectual property rights." He said group expected U.S. to keep aggressively using "the dispute settlement mechanism in the TRIPS agreement, as well as bilateral dialogue" to maintain pressure on other countries to protect American copyrights.

Richardson said MPAA now would turn its focus elsewhere but saw few parallels with Greek broadcast piracy problem. "There is no other candidate out there," she said. However, she said signal piracy problems still festered in Caribbean, India, northern tier of Latin America.

**Wink Communications** and **Beyond Z Interactive Media** signed agreement for latter to develop interactive TV (ITV) applications for Wink's enhanced TV service. Beyond Z, which already has worked with Wink on several ITV features, said it would develop new applications for Wink. Terms weren't disclosed.

**APPEALS COURT HEARS BUFFALO PTV CASE:** Attorneys for FCC and Coalition for Noncommercial Media (CNM) squared off in U.S. Appeals Court, D.C., March 22 over Western N.Y. Public Bcstg. Assn. (WNYPBA) plan to sell its 2nd noncommercial station to commercial broadcaster LIN TV for \$26.2 million. Washington-based CNM, which opposes conversion of PTV station to commercial broadcaster, wants to overturn Mass Media Bureau's approval of that switch because it would leave Buffalo area without one of its 2 public stations. But FCC defends approval as justified after dismissing 2 CNM counter-proposals to preserve both stations as noncommercial entities. WNYPBA, which originally planned to sell station to Sinclair Bcst. Group, is pursuing sale to finance DTV conversion of its remaining station.

Representing CNM, Washington attorney Jared Sher argued that FCC broke its own rules by not following its standard 2-step procedure in approving license swap of WNEQ-TV Buffalo (Ch. 17), noncommercial station operating on unreserved channel, and WNEQ-TV Buffalo (Ch. 23), PBS station with noncommercial license. Sher said Commission also violated its procedures by not giving parties opportunity to comment on license swap or file competing applications. In addition, he said, agency rejected group's 2 counter-proposals for invalid reasons and never gave them full consideration.

FCC attorney James Carr contended that Commission simply exercised its licensing power in granting WNYPBA's bid to swap its commercial and noncommercial licenses and sell WNEQ to LIN. He questioned appellate court's jurisdiction to overturn agency decision, saying that CNM hadn't presented most of its claims to FCC, as required. He also said CNM's appeal was not filed timely and dismissed group's counter-proposals as "radical change" that would turn currently unreserved channel into noncommercial license over its owner's objections.

Judge Stephen Williams led questioning of lawyers by 3-judge panel that included Chief Judge Harry Edwards and Judge Karen Henderson. Williams particularly grilled Sher on legal precedents for FCC's decision and coalition's arguments. Sher said key issue was that Buffalo TV viewers would lose one of their public stations if FCC ruling were upheld.

**Walt Disney Co.** took issue with bid by Network Affiliated Stations Alliance (NASA) for FCC inquiry into allegedly "unlawful network tactics and practices" (TVD March 9 p2). In letter to FCC Asst. Gen. Counsel John Riffer March 19, Disney attorney Erwin Krasnow called NASA petition "questionable procedurally, substantively flawed and ill timed" and said it should be dismissed. Noting that brisk competition to broadcasters from cable, DBS, wireless cable and Internet services had emerged in last 2 decades, Krasnow said: "There is absolutely no reason to revisit the issue of network power given that the Commission previously considered and consistently rejected similar allegations at times when broadcast networks had far fewer competitors than today." He also said it was "curious that the petition is spearheaded by the very same affiliates who own television stations and daily newspapers and who are pressing hard for repeal of the newspaper/broadcast cross-ownership rule."

**Latest DTV station** on air is WLNS-TV Lansing, Mich., NAB said. Group said 185 DTV stations now were on air.



**SATELLITE INDUSTRY ASKS MVDDS REVERSAL:**

Skybridge, DirecTV and EchoStar joined Satellite Bcstg. & Communications Assn. (SBCA) in filing petitions March 20 asking FCC to reconsider decision to allow terrestrial Multi-channel Video Distribution & Data Services (MVDDS), including startup Northpoint, to share spectrum with satellite operators in 12.2-12.7 GHz band (TVD March 19 p8). PanAmSat and Skybridge also filed motions for reconsideration in effort to amend rulemaking and order (R&O) that would permit nongeostationary satellite orbit (NGSO) fixed-satellite service (FSS) providers to share frequencies in Ku-band with geostationary orbit FSS systems.

In unusual move just 7 weeks after original R&O and before arrival of final R&O on licensing, SBCA and its members continued to press FCC for change. SBCA, DirecTV and EchoStar accused FCC of ignoring test results and of not following established precedents. Supporters of change also believe Commission can find different band for MVDDS operators. Some industry observers believe change in White House might help cause of SBCA and is reason why it has continued attacks despite long odds.

SBCA Pres. Charles Hewitt said Commission had "failed to justify its departure from its long-standing position" that sharing between broadcast satellite services and point-to-point terrestrial services "is not feasible." He accused FCC of "ignoring evidence" that MVDDS operators would cause interference to DBS consumers. He said agency also hadn't explained adequately why "existing spectrum allocated for terrestrial microwave services isn't suitable for MVDDS use." Hewitt said FCC's "about-face from longstanding precedent" could derail competitive inroads made by DBS companies.

DirecTV petition said wireless services seeking to share spectrum were "guaranteed to undermine the service quality and reliability" of DBS service. "DirecTV believes that, should the Commission proceed to create and license ubiquitously deployed terrestrial systems in DBS downlink band, it will seriously threaten — absolutely unnecessarily — one of the great FCC success stories."

EchoStar said FCC's conclusions were "unreasonable, wrong" and led to unsound foundation for decision. Agency also erroneously premised plan on allowing 2.86% increase in availability of DBS service beyond aggregate 10% limit established by ITU, it said. EchoStar said it supported observation by FCC Comr. Furchtgott-Roth that licensing new service in spectrum would upset rights and settled reliance expectations of DBS industry.

FCC violated Administrative Procedure Act by allowing spectrum sharing in 12.2-12 GHz band, Skybridge filing said. It also said R&O was "patently inconsistent" with "rigorous standards" Commission had "historically regulated in band." Interference issues remained unresolved, it said.

PanAmSat asked Commission to impose operational limits on protecting GSO FSS systems from harmful interference. R&O, which gives NGSO licensees until 90 days of becoming operational before they are required to demonstrate compliance with applicable limits, will significantly undermine FCC enforcement authority, PanAmSat said. Commission should require licensees to show compliance at earliest possible date to give parties opportunity to review and comment on showings.

Northpoint Vp Toni Bush said filings "presented nothing new" and "reiterated the tired, long-rejected arguments" by DBS supporters to delay introduction of competition and Northpoint system to public. "The satellite industry is using the Petition for Reconsideration Process to reprint last week's filings," she said. "This is a transparent effort to cause further delay."

Less antitrust activism is expected from Timothy Muris, who has been nominated by President Bush to be chmn. of FTC. Prudential Securities senior analyst James Lucier said Muris served as antitrust adviser to Bush during his campaign and was widely known in that field. Muris would bring different antitrust approach than that of current FTC Chmn. Robert Pitofsky, who said he would step down from agency altogether when Muris is confirmed, which could be as early as June. Lucier described Muris's antitrust approach as "here and now" — that is, he will actively enforce antitrust when consumer faces immediate harm, whereas Pitofsky acted when merger had potential to harm consumers, such as in AOL-Time Warner deal. Muris is former high-level FTC official, having served as dir. of both Bureau of Competition and Bureau of Consumer Protection, and currently is prof. at George Mason U. Law School.

Bills introduced in Congress this session, such as Rep. Wolf (R-Va.) proposal (HR-1012) that would provide \$500 tax credit toward home telecom and electronics investments by telecommuters, "can play a key role in accelerating the deployment of telework," AT&T Vp-Environment, Health & Safety Braden Allenby said. "Building on Rep. Wolf's initiatives, we would suggest giving an employer an annual telework tax credit of \$500 for each employee who teleworks on a full-time basis, and a prorated amount for each employee who teleworks on a part-time basis," he told House Commerce Technology & Procurement Subcommittee March 22. Allenby also supported HR-1031 by Rep. Udall (D-Colo.) that would create Small Business Administration telework outreach pilot program. He said "digital divide between home and office" had inhibited expansion of AT&T's telework program. "Our research has shown that the lack of broadband into the home is the top barrier to increased participation," he said.

Concurrent Computer Corp. and Pace Micro Technology announced deal to integrate their respective video-on-demand (VoD) and interactive TV technologies for digital set-top boxes. Under pact, Concurrent will integrate its MediaHawk broadband VoD systems with Pace's digital home gateways for cable, DSL and ATM transport networks. Companies said they would jointly market and deploy their integrated system worldwide, focusing first on U.K., rest of Europe and Asia, then in U.S. and Canada.

EnReach Technology unveiled deal with Broadcom Corp. to integrate former's digital TV software for interactive services with Broadcom's digital cable set-top box reference platform. EnReach said deal would enable Broadcom's platform to support such services as Web browsing, e-mail, personal video recording, enhanced TV. Companies planned to demonstrate their integrated system at China Cable Bcstg. Network show in Beijing, which started March 22.

New Skies Satellites launched 2nd digital video broadcast (DVB) platform to carry Internet traffic for India and plans to fly 3rd later this year. Company said "extremely strong demand" for service led to launching additional platforms.



**GAMES, MUSIC COULD BE BIG FOR WIRELESS:** Online games and music can generate significant new revenue and reduce churn for wireless communications companies, speakers said at CTIA convention in Las Vegas March 19. Wireless Internet games alone generated \$300-\$350 million in revenue in 2000, said Eric Goldberg, pres. of Unwired Games Inc. Music artist agent Bill Diggins of Diggins Entertainment said music delivered via wireless devices would be "the Walkman of the new millennium."

One U.S. wireless carrier alone generated more than 10 million min. of air time through wireless games in first 3 months, Goldberg said, and "tens of millions of dollars of revenue" annually were being generated. He said min. per user per month were higher for wireless games than for any other application.

Wireless "will be an incredibly exciting way to deliver music and content" once higher speed networks, such as 2.5-G and 3-G, are available, Diggins said. Some of services can be financed through location-based ads, he said, but it also will be easier to check that users pay for music because it will be simpler to protect copyrights as content passes through wireless switches.

Even though current low-data-rate networks can't handle streaming audio, Diggins said music artists and wireless companies should begin teaming up for text-based services, such as fan messaging. At very least, Diggins said, starting text-based services could allow companies to begin creating databases of potential customers and even generate some revenue. Goldberg agreed wireless would be attractive delivery method for music once 3G arrived and said music could even be incorporated into wireless games.

New uses for wireless won't be limited to teenagers, speakers said. Digital Bridges CEO Kevin Bradshaw said biggest users of wireless games in London were taxi drivers, and Diggins said long distance commuters in Japan also were big users. Goldberg said statistics showed that adults 25-44 devoted more wireless time to games than did teens and said that wasn't surprising because they had more wireless phones.

Nearly 2 million TV households subscribe to both cable and DBS in U.S., Centris research firm said in new consumer study. It said 20% of DBS subscribers had been cable customers previously and 40% lived in areas where cable wasn't available. Study said digital cable subscribers hooked up more TVs to their service (2.43 per home) than either analog cable (2.17) or DBS customers (1.54). Centris said: (1) Both digital cable and DBS subscribers had higher-than-average income and were more likely to have children. (2) Digital cable and DBS customers ordered far more pay-per-view movies and events than analog cable subscribers. (3) DBS and digital cable subscribers were more involved in VHS, DVD and videogames. (4) DBS and digital cable customers were more likely to own PCs and use Internet. In particular, digital cable subscribers are much more likely to have broadband service (11.3% vs. national average of 4.5%) and make Web purchases.

Celvibe showed technology at CTIA convention in Las Vegas last week that it said would allow wireless carriers to transmit live TV broadcasts directly to wireless devices. Technology works with 2.5- and 3-G networks connected to personal digital assistants, laptops, other handheld devices. Company uses patent-pending MPEG-4 transcoder, compressed video or audio.

