



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

MAY 7, 2001

VOL. 41, NO. 19

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CANNON, CONYERS COUNTER TAUZIN-DINGELL BILL: Reps. Conyers (D-Mich.) and Cannon (R-Utah) introduced bills that under certain circumstances would prevent Bell companies from offering high-speed data services across regional lines, regardless of whether companies opened markets to rivals. Legislation also would ensure that Telecom Act didn't supersede antitrust sections of Clayton Act, measure that supporters contended would help prevent "remonopolization" of Bell companies. Cannon said bills also would overturn *Goldwasser v. Ameritech* case, in which 7th U.S. Appeals Court, Chicago, ruled that Telecom Act took precedence over antitrust law in telecom matters.

Conyers and Cannon introduced bills as alternatives to broadband deregulatory bill recently offered by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (Mich.). Tauzin-Dingell would eliminate restrictions on Bells in providing interLATA data services while preserving Telecom Act's market-opening provisions for voice services.

USTA acknowledged intent of Conyers-Cannon to spur deployment of high-speed Internet access, but said bills' approach to encouraging deployment didn't address cable's control over data market. House Telecom Subcommittee already has acted on bill that would ensure that all telecom carriers had freedom to deploy high-speed networks without regulatory burdens, USTA Interim Pres. Gary Lytle said: "That bill — HR-1542 — is the best vehicle for spurring broadband deployment."

Tauzin is meeting with other House members to seek compromise on several amendments in HR-1542, Commerce Committee spokesman Ken Johnson said. Deregulatory approach pushed by Tauzin-Dingell, even if amended, would draw support for HR-1542 and drain backing from Conyers and Cannon bills. "We do not believe there is any sentiment on the Hill for a heavy-handed regulatory bill," he said.

Consumer Electronics

SDMI HACKERS MAY GET LAST LAUGH despite backing down from revealing watermark data. Forrester report contends court will rule DMCA's anticircumvention clause is unconstitutional. (P. 9)

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Aim of Conyers-Cannon bills is to keep courts from dismissing antitrust cases on ground that accused company's conduct was subject to Telecom Act rather than Clayton. It also would create "multistate alternative dispute resolution process" to tackle interconnection issues.

Conyers-Cannon bills would prevent Bell companies or their affiliates from offering in-region interLATA services unless U.S. Attorney Gen. determined that those companies didn't have "market power in the provision of wireline telephone exchange service in the state involved." If such companies had market power, which bill defined as providing "service to more than 85% of the business subscribers or more than 85% of residential subscribers," they couldn't offer interLATA services. That restriction would be applicable even if companies satisfied Sec. 271's 14-point competitive checklist, which spells out what Bell companies must do to qualify for providing interLATA services.

Bill would also provide: (1) Spending of \$3 billion in fiscal 2002 through 2006 for Justice Dept.-run broadband deployment loan guarantee fund. (2) Elimination of "discriminatory taxes on broadband services."

CLECs, IXCs and consumer groups came out in full force to support introduction of bills at news briefing. ALTS, ASCENT, CompTel, CompTIA, International Communications Assn., AT&T, Sprint and WorldCom are supporting Conyers and Cannon. Consumer Federation of America, Consumers Union, Information Technology Assn. of America and U.S. Internet Service Providers Alliance also favor Conyers and Cannon over Tauzin-Dingell.

At same time, House Judiciary and Commerce Committees are gearing up for jurisdictional fight over broadband data legislation after Judiciary Committee Chmn. Sensenbrenner (R-Wis.) urged House Speaker Hastert (R-Ill.) to give committee "sequential referral" of Tauzin-Dingell bill. Referral would give Sensenbrenner "sufficient time to hold a hearing and a markup," he said May 1 in letter to Hastert. Sensenbrenner said Tauzin-Dingell bill would undermine market-opening provisions of Telecom Act, thereby falling within Judiciary Committee jurisdiction over antitrust matters.

"HR-1542 eviscerates the Justice Department's role and eliminates the bargains reached in 1996 to allow local telephone monopolies to enter the long distance market after they open up their local markets," Sensenbrenner said. But Tauzin spokesman Johnson said: "We do not intend to give up the wheel without a fight." He said "absolutely nothing" in HR-1542 "prohibits the Department of Justice from pursuing and preventing monopolistic behavior in the marketplace."

POWELL TO BE FLEXIBLE: FCC under Chmn. Powell will be "flexible" and will focus on core issues of agency organization, enforcement and spectrum management, according to staffers at FCBA Annual Seminar in Hot Springs, Va. Chief of Staff Marsha MacBride said Powell wasn't formulating specific policy positions, instead was addressing "change management" as new Commission took shape. Chief Legal Adviser Peter Tenhula also said no new rules currently were being contemplated. Rather than force agenda, he said, "our priorities are to do what we have to do when we have to do it."

MacBride said fundamental question for Commission was whether it was time for wholesale reorganization of agency along operational lines, giving example of "Licensing Bureau" that would handle that function across all services. But Powell has "no timetable" for concluding study of issue, she said. On demand for spectrum, MacBride said: "It's like my closet: No matter how big it gets, it's always going to be full." In other comments, MacBride said: (1) Commission "is going to do a big outreach" to broadcasters on HDTV "to facilitate the change" to digital channels, not only because of anxieties about transition deadlines but also in view of "deep concerns" broadcasters have about digital must-carry. (2) Terms "'public interest' and 'diversity' must mean something" when examining mergers since "they're in the statute." But merger criteria must be "principled, predictable and identifiable."