European Commission (EC) wants to step up lobbying efforts in Congress to raise awareness of foreign policy, regulatory and trade issues of concern to European Union (EU) member nations, particularly "digital economy" issues affecting EU businesses and consumers. In March 20 letter to European Council, EC said "six-monthly cycle of EU/US Summits has not developed its full potential," thus requiring "more action-oriented" transatlantic dialog. "Appropriate conditions need to be set up, including in the field of jurisdiction, online dispute settlement procedures and the fight against cybercrime," it said. "Common issues in relation to the restructuring of the information and communications industry, including a review of regulatory frameworks, also remain high on the agenda." It said European Parliament (EP) and member nations could "promote the European agenda" more effectively by coordinating Hill lobbying efforts.

Cambridge Community TV (CCTV), nonprofit corporation that administers public access cable channels in Cambridge, Mass., filed breach of contract suit against AT&T in Middlesex Superior Court. CCTV charged AT&T had failed to make full payment of public access contribution for 2000, final year of 15-year license agreement. CCTV Exec. Dir. Susan Fleischmann said license provided that in final year, revenue of first 6 months would be used to determine gross annual revenue for that year, and that final payment of 3% would be paid to CCTV. After paying only 25% of amount due, company said it had fulfilled all obligations and opposed any claims for further payments, she said. "AT&T collected a 3% public access fee from subscribers in Cambridge in the year 2000," Fleischmann said, and "that money was intended to provide support for public access services." License agreement was signed by AT&T's predecessor American Cablesystems.

Sirius Satellite acknowledged some of its satellites had minor problems with circuits in their solar arrays but said technical flaws wouldn't hurt operations on spacecraft. Sirius spokeswoman said any issues with circuits wouldn't limit power of broadcast signal or reduce expected useful life of satellites. Company won't disclose how many of its birds had problem. Satellite solar arrays convert energy of sun into electrical power for spacecraft. Circuits or strings are groups of solar cells attached to each other. Each collects more power than needed to operate satellites, so loss of few circuits isn't cause for alarm, company said. Spokesman for Loral, which built satellites for Sirius, said other Loral birds that had same problem were functioning normally. Spokesman said Loral was monitoring satellites closely.

Rep. Boucher (D-Va.) challenged TV copyright owners concerned about piracy from digital set-top boxes to "present a united front" on what home copying they would accept in exchange for encryption technologies. At kickoff of American U. Washington College of Law's new Glushko-Samuelson Intellectual Property (IP) Clinic, he said he hoped Congress approved measure akin to Sec. 1201(k) of Digital Millennium Copyright Act. That act requires VCRs to respond to technologies encoded on videocassettes to stop people from copying films where there's no reasonable expectation of being allowed to do so (as, for example, when movies are rented from video store).

Shine Entertainment has been formed in London by Elizabeth Murdoch, who resigned last summer as BSkyB exec. She will own 80% of venture, which will produce TV programs and movies, BSkyB 5%, with rest owned by Waheed Alli, former head of Carlton Productions. Its first project is TV series *Single Girls*, to be produced for BSkyB. Murdoch said Shine planned U.S. presence, probably in partnership with Hollywood production company.



## Personals

**Kathryn Dole** promoted to vp-national affairs, NPR... **Michael Barras** advanced to pres.-gen. mgr., KLFY-TV, Lafayette, La., succeeding **Joseph Varholy**, retiring... **John Wolters** promoted to exec. vp, ABC Bcst. Group... **Warren Littlefield**, ex-NBC, signs production deal with Paramount... **Kenneth Bauder** promoted to pres.-gen. mgr., KHBS-TV, Ft. Smith, Ark., and KHOG-TV, Fayetteville... **John Chalsty**, Credit Suisse First Boston, joins Metromedia International Group board... **John Lawson**, ex-Convergent Services and longtime public broadcasting lobbyist, named pres.-CEO of APTS, starting April 1.

**Vivian Carr** retires as senior vp-investor and media relations, Liberty Media, succeeded by **Michael Erickson**, who moves from vp-controller, Liberty Media International to vp-investor and media relations... **Brooks Jewell**, ex-Blue Sky Studios, former senior publicist, trade and media relations, Showtime Networks... **Douglas DePriest** advanced to vp-production and development, Travel Channel... **John Beyler**, ex-HBO, joins Starz Encore as vp-technology... Promotions at Discovery Networks, Europe: **Patrick Hörli** to gen. mgr., replacing **Oskar von Preussen**; **Alexander Schwarz** to deputy gen. mgr.

**Changes on Women in Cable & Telecom Foundation board:** **Kathleen Dore**, Bravo Networks, elected chmn., succeeding **Erica Gruen** of Erica Gruen Consulting; **Kathleen Marron**, Robins, Kaplan, Miller & Ciresi, becomes vice chmn.; **Ann Montgomery**, Adelphia, appointed secy.; **Nancy Murphy**, AT&T Broadband, named treas.... **Joseph Augenbraun** promoted to senior vp-engineering, WorldGate... **Jimmie Taylor**, ex-TCA Cable TV, appointed CFO, Classic Communications; **Randall Clark**, ex-TCA, named gen. counsel.

**Attorney Sarah Kirk**, ex-Nicholson, Graham & Jones, joins London office of Arnold & Porter... Named at Booz-Allen & Hamilton Global Media and Entertainment Group: Vps **Reginald Van Lee**, N.Y., and **Adam Bird**, Munich... **Janet Scardino**, ex-Disney, joins AOL as senior vp-international mktg... **Sanford Litvack**, ex-Disney vice chmn., becomes of counsel, Dewey, Ballantine LLP law firm, remaining at Disney parttime... **Francis Rose**, ex-C-SPAN, appointed dir.-communications, Progress & Freedom Foundation... Partners in new consulting firm Cormac Group: **James Derderian**, ex-aide to former House Commerce Committee Chmn. **Bliley (R-Va.)**; **John Timmons**, ex-McGovern & Smith law firm; **Pat Williams**, ex-AT&T vp... **Brian Kelly**, ex-Disney, named senior vp-govt. relations and communications, Electronic Industries Alliance... **Andrew Velcoff**, ex-Turner Entertainment Group, becomes shareholder, Greenberg Traurig LLP entertainment practice.

**Young Bcstg** asked FCC to impose sanctions on EchoStar in dispute over inability to reach retransmission agreement. In earlier petition, EchoStar had accused Young of failing to negotiate in good faith, which Young denied. In its answer and request for sanctions, Young said it had met good-faith negotiations standards of FCC and hadn't committed any violations. It said its conduct had been above board and it disputed allegations that it improperly exercised market power and hindered competition in MVPD market. EchoStar's complaint, Young said, was based on series of misrepresentations of fact and law and should be summarily dismissed.



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**IRS gave its blessing** to News Corp.'s planned purchase of broadcaster Chris-Craft Industries and 2 related companies, issuing favorable tax ruling on \$4.1 billion deal March 21 that would save News Corp. about \$300 million. Ruling allows purchase to proceed as tax-free transaction for stockholders of Chris-Craft, BHC Communications, United TV (UTV). But deal, which calls for News Corp. to buy 3 companies and 10 major-market TV stations that they control, still needs approvals from stockholders, FCC, others. Chris-Craft, BHC and UTV have scheduled separate stockholder votes for April 24.



# Consumer Electronics

A Section of Television Digest with Consumer Electronics

## STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending March 9 and year to date:

	MARCH 3 - MARCH 9	2000 WEEK	% CHANGE	FEB. 24 - MARCH 2	10 WEEKS 2001	10 WEEKS 2000	% CHANGE
TOTAL COLOR TV	426,484	462,044	- 7.7	555,926	4,551,312	4,563,688	- 0.3
DIRECT-VIEW**	409,403	449,776	- 9.1	535,396	4,373,130*	4,338,551	+ 0.8
TV ONLY#....	353,621	376,459	- 6.1	432,485	3,701,770	3,672,519	+ 0.8
TV/VCR COMBO.	55,782	73,317	- 23.9	102,911*	671,360*	666,032	+ 0.8
PROJECTION...	17,081	12,268	+ 39.2	20,530	178,182	225,137	- 20.9
TOTAL VCR**...	205,955	339,075	+ 39.3	529,921	3,178,059	3,792,386	- 16.2
HOME DECKS...	150,173	265,758	- 43.5	427,010	2,506,699	3,126,354	- 19.8
CAMCORDERS.....	67,456	84,922	- 20.6	158,015	775,281*	729,298	+ 6.3
DVD PLAYERS....	114,243*	56,592	+101.9	244,393*	1,486,523*	888,906	+ 67.2

Direct-view TV 5-week moving average#: 2001-393,628; 2000-403,562 (down 2.5%).

Projection TV 5-week moving average: 2001-18,585; 2000-24,210 (down 23.2%).

VCR deck 5-week moving average: 2001-259,306; 2000-353,790 (down 26.7%).

TV/VCR 5-week moving average: 2001-72,758\*; 2000-83,359 (down 12.7%).

Camcorder 5-week moving average: 2001-81,034\*; 2000-75,754 (up 7.1%).

DVD player 5-week moving average: 2001-146,297\*; 2000-92,853 (up 57.6%).

\* Record for period. \*\* Includes TV/VCR combinations. # Excludes TV/VCR combinations.

Note: Analog sets only included in figures on direct-view TVs, TV/VCR combos, projection TVs; analog and digital models included in camcorders.

**NINTENDO FRUSTRATES RETAILERS WITH NEW MARGIN PLAN:** Looking to leverage its dominance in portable game system market, Nintendo of America (NOA) is using upcoming introduction of Game Boy Advance (GBA) to set up new pricing and profit structure with retailers that pegs profit margins on software to amount of product stores order and sell.

Move, which was conveyed to retailers earlier this month, immediately triggered anger from both stores and 3<sup>rd</sup> party GBA publishers and led to private accusations that NOA was strong-arming retail channel in same way it did during late 1980s and early 1990s.

While details still were sketchy at our Fri. deadline, new arrangement apparently will provide retailers with little profit initially on GBA first party software, but with promise of what in essence is "margin rebate" later in year. Sources said some first party GBA titles would have initial dealer cost of \$28 and suggested retail price of \$29.99. NOA then will backload deal enabling retailers to pick up extra \$4-\$6 in margin per title provided they sell sufficient amount of product.

NOA Mktg. Vp George Harrison confirmed new pricing and profit structure for retail channel, but offered little information on it. He did say that first party GBA titles would be priced at \$29 and \$39, depending on amount of memory needed.

Retailers are unhappy with arrangement, sources said, but most realize they have little choice but to agree to it. While PlayStation2 sales have picked up, many stores have been looking forward to GBA to give category much-needed boost.

"Game Boy Advance was the thing that was supposed to take everyone through," retail source said. Since they make little money on hardware, retailers were counting on software sales to provide lion's share of profits. Now much of those profits apparently will be delayed — at best.



Retailers could consider higher price points for software. But retail source said: "If you try to go out on a Game Boy title at \$39 — the same price as a PlayStation title — you're not going to sell it."

Frustration among 3<sup>rd</sup> party GBA publishers involves different reason. One executive said 3<sup>rd</sup> party games wouldn't be able to compete with first party NOA titles at \$29.99 because of cartridge and royalty costs and would be up at higher \$34.99 price point, putting them at disadvantage on store shelves.

Harrison acknowledged that some retailers grumbled initially at new price/margin structure, but said NOA had been out on road explaining it to them and how it would benefit all parties.

Word of new pricing/margin structure arrived just as NOA was defending reasoning behind letter to at least some of its retailers. In letter, Sales & Mktg. Exec. Vp Peter Main suggested that dealers stop promoting Xbox so early before that system's debut in fall. NOA wound up in embarrassing position when letter — which was labeled "Confidential" — was leaked to Web site that posted it for everybody to see. NOA didn't provide confirmation by our deadline that letter posted at Web site was indeed one that it had sent to dealers, but Nintendo source admitted company had indeed sent letter to retailers. He said letter was merely trying to express to retailers once again something company had been saying to them for long time.

Although words "Microsoft" and "Xbox" never were mentioned in letter posted at Web site, it was clear what company and game system Main was referring to. In letter, Main said: "As we all know, this industry is coming off a 5%-6% decline in revenues last year, a softer than projected holiday season and another very challenging transition year ahead. We also know that video games — hardware, software and accessories — hardly represent one of life's necessities and are therefore bought largely on an impulse basis. This is why both manufacturers/publishers and retailers rarely promote new products beyond the proven maximum 4-8 weeks before launch."

"The curious question," letter said, "is then why retailers would join with a potential future industry participant eight-ten months or perhaps longer before his unspecified product arrives to essentially sell against these current and continuing impulse sales by installing an array of point-of-sales materials, which essentially suggest to their customers to wait (until when?) for this alleged new product."

Indeed, some retailers not only have started providing in-store promotions for Xbox, but also have even begun taking preorders for system even though it won't be offered in N. America until fall. Exact date of rollout and pricing aren't expected to be announced by Microsoft until E3 show in L.A. in May.

Nowhere in letter were there any orders from NOA to dealers that they stop pushing Xbox. Nor were there any threats of any actions NOA would take if they didn't stop promoting Xbox so heavily now.

Commenting on letter last week, Microsoft Games Mktg. Mgr. David Hufford told us he had seen letter posted on Web site and "I have no idea if this is a credible letter or not." But he said that if NOA had indeed sent out letter to dealers like that, NOA was "walking a fine line" in possibly preventing gamers from receiving information they were looking for about Xbox.

Hufford said he wasn't too concerned about retailers' pulling Xbox promotional material from their stores: "We're confident that [retailers are] going to make decisions that are best suited to the people who come into their stores." Although Microsoft has yet to announce specific retailer plans for Xbox — that will come at E3 — he said "we have great relationships with them." No retailers have complained to Microsoft about NOA letter, he said, adding that they usually didn't turn to any one company to ask how they should run their businesses.

There have been rumors that Sony Computer Entertainment America (SCEA) has taken stand similar to NOA's with its retailers on how Xbox information has been presented in stores. SCEA spokeswoman told us last week that it believed it was wrong for "any company to encourage presell orders before a price and release date [have been] set." She said it had been SCEA's position before PlayStation 2's opening as well. But she said that, despite rumors to contrary, "we have not implemented any corporate mandate stating that any retailers must remove any point-of-sale material about Xbox or any other product." Hufford said he wasn't aware of retailers' being told by anybody at NOA or SCEA to remove Xbox point-of-sale material in stores.

**DVD RECORDING CAMPS RATTLE SABERS AT CEBIT SHOW:** Brinksmanship among rival formats for DVD recording took step closer to precipice at CeBit show in Hannover, Germany, last week, where so-far incompatible DVD-RAM, DVD+RW and DVD-RW each puffed out chests on industry backing and put most positive spins on latest alliances.



It was evident Philips and DVD+RW supporters weren't backing down from planned summer/fall rollout despite existing presence of DVD-RAM and recent inroads Pioneer has made in attracting more vassals to DVD-RW format it champions.

Mood at show (March 22-28) was that of "prelude to war" eerily reminiscent of Europe's seemingly piddling dynastic squabbles in Aug. 1914 that quickly escalated to worldwide conflict. Analogy should not be lost on CE industry, observers said: If DVD recording incompatibilities go unchecked, they will cause major dislocations in market internationally. Retailers in major markets already are on record demanding single DVD recording format, or at least cross-compatibility among rivals, in order to avoid consumer confusion and sales stallout similar to that from Beta-VHS-V2000 imbroglio in VCRs quarter-century ago.

At CeBit, newly annointed DVD+RW Alliance (formerly DVD+RW Consortium) said name change reflected addition of more supporters to format. These mostly were 3<sup>rd</sup> party companies that made software for creating home-made DVDs through PC and in many cases those that also offered PC software for doing same with DVD-RAM and DVD-RW formats. Only serious hardware company additions pledging allegiance to DVD+RW were Funai and Zenith-owner LG Electronics, although latter also has said it will back other formats and its statement of support for DVD+RW seemed equally lukewarm.

Most astonishing revelation on DVD+RW came at pre-CeBit news conference we attended where host, Philips, revealed that home-video and PC drives wouldn't support write-once-only DVD+R format.

Option is available with Pioneer's DVD-RW, offering consumers and institutional users choice between reusing blanks or making "permanent" recording. Latter facility is important in some industries, such as banking, insurance, legal and medical, where regulatory issues demand that record must remain immutable. Other implication is that consumers will be compelled to use more expensive rewritable DVD+RW blanks that, like CD-RWs, cost about 3 times more than write-once variety.

"We assume the consumer will prefer rewritable discs," said Philips DVD+RW Product Mgr. Janny Esch in response to our query. However, upon our challenge on cost of rewritable media for consumers and implied loss of market among institutional users, she backtracked. She conceded DVD+RW format could accommodate write-once disc and "we're thinking about it."

In other CeBit news relevant to CE industry, Pioneer introduced DVD-RW recording drive for PCs. Company said DVR-A03 would sell for about 1,000 Euros (\$890), with DVD-R blanks at \$10 and DVD-RW blanks at \$30. At our deadline, announcement was expected from DVD Forum confirming that DVD-RW format was compliant with standards for data recording. It already has that status as home video recording device. Pioneer spokesman in U.K. said copy-protected blank discs for consumer PC and video use wouldn't be labelled for separate applications, but would be called "general purpose" to distinguish them from "professional" blanks used for DVD authoring, which can be copied in professional studio recorders.

DVD-RAM triad was quietest at CeBit, possibly dealing from feeling of strength that it's only DVD recording system now available to home video and PC markets.

But we exclusively got revelation from Hitachi-Panasonic-Toshiba that they had dropped format's backward-compatibility with moribund PD (Phasewriter Dual) format that Panasonic championed as party-of-one in 1994.

Matsushita U.S. spokesman explained following: First-generation DVD-RAM for PC (2.6 GB single-sided, 5.2 GB double-sided) had read/write compatibility with PD to accommodate installed base of that early phase-change recording format — mostly successful in Japan, less so in Europe and, except for brief 3-month dalliance by Compaq, nonexistent in U.S. among consumer or corporate PC users.

PD compatibility has been dropped for 2nd-generation PC-DVD/RAM drives, which consist of 4.7-GB single-sided and 9.4-GB double-sided blanks. Consumer home video DVD-RAM decks never have had PD compatibility as they are considered 2nd generation and not likely to need the PD's data-oriented PC functions, spokesman told us.

\* \* \* \* \*

New DVD configuration that uses 8 cm (3.14") disc with 50 min. video play time was introduced by Bertelsmann-owned replicator Sonopress at CeBit. Company said disc's storage capacity was 2.66 GB, equivalent to 4 CD-ROMs, and it could run in all DVD players. Primary usage is envisioned for submovie length video presentations such as music videos, compilations of short films, infomercials and corporate presentations, Sonopress said. Also at CeBit, Sonopress introduced credit-card-shaped "Card.21 DVD" that resembles its multimedia Card.21 CD-ROM. New DVD card has 400 MB storage capacity capable of carrying 8 min. DVD-quality video or 45 min. CD-quality music.



**TWEETER IN REBRANDING:** Tweeter Home Entertainment will deepen rebranding program this spring when it changes Bryn Mawr, Douglas TV and United Audio names.

Renaming, which will encompass 25 Bryn Mawr outlets in Mid-Atlantic region and 11 United Audio and Douglas TV stores in Chicago area, marks major strategic change for Tweeter, which previously had kept names of chain it acquired. It started campaign last summer by renaming 9 Dow Audio/Video stores in San Diego and 10 Home Entertainment outlets in Dallas and Houston.

"We made the decision that we were going to drop the local names and go with a national branding strategy," Pres. Jeffrey Stone said at Deutsche Bank Alex. Brown conference. "It just made sense for us."

Not immediately affected by change will be Hi-Fi Buys, which has 17 stores in Atlanta and Birmingham areas and won't be renamed until 2002-2003, he said.

In moving to expand chain, Tweeter will open at least 2 stores in each of Greenville, S.C., Nashville and Washington by year-end. Plans call for 3 stores in Greenville, 5 in Nashville and 10-12 in Washington, Stone said. Washington will be supplied by King of Prussia, Pa. distribution center, while other 2 are handled out of Atlanta. Bryn Mawr stores are closest to Washington with 5 outlets in Baltimore, he said.

On West Coast, Tweeter will open store in Riverside, Cal., this year as it inches closer to L.A. market and will relocate 4 former Dow locations by May-June, Stone said. Tweeter also agreed last week to buy 4-store Big Screen City in San Diego for \$5 million in cash and stock. Chain operates 6,000-sq.-ft. stores in San Diego (3) and Temecula, Cal. (1) and has \$16 million in annual sales, Stone said. TVs account for 66% of Big Screen's sales, 57% of which are rear-projection models, Tweeter said. More than 80% of Big Screen's TV sales are high-definition (HD) TVs or HD-ready models, Stone said. Tweeter is likely to expand Big City's audio products offerings and add car stereo, he said.

About 60% of Tweeter's TV sales were HD or HD-ready in 2000 with average selling price for digital rear-projection sets of \$3,850, while analog models were \$1,672, Stone said. In direct-view, 43% of Tweeter's sales were digital with average retail price of \$2,268 against \$548 for analog, he said. Overall, Tweeter average per customer spending was \$414 in 2000, up from \$350 year earlier, Stone said. New Tweeter store can be "fairly profitable" with annual sales of \$3 million, although chainwide per store average is \$5 million, he said.

Despite Best Buy's recent purchase of CE specialist Magnolia Hi-Fi, Tweeter will continue to locate stores "as close to Circuit City or Best Buy as we can," Stone said. For example, 20-year-old Dedham, Mass., store, which historically had posted 5% gains in same-store sales, rose to 14% with arrival of BB and Circuit.

"We're just doing our thing and we don't think Best Buy is going to be buying \$15-\$40 million [in annual sales] chains which have always been our bread and butter," Stone said.

**Clarification:** Harvey Electronics posted \$323,000 first-quarter profit, down from \$440,000 year ago, as it absorbed \$170,000 in operating losses and pre-opening expenses.

**AMAZON AND BEST BUY SILENT:** Amazon.com and Best Buy weren't commenting on reports last week that companies were in "senior-level" talks on forming strategic alliance. Reports surfaced only 2 weeks after others had said Amazon was in similar discussions with Wal-Mart.

Best Buy spokeswoman told us last week: "I can not comment on the Amazon rumor. We do not comment on rumors." Similarly, Amazon spokesman said: "We do not comment on what we may or may not be doing as far as future initiatives go." But he said company didn't rule out "anything that makes sense for the customer and makes sense for Amazon and makes sense for [potential] partners."

Amazon last year formed strategic alliance with Toys "R" Us (TVD Aug 14/00 p15) in which companies created co-branded toy store online. As part of that venture, Toys "R" Us handles inventory and Amazon customer service, fulfillment, maintenance of online store. Analysts responded favorably to that alliance, saying it allowed companies to perform roles each one was best at. As far as entire e-commerce space is concerned, many analysts now say that only retailers with multichannel presence will be able to succeed.

But while analysts said Amazon deal with Wal-Mart would represent good news for Amazon, at least some didn't see how such it could aid Wal-Mart.

In contrast, analysts last week seemed to think potential alliance between Amazon and Best Buy would be good news for both companies. For one thing, alliance with Best Buy could enable Amazon to obtain greater amount of CE merchandise through authorized deals with manufacturers, which could reduce costs of many products. To date, for example, Amazon has yet to sign direct relationship with Sony Electronics to sell that manufacturer's core line of CE products.

Amazon recently revealed that CE category had become its 2nd best-selling category, behind only books (TVD Jan 15 p19).

Spokesman told us that ever since his company's alliance with Toys "R" Us started, it had received "a lot of inquiries" from "different retailers," but he declined to identify them.

When asked whether there might be some sort of connection between resignation of Amazon Technology Products Group Vp Christopher Payne last week and word that Best Buy might be forming alliance with online retailer, Amazon spokesman told us: "Chris made the decision [to leave] on a personal basis... It was a personal decision for him." He said Payne decided to take break to spend time with his family.

Payne had been with Amazon for 3 years, spokesman said, and company had "really enjoyed having him." As Technology Products Group vp, Payne had been in charge of CE products, along with software and videogames, cameras and wireless products for online retailer.

Carl Gish, gen. mgr.-vp of Amazon's CE store, replaced Payne as of March 23 Amazon spokesman said company was "currently looking internally and externally for candidates to fill Carl's spot." He said there was "certainly a gap left with [Payne] leaving." In meantime, he said, Gish will continue running CE store in addition to his new duties.



**BEST BUY EXPANSION:** Best Buy (BB) will complete expansion in the U.S. market by 2004 with 650 stores and has signed 8 leases in Toronto area that will enable it to move into Canada in 2002, said BB Retail Pres. Allen Lenzmeier.

BB, which now operates 413 outlets, will open 60 in each of next 3 years, including an increasing number of 30,000-sq.-ft. stores for smaller markets, Lenzmeier said last week at Deutsche Bank Alex. Brown conference. Standard BB is about 45,000 sq. ft. Canadian expansion also will cover Montreal and Vancouver and encompass 60-65 stores in 3-4 years, he said.

Chain has begun test sales of CE products through newly acquired Musicland's Sam Goody stores in Minneapolis and plans to complete revamping by spring with goal of rolling out new merchandising strategy nationwide in fall, Lenzmeier said. BB also intends to expand Musicland's On Cue chain to 755 outlets, majority of which will be in markets with populations of less than 30,000. Magnolia Hi-Fi, which BB also bought last year, will add 4 stores in San Francisco area this year in increasing to 17 outlets, he said.

Lenzmeier put BB's share of DVD software market at 25% through 3rd quarter of 2000, down from 30% in fiscal year ended Feb. 26, 2000. Software was followed by DVD hardware at 24%, up from 20%; car stereo (15.1%); audio (14.3%); video (14%); CDs (11%). Overall, A/V represented 33% of BB's \$15 billion in sales in 2000, up from 28% year ago, he said. Home office, including PCs, was 34% of sales, down from 35%, and major appliances were 7% vs. 8% year earlier.

BB is planning overhaul of major appliance business to limit reliance on warehousing of product and shift to "just-in-time" delivery system in next 2-3 years, Lenzmeier said. Under present system, major appliance orders are sent to one of 16 warehouses and delivered to customers within 1-2 days, he said. Warehouses employ 800, he said.

In seeking to boost business in what Lenzmeier conceded was chain's "lowest profit contributor," BB will embark on "Process to Profits" strategy for major appliances similar to one it deployed to revamp flagging A/V business in mid-1990s. At the time, BB hired Andersen Consulting as it sought to right business after falling into violation of some covenants of credit agreements.

While BB runs 4 times as many ads highlighting major appliances as home builder Lowe's, it has only "similar market share," Lenzmeier said. "We have a lot of customers coming into the stores, but we don't do a good job in terms of closing them on major appliances," he said.

Appliances will remain part of chain's merchandise mix, he said. BB rival Circuit City dropped appliances last year citing, among other factors, increased competition from home building chains Home Depot and Lowe's.

**Circuit City (CC)** made Cal. Public Employees Retirement System's (CalPERS) annual list of corporate America's poorest performers. As result, CC along with Lance, Metromedia, Ralcorp Holdings and Warnaco will become focus of \$169 billion pension fund's corporate governance activism in 2001 proxy season. Pension fund said target companies were selected from its investments in more than 1,800 U.S. firms and based on stock performance, corporate governance practices and so-called economic value-added evaluation (EVA).

CC made list for "severely underperforming stock" in last 5 years and for board that CalPERS believes has been erratic in making moves that resulted in poor performance. CC began major restructuring last summer in moving to drop major appliances and start new stores format. It recently projected that same-store sales would decline 20% in first half of year (TVD March 12 p13).

In bracing for BB's arrival, Canada-based **Future Shop (FS)** chain said it had signed leases with shopping center developer First Professional Management to open additional 8 new stores starting this fall in Cambridge, Ont., and running through 2002. FS has said it planned to open 5 stores in Canada this year and relocate 9 others as it moves to expand to 120 outlets from 88 by 2005 (Feb 26 p14).

**Sound Advice (SA)** Pres.-CEO Peter Beshouri received \$400,000 salary in fiscal 2000, up from \$324,008 along with \$200,000 bonus and options for 60,000 shares, according to proxy for annual shareholders meeting. Senior Vp Michael Blumberg was paid \$320,000, increase from \$294,008, plus \$75,000 bonus and options for 24,000 shares.

SA said it had entered into severance agreements with 12 employees including management that will expire Feb. 1, 2002. Under pact, if change in management occurs before that date, employees are entitled to lump sum severance payment equal to half their gross wages in previous 12 months unless they are "terminated for cause" or leave chain before new ownership. Speculation has increased in recent months that SA is acquisition target. Tweeter Home Entertainment increased stake in chain earlier this year to 8.31% (336,000 shares) from 4.9%, while BB was said to looking at CE specialty chains following purchase of Magnolia Hi-Fi last fall. Beshouri remains largest shareholder with 576,087 shares (14.25%), followed by Blumberg, 484,938 (11.99%) and CFO Kenneth Danielson, 245,001 (6%). Largest institutional investor is Dimensional Fund Advisors with 215,947 shares (5.34%).

**Hitachi** has shipped 65 of its Digital Lighting Processing (DLP)-equipped 55W TVs (\$12,000) to BrandsMart, Circuit City, Ultimate Electronics and others. It plans to deliver another 300 by month's end, Exec. Vp Gary Bennett said. Hitachi is assembling sets on production line at Tijuana, Mexico, he said. Hitachi and Mitsubishi had planned to join Matsushita in shipping DLP sets for holiday selling season, but delayed debut to fine-tune product. Mitsubishi, which began production at Mexicali, Mexico, plant this month following delay, has delivered small number of 65W sets (\$15,000) to regional retailers including Cal. chains Anderson's and Paul's TV. Sets are based on Texas Instrument's 0.7" widescreen DLP with 1,280x720p resolution, 550 lumens, 400-500:1 contrast ratio.

**Sega** will unveil 8 PC games for Japanese market at Tokyo Game Show March 30-April 1, Sega of America (SOA) spokeswoman told us last week. She said games would include *House of the Dead 2* and *Typing of the Dead*, but said there were no plans for titles to ship in N. America yet. When games will ship in Japan was unclear at our Fri. deadline. Announcement provided yet another example of company's efforts to become major player in all game platforms now that it will stop manufacturing Dreamcast console at end of this month (TVD Feb 5 p11). SOA spokeswoman also told us Sega would hold GameJam show in Tokyo April 14-15. New Dreamcast games to be shown at show, which will be open to public, include *Phantasy Star Online (Version 2)*, *Shenmue II*, *Sonic Adventure 2*.



**GAME BOY ADVANCE SHIPS IN JAPAN:** Long wait for Game Boy Advance (GBA) ended last week in Japan as Nintendo started shipping its next-generation handheld game system.

All 650,000 GBA hardware units retailers had been allocated for debut March 21 were sold through by end of first day, Nintendo of America (NOA) spokeswoman said Fri. But number of software titles sold was unclear at our deadline.

Reports said, not surprisingly, that consumers eager to be among first to own GBA system showed up early to wait on lines outside retail stores in Tokyo's Akihabara electronics district morning of March 21.

Nintendo recently revealed it had decided to increase number of GBAs it would ship for Japanese bow to 1.1 million from one million announced originally. NOA said Nintendo expected to ship rest of 1.1 million units in first month.

Next-generation handheld system won't be available in N. America until June 11 (TVD Feb 19 p9).

Meanwhile, NOA spokeswoman confirmed British press report that GBA would be introduced in Europe June 22. She said opening would be backed by 8 games: 3 of them first-party games (*F-Zero: Maximum Velocity*, *Kuru Kuru Kuruin*, *Super Mario Advance*) and 5 of them 3<sup>rd</sup> party titles. She said 40 titles were expected to be available in Europe by Christmas. Console will cost 120-130 euros (1 euro = 89.5¢), while first-party games will be at 45-50 euros. Not provided was number of GBAs Nintendo will ship in Europe.

Meanwhile, Nintendo of Europe (NOE) announced last week that GameCube wouldn't be shipping in Europe until spring 2002. It didn't explain delay, but news didn't come as shock in light of recent reports from Japan indicating Nintendo planned spring 2002 bow for Europe, as well as fact that Nintendo traditionally had staggered introductions of its console systems.

Nintendo announced at Spaceworld last year that GameCube would ship in Japan in July 2001 and in N. America 3 months later (TVD Aug 28/00 p10). Pricing for GameCube has yet to be announced officially for any region.

Only official NOE comment on European GameCube rollout plan available at our deadline came from Managing Sales & Mktg. Dir. David Gosen, who said: "Nintendo GameCube will revolutionize gaming, bringing a whole new dimension to gameplay for anyone who loves great games. The anticipation for the arrival of GameCube is already [heating] up, and we are delighted to be able to give, for the first time, an indication of the launch date in Europe."

NOA spokeswoman also said that despite reports to contrary, GameCube still was on target for July start in Japan. Reports from Japan week earlier had indicated that Nintendo might delay GameCube's July date in Japan by one month to make sure enough software was available. As of last week, GameCube still was on track for Oct. rollout in N. America, NOA said.

Artisan Entertainment cancelled IPO and instead will seek sale. Studio, best known for movies *The Blair Witch Project* and *Requiem for a Dream*, has library of 6,700 titles.

**Office Depot (OD)** will open first 2 of proposed 10-store test of new 20,000-sq.-ft. format in June as it overhauls retail strategy. New design will feature "race track" layout with new signs and lighting and will cut merchandise mix to 7,000 items from 9,000, Pres.-CEO Bruce Nelson said at Deutsche Bank Alex. Brown investor conference last week. Key to layout will be service desk at center of store that will be coupled with new customer service programs being tested at 20 outlets starting this spring, Nelson said. Re-merchandising of chain's 786 U.S. stores will start April 15 and continue through May 30, he said. Products being pruned from mix, which include DVD players, accounted for less than 2% of chain's total sales, Nelson said. OD also will have broadband connection in all stores by June. New format comes as OD tries to right itself after closing 70 stores in retrenching resulting from sharp drop in PC market. OD also is reducing number of products carried by its 28 warehouses to 11,000-12,000 items from 15,000-16,000 and will complete cutting call centers to 7 from 24 by mid-June, Nelson said. In light of restructuring, OD has cut new store openings to 50 this year from more than 100 year ago, including 37-38 in existing market, he said... **Staples** will combine online operation with small business and direct consumer catalogs as it scraps plan for separate IPO. Staples.com, whose loss widened to \$11.2 million in 2000 from \$730,000 despite sales increase to \$512 million from \$94 million, originally postponed IPO last spring. But method for unwinding failed spin off, which requires shareholder approval, has drawn investor scrutiny. Staples is proposing to buy Staples.com shares at sharp premium to stock's valuation during height of Internet craze. Earlier this year, Staples paid \$6.10 per share to venture capital firms General Atlantic Partners, Highland Capital Partners IV and Greylock IX Limited Partnership for 3.8 million of 5.9 million shares they bought in late 1999 and early 2000. That was followed by decision to buy back all additional Staples.com shares at \$7 per share in Staples stock or 0.4396 Staples shares for every Staples.com share. As result, Staples' board, 27 executives and corporate directors will get \$37 million in Staples stock, *Wall St. Journal* (WSJ) reported. Other investors including employees and venture capitalists will receive \$85 million, newspaper said. Deal values Internet unit at \$900 million, double its value in fall of 1999 when it announced plan for IPO. CEO Thomas Stemberg will win \$3 million profit from buyback after paying \$1.2 million in interest. Goal is for online business to turn profit by 4th quarter and to that end Staples reduced acquisition costs to \$83 per customer by year-end from \$133 in first half, CFO John Mahoney said. In brick-and-mortar business, Staples will focus this year on opening new stores, which take 4 years to generate full profit, in existing markets, it said. By targeting existing markets, new Staples outlets can achieve 44% of full profit after first year vs. 20% in new regions, he said. Meanwhile, Stemberg's salary in fiscal 2000 rose to \$710,117 from \$682,083 year earlier, but bonus fell to \$243,624 from \$525,147, company said in proxy for annual shareholders meeting. Stemberg received options for 600,000 shares of Staples stock, another 64,500 for Staples.com. Exec. Mds. & Supply Chain Management Vp Richard Gentry filed with SEC to sell 85,000 shares with value of \$1.48 million.

**RentMyDVD.com** is running "Red Carpet Challenge" contest at its Web site. To enter, visitors to site must register as users and pick who they think will win Oscar night in 23 categories. First prize winner with most correct answers wins DVD player and 3 months of company's "Movie Marathon" subscription plan allowing person to have 4 DVDs out at one time. Second prize is 2 months of service and 3 free DVDs. Third prize is one month of service and one free DVD.



**GDC ALIVE WITH NEXT-GEN BUZZ:** While PlayStation 2 (PS2) finally is showing up at retail in decent quantities and Nintendo is readying for N. American debut of both Game Boy Advance (GBA) and GameCube, last week's Game Developers Conference (GDC) in San Jose was filled once again with buzz about newcomer to console market — Microsoft and its Xbox.

This year's conference lacked hype of 2000 GDC when Microsoft Chmn. Bill Gates used event to formally announce his company's entrance into console market (TVD March 13/00 p11). But conference did offer its share of interest, despite fact that both Nintendo and Sony Computer Entertainment had fairly low profiles.

While most details on fall 2001 rollout of Xbox in N. America will be released at E3 in May, Microsoft used conference to reveal Xbox would be supported by 12-20 titles at outset and said 2nd wave of titles would arrive by holiday 2001.

Microsoft Advanced Technology Group Dir. Seamus Blackley said games would cover variety of popular genres including sports, fighting, racing, flight simulation, real-time strategy. Disputing rumors that Xbox wasn't getting support among publishers, Blackley said more than 200 games from 160 developers were in production and company had shipped 2,250 Xbox development kits (XDKs) to developers. He said software for console was 95% completed and final Xbox kits would be available by E3.

Blackley also offered some details on Xbox marketing campaign, saying company already had lined up promotional partners that had agreed to spend "tens of millions" on cross-promotions. He said Microsoft planned to have 10,000 interactive displays at retail and 50-city Xbox bus promotional tour as well as "massive" TV, print and radio ad campaign, adding that \$500 million dollar marketing and sales budget for Xbox was more than what was spent on Windows 95 rollout.

Meanwhile, Microsoft and Autodesk subsidiary Discreet announced deal to make Discreet software tool suite available for participants in Xbox Incubator Program. Incubator Program members will receive, at no charge and for full term of their membership, fully functioning license of 3ds-max 4 character studio and newly announced reactor physics-simulation extension. Incubator Program is aimed at enabling developers to begin working on Xbox titles before they have formal relationship with publishers.

Discreet and Microsoft also said they finalized definitive licensing agreement to create, publish and distribute gmax game packs for *Microsoft Flight Simulator 2002*. Microsoft plans to include similar gmax game packs in other simulation titles, including Microsoft Combat Flight Simulator and Microsoft Train Simulator.

Also on Xbox front, Intel announced its Vtune Performance Analyzer had been selected by Microsoft for inclusion in console's development kit. Vtune is designed to make performance tuning easier and more efficient for Xbox developers by collecting, analyzing and displaying software performance data, enabling developers to quickly recognize performance bottlenecks and maximize performance.

Microsoft also announced that Sensaura 3D Positional Audio had been selected to provide audio technology for Xbox. Console will deliver 64 hardware-accelerated channels of Sensaura 3D Positional Audio (S-3DPA) for overwhelming

sound experience. Xbox also will provide hardware acceleration for Sensaura's EnvironmentFX reverb engine, as well as its MacroFX and ZoomFX audio technologies.

While much of consumer and retail focus has been on consoles, many developers still are intent on driving PC-based products, especially those with online component. RealNetworks, creator of widely popular RealPlayer platform for accessing audio and video content over Internet, used GDC to announce RealArcade, which company said was end-to-end platform for digital delivery of PC games.

RealArcade is designed to offer developers self-publishing model allowing them to create and deliver PC games directly to consumers, bypassing off-line retail channel. RealNetworks already has obtained support of more than 40 developers and publishers including ARUSH Entertainment, Midas Interactive, Monolith, Sierra Online, Valve Software, Zombie Entertainment. RealArcade free consumer service is set to open in 2<sup>nd</sup> quarter offering PC games from variety of genres for both online and offline play, as well as giving users way to find and manage PC and Web-based games.

"With the release of the RealArcade digital distribution platform, RealNetworks is planting its stake at the epicenter of the fast-growing world of digitally distributed games," Chmn.-CEO Rob Glaser said. "RealNetworks pioneered the digital distribution of audio and video over the Internet. Now we're excited to apply our experience and expertise to Internet games."

In related announcement, GameSpy Industries said it had reached deal to license GameSpy.net multiplayer technology for use with RealArcade. Deal will allow users of GameSpy Arcade and RealArcade to play one another in online environment.

GDC also featured developments in wireless gaming space as PacketVideo, based in San Diego, said it had reached deals with 4 European game providers — Digital Bridges, Picofun, Orchimedia and Cash U — to bring rich, streaming media-based games to mobile devices.

Sega of America (SOA) offered yet another example of its efforts to support online gaming with release of *Daytona USA* for Dreamcast at \$39.95. SOA said online racing game delivered "the same blistering sense of speed as the highly successful arcade series" of same name. Game enables players to compete against up to 3 others online. SOA said title consisted of 8 racing circuits: 3 from original arcade title *Daytona USA*; 2 from *Daytona USA Championship Circuits Edition*; 3 exclusive new ones for Dreamcast console. News came after company said more than 200,000 gamers had registered online to play *Phantasy Star Online* (PSO) since Dreamcast game emerged in Dec. Title has been touted by Sega as first online global console role-playing game. PSO allows hundreds of thousands of players around world to interact, form teams and embark on missions in real time, regardless of what languages they speak or what time zones they're in. SOA Mktg. & Corporate Communications Vp Charles Bellfield told us Sega was planning to ship PSO Version 2 in Japan soon. But he said there was "no plan for U.S." shipment of 2nd version yet.

Alpine Electronics started shipping components of its new multimedia system in U.S. Components include PXA-H900 Multimedia Manager at \$4,000 and CDA-7990 CD tuner at \$3,000.



**TOWER RECORDS TO CLOSE STORES:** Tower Records (TR) will close up to 22 stores including its book chain in re-turning focus to core music business.

TR will close all 9 of its bookstores and some outlets that combine books with music and video. It also will shutter 3 U.S. music stores as well as outlets in Argentina (5) and Canada (2) as it puts hold on expansion until at least mid-2002 in effort to improve cash flow, Treas. James Bain said. TR entered Canada in 1995, Argentina 2 years later.

Company-owned stores in Singapore (3) and Taiwan (2) will be sold, rolled into joint venture or closed, he said. Tower owns and operates 184 stores worldwide, with 63 franchised locations in 7 countries, largest of which is Japan (43). That's down from 218 in 18 countries in 1999.

"We historically have not made any money in books," said Bain of category that along with video accounted for 3.6% of \$1.10 billion in revenue in fiscal year ended July 31, down from 5.9% year earlier. "If the outlook for competition was better going forward, we would still be doing it. But it's going to get tougher, especially when you've got Borders and Barnes & Noble opening these huge book stores."

Decision to close bookstores was central to 3-year restructuring plan completed in Feb. that TR drafted with consulting firm. Among other changes will be replacing books in some stores with expanded assortment of DVD titles. CE products will be retained in all stores (TVD March 15/99 p12) and test with videogames will continue (TVD March 29/99 p17). TR sells latter through 21 stores in L.A. area and may expand to other locations with introduction of new hardware from Microsoft and Nintendo in fall, Video Sales Vp John Thrasher said. TR entered videogame business with 3-store test in L.A. in 1999.

TR also will continue to operate Wow stores with Good Guys, although it will replace books in those outlets with increased assortment of DVD and other products. It also will continue 2-store test in Las Vegas market in which it operates music section inside Good Guys outlets (TVD July 24 p16), although there are no immediate plans to expand, Thrasher said.

TR also has opened 5,000-sq.-ft. World Music store in N.Y.C. that carries 50,000 titles in genres ranging from Latin and Chinese to Russian and World Fusion.

Restructuring came as TR parent MTS Inc. reported \$5.4 million 2nd-quarter loss against \$2 million profit year ago as sales declined to \$322.9 million from \$335.6 million, it said in SEC filing. U.S. sales dropped to \$192.9 million from \$206.6 million, but international revenue edged up to \$130.1 million from \$129 million. Gross profit slipped to 29.3% from 29.4% as net cash from operating activities fell to \$26.4 million from \$29.8 million.

TR listed \$110 million in long-term debt as of Jan. 31 and its \$275 million senior credit facility expires April 23. TR has commitment letter with Chase Manhattan and J.P. Morgan to extend credit agreement for 18 months after it expires, chain said.

"The bottom line is that a majority of the music stores continue to do well," Bain said. "We will continue to focus on a deep catalog of music," which accounted for 87.8% of sales in year ended July 31, 10K said.

At same time, Trans World Entertainment (TWE) went to its back catalog in renaming 730 mall-based stores For Your Entertainment (FYE). It currently operates mall stores under Camelot, Record Town, The Wall (572 combined), FYE, Saturday Matinee (38), Tape World (9) and Disc Jockey (119), last of which was acquired last fall. Chain's Web site, [twec.com](http://twec.com), will be converted to [fye.com](http://fye.com) by Aug., company said.

TWE will complete renaming by year-end. Its freestanding chains including Coconuts Music and Movies, Planet Music, Spec's and Strawberries will continue operating under current brand.

Unifying mall stores under one name will improve TWE's marketing power and increase loyalty among its customers, Chmn.-CEO Robert Higgins said. Merchandise mix, which includes CE products, also will be consistent across chain, he said.

Rebranding stemmed from 18-month review that found, among other things, that 75% of consumers walking into TWE's freestanding stores bought merchandise, compared with 20% at its mall stores, Higgins said.

In choosing FYE as unifying brand, TWE tapped into 24,000-sq.-ft. format it began in Trumbull, Conn. in 1993 in attempt to meet competition from chains such as Best Buy, which at time had increased number of CDs it carried to 60,000 titles from 45,000. TWE also has dispensed with Music World brand in past and suffered through major restructuring in mid-1990s when it closed 129 stores (TVD Feb 6/95 p15). Mall stores range from 1,200 sq. ft. in case of Tape World to 10,000 sq. ft. for Camelot, which TWE purchased in 1997.

As part of new strategy, TWE also will install 25-50 free-standing kiosks at its stores for sampling music and DVDs as well as burning CDs. Test will start in Aug. at 24 stores in 4 markets with goal of expanding technology chainwide by first quarter 2002. Kiosks will be able to display DVD trailers and 30-90-sec. music samples, largely drawn from stores' server, which can contain up to 80% of chain's top-selling titles, said Timothy Davis, COO of Interactive Objects, which designed software for system. Stores will be fed by T-1 cable lines that connect to central or regional server, he said.

Meanwhile, K-tel International, which is operating under bankruptcy protection, said it had shut down licensed music distribution arm K-tel USA and filed suit against TWE alleging that it owed undisclosed amount of money. It charged TWE, one of K-tel USA's largest customers, had withheld regular payments in effort to force distributor to finance large portion of its inventory in stores, suit said. Action put "tremendous financial pressure" on distributor and had "detrimental effect" on parent K-tel International, which was required to offset funds being withheld. For 7 months, suit said, TWE paid \$1 per month and didn't return unsold goods in "timely manner," forcing K-tel to supply new product for other customers rather than recycling it to fill orders. TWE allegedly told K-tel it would return unsold inventory by month's end and "pay all amounts owed," suit said, but chain has yet to return goods or make payment.

In closing K-tel USA as well as marketing operations in Germany and U.K., K-tel International said it eliminated businesses that had combined \$15.4 million loss in fiscal year ended June 30. K-tel International's consolidated losses were \$15.7 million in same period. Among remaining activities, K-tel said, it will move to expand DVD business.



**WEB COMPANY BUSTED:** Families On Line (FOL) CEO Mark Thurman and COO Robert Fiene were arrested for their parts in alleged online PlayStation 2 (PS2) sales scam as well as for securities fraud and other crimes, U.S. Attorney's Office in Miami said.

SEC also announced it had filed complaint and obtained emergency asset freeze in connection with alleged offering fraud by Ft. Lauderdale-based FOL and its 2 top officers.

FOL billed itself as family alternative to mainstream Internet service providers — one that for monthly fee of \$19.95 gave subscribers access to Web sites but filtered out pornography or other types of information adults might want excluded. We first wrote about company in Dec., when it said it was starting to issue refunds to consumers for more than 9,000 PS2 consoles that it wasn't able to deliver (TVD Dec 18 p15).

SEC complaint charged that Thurman and Fiene raised \$3.9 million from 410 investors — mostly fundamentalist Christians. Between July 1999 and Dec. 2000, complaint said: "The defendants raised investor funds in unregistered securities transactions by using, among other things, a fake letter from a Christian-based television network [Trinity Bcstg. Network], false claims of projected subscribers and profits and complete fabrications about an impending initial public offering and supposed SEC approval of the offering." SEC also alleged that Thurman and Fiene failed to inform investors that they were convicted felons.

SEC contended that defendants "stole at least \$1.8 million of investor funds for their personal uses, including purchases made at stores specializing in drug paraphernalia and adult novelty items." U.S. Attorney's Office said \$5,000 of investor funds were spent at adult novelty store We Be Joys and Fiene spent \$4,995 of investor funds for Hawaiian vacation. Thurman gained more than \$260,000 from PS2 fraud, U.S. attorney said.

Back when FOL said it was issuing PS2 refunds, Thurman told us that his company had been promised 30,000 PS2 consoles by company in Manhattan that never delivered them. When we called phone number for only company listed in Manhattan that matched description Thurman gave us, we were told by representative claiming to be its president that company didn't sell PS2s — only "textiles." Thurman never returned our call after we called him back to see if he had more information about N.Y. company.

Thurman had said in notice to customers posted at Families On Line Web site that his company "had already taken steps to involve the Ft. Lauderdale Police Dept. Economic Crimes Unit" and planned to "further ask assistance from the Federal Trade Commission in dealing with the parties responsible for placing us and our loyal customers in this position."

In our Dec. conversation, Thurman also told us he had spoken to Scott Byers, 20-year-old Moncton, New Brunswick, man arrested by Royal Canadian Mounted Police (RCMP) in Dec. and charged with 2 counts of fraud in connection with another alleged PS2 scam that had been investigated by Canadian Council of Better Business Bureaus (CCBBB). Thurman told us in Dec. he was convinced Byers was victim of scam just like himself, rather than perpetrator of one. But Thurman declined at that time to tell us precisely why he was even in contact with Byers. He suggested to us that his communication with Byers

was part of his efforts to help law enforcement officials investigate alleged scam Byers was involved in via latter's role as e-business mgr. of PS2 Store Canada, Web site that allegedly took orders and money from consumers promising PS2s but then never delivering them.

U.S. Attorney's Office in Miami didn't indicate that it had learned of any sort of business connection between FOL and Byers. Call we placed to Attorney's Office for comment wasn't returned. But Constable Mike Arseneau, investigator with Commercial Crime Div. of RCMP, told us "We're aware of Families On Line." He said he couldn't say whether any transactions had taken place between FOL and Byers, but "the matter is still very much" under investigation by RCMP. He said Byers had been released on bail.

In its statement, U.S. Attorney's Office said PS2s were sold at FOL's Web site between Oct. 26 (when PS2 was rolled out in U.S.) and Dec. 5. Attorney's Office said that at Thurman's direction, FOL took orders for more than 100,000 PS2s at \$299 each plus \$11.96 in shipping and handling despite Thurman's allegedly knowing his company didn't have access to those consoles and didn't deliver any. Office said refunds to individual credit card customers resulted in loss to Wachovia Merchant Services, which is half-owned by Wachovia Bank and insured by FDIC. Attorney's Office also said majority of those who made bulk orders of PS2s to FOL and paid by check never received any refunds for their deposits or payments.

Attorney's Office said Thurman created fraudulent bill indicating FOL had received 30,000 PS2s, fraudulent purchase order indicating company had received 30,000 PS2s from Sony Corp. c/o American Trading Co., letter from FOL to Thurman saying FOL authorized him to take 107,200 PS2 orders, various other pieces of communication apparently to cover his tracks. Attorney's Office said it had evidence of phone conversation in which Thurman admitted he never had any PS2s.

CCBBB Pres.-CEO Bob Whitelaw told us in Dec. and again early in March that he was unfamiliar with FOL. But he told us there were people in U.S. who appeared to have been involved in alleged scam by Byers and he believed money was being wired by PS2 Store Canada to "bank accounts in Florida." He was unable to tell us, however, what bank or banks money had been wired to. Whitelaw also told us Web sites fraudulently offering PS2 systems at about same time as PS2 Store Canada were shut down in Cal., Ohio and 2 locations in Fla. — Ft. Lauderdale and Orlando. But he couldn't tell us names of those sites.

FOL's site no longer can be found on Weblast and calls to company's office remain unanswered.

**Sony is selling speaker system** — 5 satellites and 80 w subwoofer (\$400) — in Japan as peripheral for PlayStation 2 videogame console. Satellites deliver 50 w per channel, while subwoofer has built-in amplifier and Dolby Digital/DTS decoding.

#### THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥123 = \$1, except where noted.



**GILAT POSTS LOSS:** Gilat Satellite Networks, taking \$29.4 million in charges to write off investments and in-process R&D, reported \$10.2 million 4th-quarter loss against \$23 million profit year ago as revenue rose to \$174.6 million from \$108.9 million.

In posting loss and conceding slowdown in VSAT business, Gilat said it would take another unspecified charge against first-quarter earnings to cover restructuring that includes layoffs. As result, it revised 2001 earnings to \$25 million (\$1 per share) on revenue of \$575 million, down from analyst projections of \$2.43 per share. Earnings will double in 2002 on revenue of \$675 million, company said. Gilat stock was hammered following release of revised financial forecast March 12, dropping \$15.25 to \$16.44. It skidded further to \$13 range in final week of month.

As it lowered earnings forecast, Gilat also cut back projections for production of commercial VSAT and Starband high-speed Internet access products. Combined production this year will be 200,000 units — 150,000 consumer satellite modems and 50,000 VSAT receivers, down from original projection of more than 700,000 units. Company earlier forecast consumer sales of 250,000-300,000 units by year-end (TVD Aug 21 p17).

Starband, which withdrew proposed IPO earlier this month (TVD March 12 p16), reported 25,000 customers at quarter's end, 12,000 of whom were paying \$59-\$69 monthly fee, Chmn. Yoel Gat told analysts in conference call. Other participants in test are expected to be converted to paying customers by June, he said. Starband reported \$100 million in revenue in 2000, half of it in 4th quarter, Gat said. Starband, which charges \$299 for add-on card sold through RadioShack with Compaq desktop PC (\$899) and \$399 for satellite modem marketed via EchoStar dealers and own Web site, had been projected to break even this year (TVD Jan 29 p18). But Gat declined comment on when Starband would turn profit. Starband posted 5% gross margin in quarter vs. 40% for Gilat's VSAT business.

To expand Starband distribution, Gilat has signed deal with National Rural Telephone Cooperative (NRTC) to sell Starband service and extended pact with EchoStar for 3 years, Gat said. EchoStar has \$50 million stake in Starband. EchoStar and NRTC officials weren't available for comment. Starband also plans additional retail agreements in place by spring, although Gat declined to identify dealers. Starband currently sells product through only "small percentage" of EchoStar dealers, spokeswoman said. With NRTC, Starband has wholesale agreement, she said.

Gilat, which has 45% stake in Starband, will support Internet service but will limit "exposure" to \$75 million, Gat said. It may seek bridge loan for Starband that would fund operations into 4th quarter, he said. Gilat had \$40 million in Starband receivables at quarter's end.

To update product line, Starband will add dual-tuner modem (\$399) this spring to replace earlier model and PCI card, Gilat spokeswoman said. Gilat has begun production of new modem with 15,000 units due by end of 2nd quarter, Gat said. Starband has suffered from product shortage since debut last fall and Gilat was to add factories in Spain and Brazil to boost capacity. It plans to have "TV-centric" product by 2002, Gat said.

Potential acquisition of Starband satellite operator GE Americom Communications (TVD March 12 p15) by Societe

Europeenne des Satellites (SES) would be "positive" for company, Gat said. Starband delivers service from 21 transponders it leases on GE Americom (7) and Loral (14) satellites at 101° and 129° W, respectively. Starband currently has 9,400 subscribers per transponder but plans to move past 13,000 in deploying compression technology later this year, Gat said. "They [SES] absolutely represent a strategic partner for us," he said.

**CD and DVD library** for onboard entertainment of International Space Station (ISS) personnel has been chosen by Internet poll, sponsor Sony announced. Choices aren't very international or rooted in cinematic or musical heritage, but are predominantly American and comprise recent hit titles, perhaps reflecting Internet demographic of U.S.-based voters. DVD movies chosen by 4,000 online participants included *Gladiator* (Best Picture), *The Matrix* (Science Fiction), *Titanic* (Romance), *The Sixth Sense* (Drama), *Raiders of the Lost Ark* (Action), *Mrs. Doubtfire* (Comedy) and *The Wizard of Oz* (Classics). Last nosed out *The Godfather* by 5 votes and beat showhorse *Gone With the Wind* by 26, Sony said. Ironically, although *Citizen Kane* was listed as selection, movie's not available on DVD in Region 1 N. America but only as Region 2 Europe PAL disc. Meanwhile, *The Gladiator* got twice number of votes for runner-up *Erin Brockovich* and *The Matrix* trounced *Star Wars*. Music selections on CD included *The Beatles* by same-named group (Pop/Rock), *Duke Ellington: Early Ellington* (Jazz), Elvis Presley's *Can't Help Falling in Love With You* (Oldies), Garth Brooks' *The Hits* and *Beethoven: Symphony No. 5 & No. 6* (Classical). Beethoven was overwhelming favorite in poll, with his *Moonlight*, *Pathetique* and *Appassionata Sonatas* finishing 4th in eclectic field, Sony said. In jazz category, Ellington prevailed in tight race with albums by John Coltrane, Miles Davis, Ella Fitzgerald. Jazz selections included seminal 1938 Benny Goodman performance at Carnegie Hall, but none by Louis Armstrong, Count Basie, Billie Holiday or Artie Shaw. In another area of poll, participants said portable PC was first-ranked item they would take on extended space visit, although it wasn't clear how they would surf Net or use e-mail from there. Runner-up was portable DVD player. Electronic book was ranked 9th of 16 items but beat out MP3 music portable, PDA and robotic pet among others, Sony spokesman told us. Poll was inspired by delivery of 2 Sony DVP-FX1 portables to ISS by Space Shuttle *Atlantis* in early Feb. — Region 1 N. America players that, unbeknownst to Sony, NASA had modified to all-region operation by U.K. firm Techtronics. Company is pioneering leader in such modifications, which also can have "VCR Mode" that overrides Macrovision copy protection, thereby contravening U.S. Digital Millennium Copyright Act. Although Techtronics told us NASA players don't defeat Macrovision, comments on company's Web site and to other media indicated otherwise. More information on poll is available at [www.sonydvdsinspace.com](http://www.sonydvdsinspace.com).

**Micron** said Fri. it would sell ailing PC business and reemerge as provider of Web-hosting services by acquiring Interland for \$130 million in stock. Micron has signed letter of intent to sell PC business to "large, privately held information technology investment company" but didn't disclose name. Micron's PC business had \$1 billion in sales in last fiscal year. Unclear was sale's impact on retailers that rely on company for in-store build-to-order PC business. Among recent entrants was Nebraska Furniture Mart, which signed pact with Micronpc.com earlier this month. Among other Micronpc.com customers are Best Buy, Outpost.com, RadioShack Canada, Staples.



**FUTURE OF PC GAMES DEBATED:** PC-based games will remain viable business over next 5 years but increasing challenges may keep its growth relatively modest at best, Game Developers Conference (GDC) keynote panel on Consoles vs. PCs said last week. Challenges, panelists said, will come not only from consoles but also from wireless and other devices.

PC entertainment software was \$1.5-\$1.6 billion business last year, up 5% over 1999. But it has been increasingly difficult market for most developers to make money in, leading some to consider shift to making games for other devices. For every hit such as *The Sims* or *Diablo 2* or *Age of Empires*, there are hundreds if not thousands of PC games that fail to register with consumers, panelists said.

Sony Online Entertainment Pres.-CEO Kelly Flock said much of problem could be blamed on fact that PC games were enormously frustrating for average consumer to install, configure and operate. "The consoles are plug and play and the PC are install and patch," he said: "For your average user, playing games on your PC, especially online, is a real pain."

Electronic Arts co-founder Bing Gordon said some of the blame also had to go to computer industry leaders Microsoft and Intel. "Intel and Microsoft have stopped being interesting to consumers, beginning with MMX," he said. "There's no reason to buy a PC." As result, Gordon said, "the PC gamers we've depended on for 20 years to buy stuff based on new technology no longer are buying software based on new technology." He said online playability had caused PC gamers to buy fewer games and play them more deeply and consumers now are playing titles such as *Age of Empires* and *The Sims* exclusively for 6 months. But Jason Rubin, head of software house Naughty Dog, was somewhat harsher in his assessment, saying: "The problem with the PC market is that it's not changing. It's the same gamers playing the same games."

Sony Computer Entertainment Europe Exec. Vp Phil Harrison predicted that "the PC games market is going to continue to shrink," especially once mobile and wireless gaming takes off. Writing already is on wall, he said, as top 10 console games now combine to sell as much as top 190 PC game units.

But EA's Gordon said it still was premature to signal death knell of PC gaming, especially as titles such as *The Sims* had more than 3 million in unit sales. He predicted online subscription revenues combined with shrink-wrapped sales would enable PC games actually to increase share of financial pie to around 25% from 20% in coming years.

Hard question facing developers is whether they still can afford to compete in that market until then. Harrison said reason many developers still preferred PC was that they grew up learning on those machines and could use Internet to get steady stream of content. But when consoles begin combining Internet access with hard disc, they also will be able to compete as content provider. "When that happens, and I think it will, there's going to be a sea change in the market," Harrison said.

Naughty Dog's Rubin said Xbox might end up acting as bridge that caused many staunch PC game developers to finally begin work on console products. Once they make that move, he said, they will find "the console has become a better and better way of making money for developers."

**BLACK & WHITE TO SHIP:** After 3-1/2 years in development, eagerly awaited PC strategy/role playing game *Black & White* finally will ship in U.S. March 27. Spokeswoman for Electronic Arts told us game would ship in Europe "a few days later."

There are no console plans for game at this point, EA's spokeswoman telling us that it "remains to be seen whether [game] comes out on any next-generation systems."

Title, developed by U.K.'s Lionhead Studios, is being published under EA Games brand. EA spokeswoman said company was confident game would be one of biggest titles in industry overall this year.

Although all of specifics on EA's ad support for title weren't available, spokeswoman told us: "This is a triple-A title for us, so it will have triple-A support." She said print ads already were running and online marketing efforts were in place. Company plans to devote extra marketing efforts to retail level in conjunction with specialty game dealers, but specifics weren't available.

Designed by Lionhead founder Peter Molyneux, game is set in fantasy world of Eden, where players take on role of deity with power of divine intervention. Creature represents player's physical form and is main character. Game offers player ability to have 2 completely unique experiences in that one can opt to have creature perform evil ("black") deeds or good ("white") deeds. Which path player selects determines course of gameplay. Up to 8 players can play game at one time.

Title features some of more cinematic visuals to be found in recent computer games. EA Producer Dan Blackstone, demonstrating game for us, also pointed out that there are visuals gags throughout title, including one based on scene from film *Titanic*. In all, there are 400 different script situations in game, he said, and player could spend more than 100 hours playing title in each of its experiences — "black" way and "white" way. Blackstone said 24-25 Lionhead developers worked on title.

Blackstone said: "There's huge online plans for *Black & White*," although there wasn't much specific information available on that front.

**Greater availability of PlayStation 2 (PS2) consoles** from Sony Computer Entertainment America (SCEA) is starting to be reflected in retailer advertising. But availability still is far from enough to meet demand. In Toys "R" Us ad circulars March 18, retailer said it had consoles, but "quantities are limited to a minimum of 25,000 units nationwide." One week earlier, Best Buy Sun. ad circulars proclaimed: "We've got 'em!" But Best Buy said in ads that it had only "at least 20 per store," it wasn't giving out rainchecks and it was limiting console sales to "one per customer." Best Buy spokeswoman said ads ran nationwide and number of consoles available in each store was based on sales trends for each store. Therefore, while some stores might have had only 20, other locations might have had more. She said national ad for PS2 proved to be "an extremely successful offer" for Best Buy. Although she said Best Buy now was "continually receiving shipments" of PS2 from SCEA, company wasn't promising that at least 20 would be available at each location this week. PS2 consoles weren't included in Best Buy's Sun. ad circular March 18.



**NEXT-GENERATION GAMES SHOWN:** New games for Game Boy Advance (GBA) and PlayStation 2 were among many titles shown for first time at Toy Fair in N.Y.C.

Games were from cross-section of companies, most of which again chose to conduct one-on-one meetings with media and retailers at hotels and offices around town as opposed to hosting elaborate booths at Toy Fair at Javits Center.

Nintendo of America (NOA) demonstrated 2 upcoming GBA games: Japanese versions of *Mario Kart Advance* and *Napoleon*. Latter is real-time strategy game with graphics among best we have seen for handheld games.

Nintendo still is trying to get as much mileage out of its current Game Boy handheld and Nintendo 64 (N64) console systems as possible with releases of variety of new product in next few months. Among offerings are 3 additions to company's Pokemon line: *Pokemon Crystal* for Game Boy and Game Boy Color (fall, price to be determined); *Pokemon Stadium 2* for N64 (March 26, \$69.95), Pokemon Limited Edition Game Boy Color hardware system (which made debut March 5, \$79.95), colored in gold and silver to complement company's *Pokemon Gold* and *Silver* games.

NOA Corp. Affairs Vp Perrin Kaplan said that although companies such as Hasbro had had trouble selling Pokemon-related products in last year, Nintendo continued to see impressive sales results for its Pokemon-themed games. *Pokemon Stadium 2* is follow-up to last year's top-selling console *Pokemon Stadium*, which Nintendo said sold 2 million copies. New game features 4 new tournaments, 12 new minigames, special "Poke-quizzes." It also allows players to transfer customized Pokemon from company's *Blue*, *Gold*, *Red*, *Silver* and *Yellow* Game Boy titles directly to N64 via Nintendo's Transfer Pak (\$19.95).

NOA also demonstrated some of its new N64 and Game Boy Color games, including final version of *Conker's Bad Fur Day*, N64 game for more mature gamers that shipped March 5; *Kirby Tilt 'n' Tumble* for Game Boy Color (April 9); *Dr. Mario* for N64 (also April 9). Many older gamers have been looking forward to *Conker* thanks to its big supply of gross-out humor. Also coming for Game Boy Color this year are *The Legend of Zelda 2* (May 14) and *Mickey's Speedway USA* (March 26), while *Mario Party 3* will ship for N64 May 7.

Sega provided taste of its upcoming *Sonic Adventure 2* with demonstrator that's included with *Phantasy Star Online*, multiplayer RPG online title that began shipping in Feb. SOA spokeswoman said new Sonic title would ship for Dreamcast June 21, just in time for famous hedgehog's 10th birthday June 23.

Further demonstrating Sega's commitment to support Dreamcast console on U.S. market through at least end of year, SOA showed other upcoming Dreamcast games as well, among them: Adventure game *Floigan Brothers (Episode 1)*; *Moigle's Secret Project* (April); Visual Concepts-developed strategy game *Ooga Booga* (May); action/adventure sequel *Shenmue 2* (Nov.) that, like its predecessor, was created by Yu Suzuki.

Other Dreamcast titles due from Sega this year include *Daytona USA* (which shipped March 13), *Alien Front Online* (May), volleyball game *Beach Spikers* (summer), *Bombberman*

*Online* (June), *Crazy Taxi 2* (June), *18 Wheeler: American Pro Trucker* (April), *Sega Bass Fishing 2* (summer), *Sega Smashpack Volume 1* (March), *World Series Baseball 2K2* (summer), first online baseball game; sequel to last year's *Virtua Tennis* that will feature Serena and Venus Williams (Nov.).

Federal judge dealt blow to independent video dealers, rejecting class-action status for lawsuit against Blockbuster that alleged its revenue-sharing deals with movie studios violated federal antitrust law. U.S. Dist. Court Judge Edward Prado, Dallas, said that because independent dealers "differ in a variety of ways from their ability or willingness to accept a deal with the defendant studios to their locations to their business management styles and local competition, the court cannot conclude that an anticompetitive effect is amenable to class resolution." Dealers were required to provide "reasonable showing" that each class member suffered injury and courts "are reluctant to permit certification where the showing of antitrust injury will require individualized proof," Prado said. Officials of 49er Video and Star Videotronics, who were among lead plaintiffs, weren't available for comment. Blockbuster CEO John Antioco defended revenue-sharing agreements, saying that they "have been used to the benefit of consumers, distributors, theaters and pay-per-view services for years." Agreements, which have been used by most of larger video rental chains, emerged in late 1990s as Blockbuster and others sought to increase depth of titles their stores carried. While Blockbuster previously paid \$80 per copy of video, price was cut to \$4-\$7 in exchange for sharing portion of revenues with studios.

Audiovox, suffering from downturn in cellular phone market, reported Fri. that first-quarter net income had dropped to \$2.6 million from \$5.3 million year ago as sales slipped to \$330.7 million from \$340.2 million. Wireless sales declined to \$265 million from \$276 million after Audiovox issued \$20 million credit to Altel Communications and took back 97,000 trimode CDMA phones that didn't meet company's specifications, Pres.-CEO John Shalam said. Audiovox sold 843,000 units in quarter, 97% of them digital at average selling price of \$141, up from \$138 year ago. Gross profit margin slipped to 6% from 7.5%. Sales of CE products, including mobile video and portable DVD, rose 3.1% to \$66 million as strong revenues from video products offset decline in car audio, Audiovox Communications Pres. Philip Christopher said. Downturn in car audio was result of "weaker than expected sales" at key Audiovox retailers Kmart, Sears and Wal-Mart, he said. Gross profit margins were flat at 21%. Audiovox plans to add portable DVD player with 7" LCD later this year to supplement 5.8" model, but has pushed back delivery of PDA/cellular phone to first quarter from year-end. Product was postponed after Audiovox experienced delay in getting Microsoft Pocket PC operating system (OS) software for product, Shalam said. In interim, Audiovox will ship separate PDA packaged with trimode CDMA cellular phone in 4th quarter. Cable will be included to connect PDA to phone, he said.

Amazon.com customers have nothing to fear about recent hacker attack on online book service Bibliofind.com, Amazon spokesman told us. Although Amazon owns book service, he said Bibliofind was separate operation based in Waltham, Mass., and computers at each company "don't talk to each other." He said there was no data sharing between companies either. Widely published reports said hacker attack "compromised some 98,000 customer records" at Bibliofind and caused company to shut down Web site temporarily.



**Audible Magic** announced PlayGen service. Los Gatos, Cal., digital audio identification technology and service provider said new service could “rapidly and accurately” identify music streamed by Webcasters and Web sites and generate “immediate and accurate playlist based on actual songs played.” Beta test of PlayGen is under way and company said service would be made widely available soon. It said service used its patented content-based recognition and retrieval technology — Audible Match — to “listen to” and identify broadcast or streaming audio in real time. Technology provides secure audio identification that Audible Magic said wasn’t dependent on embedded data that could be altered or removed, as is case with watermarking. Rather, it said, technology “analyzes the perceptual characteristics of the sound in a manner consistent with the frequency recognition capabilities of the human ear.” Company said “unique content-based ‘fingerprint’ of the sound” is then “created and matched against Audible Magic’s large database of copyrighted works or against a proprietary customer database.” Other capabilities of technology include “click-through purchase of a CD, instant response to an ad, ranking and royalty tracking of broadcast music and audio-enabled searches.” Although current service is business-to-business based, spokeswoman told us Audible Magic planned to introduce consumer service using same core technology in future.

**Fuji Film** will sponsor real-time 2-way broadband screening between N.Y. and L.A. Tues. that previews 4th annual Manhattan Short Film Festival, outdoor event to be held Sept. 23. Inaugural transmission will run between N.Y. and L.A. PBS stations WNET and KCET, respectively, using Geovideo’s 8-Mbps fiber network for broadcast quality video. Screenings will originate from N.Y. beginning at 8 p.m. and 9:30 p.m. Eastern time and run about 45 min., sponsors said. Program will be viewed at first-run movie theaters in L.A. As in past, screenings will use high-resolution video front projectors supplied by Christie Digital Systems, said Nick Mason, Australian who founded Manhattan Festival and is director of increasingly popular outdoor festival at N.Y.’s Union Square. To attend preview, e-mail [cpfaff@geovideo.com](mailto:cpfaff@geovideo.com) or phone 212-282-0148.

**Sega** appointed Exec. Vp and co-COO Hideki Sato as its pres. last week, succeeding Isao Okawa, who died week earlier of heart failure. News of Sato’s appointment was seen as surprise by some industry observers, who had expected Sega to appoint co-COO Tetsu Kayama over Sato because of what they deemed to be his deeper knowledge of videogame software industry. Sega recently announced it would abandon its hardware business at end of March to focus on games for multiple platforms (TVD Feb 5 p11). Analysts speculated last week that one major reason Sato might have been chosen was that Kayama had been company only since last year while Sato had been with Sega for 30 years. Sato joined Sega in 1971 and has held top positions in various departments, including consumer business development, hardware development, mobile business development, R&D. Meanwhile, Yoshiji Fukushima, Sega dir. and chmn. of CSK Corp. (Sega’s largest shareholder), was appointed Sega chmn. Sega said Sato also will continue to serve as company’s representative dir. and Fukushima will remain dir. Fukushima has been with CSK since 1996. Before that, he had held top positions at Nomura Securities since 1956.

**Toshiba** claimed bragging rights to highest-capacity 1.8" hard disc drives. Company said its new 5-GB drive was just 5mm high, and model with 10 GB capacity is 8mm high. Shipments start next in April.

**Home video promotions** planned around upcoming theatrical release of blockbuster movie *Pearl Harbor* include slate of documentaries on World War II. Movie from Disney’s Touchstone Pictures is \$135 million production scheduled for world premiere May 21 aboard aircraft carrier U.S.S. *John C. Stennis* at Pearl Harbor before May 25 debut in theaters. To coincide with Disney movie, Warner Home Video (WHV) plans retail promotion of 4 documentaries on VHS at \$14.95 each. *Sacrifice at Pearl Harbor* by BBC Video and *Return With Honor* by PBS Home Video arrive April 24, with latter also available on DVD (\$19.98). National Geographic titles *Legacy of Attack: Pearl Harbor* and *Pearl Harbor: Beyond the Movie* will hit street May 29. In meantime, 20th Century Fox Home Entertainment plans May 8 release of restored special edition of 1970 movie *Tora! Tora! Tora!* that recounted events culminating in Pearl Harbor attack. DVD (\$24.98) has making-of documentary and commentary by co-dir. Richard Fleischer. April 24 is street date for 2-DVD/3-VHS *Pearl Harbor* set from A&E Home Video (each \$29.95). Set includes *Tora! Tora! Tora!: The Real Story of Pearl Harbor*, new 2-part documentary from The History Channel that is structured like earlier movie. DVD version also has extras such as “Technical Manual” of Japanese and U.S. warcraft; gallery of eyewitness photos; biography of Pacific Fleet commander Admiral Chester Nimitz and profiles of other naval commanders.

**New DVD movies** coming include some noteworthy restorations. Image Entertainment announced April 17 DVD debut of Marcel Ophuls’ 1971 *The Sorrow and the Pity*, 4-hour documentary on World War II French collaboration with Nazis. Disc (\$49.99) has commentary by Woody Allen, first English subtitles. Also on tap from Image is DVD of 1925 silent classic *The Lost World* (April 3, \$19.98), with choice of traditional or modern music scores in stereo. Sci-fi movie includes 12 min. of never-seen outtakes, and 50% more footage than in film prints available since 1930s. Dir. Steven Spielberg’s *Close Encounters of the Third Kind* will get collector’s edition treatment from Sony’s Columbia TriStar Home Entertainment, as have recent restored editions of *The Bridge on the River Kwai* and *Lawrence of Arabia*. It hits street May 29 at \$27.95. Long-unseen clips from golden age of TV make up part of *The Unknown Jimmy Durante* and *The Great Schmozzola* from Fox Lorber CentreStage (April 10, \$24.98). DVD documents life and career of late comedian.

**Remaining in limbo** for Region 1 DVD is *Citizen Kane*, Orson Welles’s classic that American Film Institute awarded top honor in its vote for 100 best movies of 20th century. Spokesman for Warner Home Video (WHV), which has U.S. video rights to movie, said studio has no DVD plans to announce for it. Movie’s 60th anniversary is this year, and DVD is available as PAL version in Region 2 Europe from Universal Studios Home Video. VHS version still is available in U.S. under old Turner label, now owned by WHV.

**Noteworthy kid videos** scheduled for release include *The Magic Schoolbus: Makes a Rainbow* and *The Magic Schoolbus: Gets Planted* (July 3, VHS \$9.95). Scholastic TV series titles are available from Warner Home Video. Artisan Entertainment is expanding educational Baby Einstein series with addition of *Baby Doolittle Neighborhood Animals* (May 15, VHS \$14.98). DVD will be released in July. Latest values-focused VeggieTales animation title and first to hit DVD is *Lyle, The Kindly Viking* from Big Idea Productions (\$14.99).



**WEB GAME NETWORK FORMED:** Interplay Entertainment formed Interplay.com subsidiary that will function as Web gaming network. Game maker based in Irvine, Cal., said move was designed "to strategically address the interactive entertainment online market."

Although Interplay, like most game makers, already had been running Web site, it said it would greatly expand its capabilities and features. Interplay.com Pres. Cal Morrell cited Dataquest report that said 6 million U.S. customers were expected to sign up for high-speed access this year and that number was expected to grow to more than 28 million by 2004. He said: "We intend to be fully deployed to take advantage of that worldwide by 2004."

In starting Interplay.com, company said it also would "introduce streaming software demos to the site through the expertise of Stream Theory, [whose] technology quickly delivers software applications over broadband, wireless and other platforms." Interplay.com will use Stream Theory technology to stream Interplay PC game demonstrations to Web site visitors who have broadband.

Morrell admitted great deal of time and money was involved in venture: "Our research shows that the [MMPG] games are costing somewhere between \$10 [million] and \$12 million to make and host to get to initial launch," and 2-3 years to develop MMPG. He said he expected to announce at least one specific MMPG game in "next 30 to 60 days," adding: "We would like to get a game out in the next 2 to 2-1/2 years." Company is attempting to develop games offering "one-two punch" of good storytelling and advanced graphics, he said.

Morrell said Interplay.com wasn't looking for marketing partner in U.S., but wanted strategic partnerships elsewhere and hoped to close on one or 2 deals in first half.

While Interplay.com is considering "pay-per-play" business model, it has its eyes specifically on subscription plan first, he said. He said service probably would cost gamer \$9.95 per month.

Morrell conceded there probably would be "no tangible benefits" for Interplay shareholders in first 6 months, but said benefits would increase after first year. While revenue might not be seen in any tangible degree for first 2 years, he said there could be other types of benefits for Interplay and its shareholders. One, he said, is in area of piracy because some people who otherwise might have played only bootleg copy of Interplay game now will be paying for game via subscription service that they were locked into. He said very nature of streaming meant that Interplay also could cut costs on delivery of company's non-MMPG games.

**Fewer than 200 employees** lost their jobs at Electronic Arts (EA) last week in consolidation, spokesman for Redwood City, Cal., game maker told us Fri. He said consolidation affected company's EA.com online business, as well as 3 of EA's U.S. studios: EA Virginia in Charlotte, Origin Systems in Austin, Redwood Shores studio at company's hq. Spokesman said consolidation was prompted by EA's recent acquisition of online gaming site Pogo.com. He said: "Going forward EA will continue to recruit and invest in our online business and we expect that, by the end of the year, head count will be about the same" as it was before consolidation.

## Consumer Electronics Personals

**Koichi Wani**, ex-Matsushita, joins iFire Technology as advanced engineering dir... **Sony Vice Chmn. Minoru Morio** elected to Applied Materials board... **Carl Gish**, Amazon.com CE store gen. mgr.-vp named Technology Products Group vp, replacing **Christopher Payne**, resigned... **Best Buy Vice Chmn.-COO Brad Anderson** to give opening keynote speech June 21 at CEA-sponsored Consumer Electronics CEO Summit, Lake Tahoe, Cal... **Hideki Sato**, Sega exec. vp and co-COO, appointed pres., succeeding **Isao Okawa**, who died of heart failure March 16; new Sega chmn. is Sega dir. and CSK Corp. Chmn. **Yoshiji Fukushima**... **Jeffrey Rogers** and **Martin Wilson**, ex-Mattel, named VTech vps of mktg. and product design & content development, respectively.

**Creative Technology** said it was laying off 10% of worldwide staff (550 employees) as it moved to "aggressively cut costs." It said it would take \$15-\$20 million charge against 3rd quarter earnings to shut down Malvern, Pa., plant and consolidate facilities in Singapore. It also will write down \$65 million against investment portfolio, which includes stakes in Internet companies. Creative is targeting 3rd-quarter revenue of \$260-\$270 million and pretax profit margin of 27-28%. In same quarter last year it had \$88.3 million profit on sales of \$330 million. Unaffected by layoffs will be Creative's HiFi.com online business, although company is weighing combining it with HersHiFi.com, which was introduced last year to target female CE buyers (TVD Feb 21/00 p16). HersHiFi.com Web site is down for reconstruction and some features including "shop by room" and "Ask Kate" Q&A section have been merged with HiFi.com, spokeswoman said. "We're still committed to servicing the female consumer, but whether or not it exists in its former format hasn't been decided," she said. HiFi.com also has revamped Web site with Blue Martini e-commerce software following shutdown of previous supplier Pandesic. Pandesic, which started in 1997 as joint venture of Intel and software provider SAP, closed last summer in face of financial problems. "We're still outsourcing a portion of it [software], but for the most part we will be able to create and adapt more fluidly internally," spokeswoman said. Separately, Creative's 26-store Cambridge Soundworks retail chain will open new outlet in Livermore, Cal., this spring. New store represents first expansion of chain since Creative acquired it in 1998, but is short of plan for 5-10 new outlets outlined year ago (TVD June 26 p15). CS stores are 2,000-8,000 sq. ft., with new format to be 3,000 sq. ft.

**Supreme Court**, in 5-4 vote, upheld Circuit City requirement that job applicants sign binding arbitration agreement that covered all disputes with company. **Saint Clair Adams** signed such agreement in Oct. 1995, but 2 years later sued Circuit in Cal. Superior Court for discrimination. Circuit responded by suing Adams in U.S. Dist. Court, San Francisco, and prevailed when judge halted state action and required arbitration. Adams then appealed and won reversal when 9th U.S. Appeals Court, San Francisco, held that Federal Arbitration Act didn't cover labor or employment contracts. Justice Anthony Kennedy, writing for majority, said Supreme Court had "been clear in rejecting the supposition that the advantages of the arbitration process somehow disappear when transferred to the employment contract." Justice John Stevens in dissent countered that court's action "fulfills the original — and originally unfounded — fears of organized labor" by narrowing scope of exemption. "It is clear that it is not intended to apply to employment contracts at all," he wrote.