Tenhula said: "Everyone is now yelling and screaming for... a national spectrum policy." Maureen McLaughlin, majority senior counsel for Senate Communications Subcommittee, said she heard from lobbyists that "we don't want the Hill

involved in spectrum management, but would you have the FCC do *this*?" McLaughlin said it was "hard to predict now" whether there would be major revision of 1996 Telecom Act in current session of Congress or only "tweaks," although she said loosened broadcast ownership rules were virtually certain.

Asked to assess his tenure, outgoing Comr. Furchtgott-Roth told attendees: "I measure how well I've done by how well [his voting position has] done in court." Other Furchtgott-Roth comments: (1) "Highest priced lobbyists say the least... Commission decisions shouldn't depend on the quality of the lobbyists, but I can't say it doesn't happen." (2) Commission should have no fewer than 5 members and might be better with 7.

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Campaign finance reform bill (S-27) recently passed by Senate "harms the First Amendment in 3 major ways," Media Institute said in report that was to be released May 6. Report said of S-27: (1) Its ban on organizations' running ads within 60 days of general election (or within 30 days of primary) if such ads mention candidates "ignores the Supreme Court's protection of advertisements addressing political issues." (2) Its requirement that individuals or political action committees disclose identities of donors if ads meet certain cost, content and timing requirements "violates the established rights of individuals participating in political speech by removing an individual's identity." (3) Its definition of "coordination" between candidates and 3rd parties "would limit the activities of independent advocacy groups — an action forbidden by the First Amendment." Authors of bill, Sens. McCain (R-Ariz.) and Feingold (D-Wis.), had no immediate comment.

NAB OPPOSED IN CANADA: Despite opposition, NAB and Canadian Assn. of Bcstrs. (CAB) were given right to intervene in JumpTV.com copyright case in Canada by Canadian Copyright Board in ruling by Canadian judge, officials said. Case was to determine whether Webcaster JumpTV.com had right to stream U.S. and Canadian broadcast programming over Internet, and what retransmission fee JumpTV.com would owe to broadcasters whose signals are streamed. Hearing is expected in Nov.

JumpTV.com and Canadian Cable TV Assn. (CCTA) said NAB and CAB should be denied intervenor status in hearings, in separate briefs to Canadian Copyright Board. NAB filed brief in April (TVD April 9 p9) asking for role in Copyright Board hearings later this year on how Internet retransmission should be dealt with under Canadian copyright laws.

JumpTV.com opened its Web site last week, though without broadcast-originated content. JumpTV.com CEO Farrel Miller said company could begin retransmitting U.S. and Canadian signals before legal issues were resolved. "JumpTV has opened its site with 8 channels and will be adding more every month, including, in due time, the over-the-air networks," he said.

JumpTV.com "rejects any intervenor status" for NAB or CAB, Miller said. JumpTV.com attorney Sunny Handa said he believed "the interests of both the NAB and CAB are adequately represented by their collective representatives" and issues raised by JumpTV.com "do not go beyond traditional retransmission matters... JumpTV Canada is applying for a tariff on the basis that it falls within the definition provided in the Copyright Act and that the only matter to consider is how to tailor a tariff model to suit JumpTV Canada's offering."

Miller said only issue in hearing should be how much his company should pay copyright holders in retransmission tariff on new and established retransmission technologies such as Internet or satellite direct-to-home.

CCTA spokesman agreed that "the fact that JumpTV is using the Internet shouldn't be a factor. It's a technology-neutral world in terms of the copyright act." He also agreed that broadcasters' interests were represented by copyright collectives and "there's no reason to give them a second kick at the can." In its brief, CCTA also said hearings would be to determine whether retransmitting TV signals in Canada was permitted under country's Copyright Act. CCTA said "Canada's Copyright Act is in full compliance of all obligations imposed on Canada by the Berne Convention."

CAB lawyer David Kent argued JumpTV.com "is not a retransmitter within the meaning of the copyright act and it's not entitled to unilaterally take and transmit Canadian TV signals." In recent brief, Kent said issues "go far beyond those normally associated with retransmission." JumpTV.com "raises for the first time a number of threshold questions about the application of the retransmission regime in the first place and whether a proposed user is even a retransmitter under that regime."

JumpTV.com and broadcast rivals have agreed on hearings process before the Copyright Board, lawyer Peter Grant said. The hearings would split the review of JumpTV.com's application into 2 parts, he said: "One will be the initial question of whether an operation like JumpTV that is based on Internet retransmission is entitled to the benefit of Sec. 31 [of Copyright Act]. If yes, then there will be a second phase to determine what the tariff should be."

DATACASTING SUCCESSFUL: Joe Macione, exec. vp-gen. mgr. of WCYB-TV Bristol, Va.-Johnson City-Kingsport, Tenn., is claiming success on DTV: "I went from an extreme skeptic to one who now believes that digital has a great future in small markets." He said WCYB-TV, in 93rd TV market, invested "a little more than a million dollars in transmission equipment" and is getting return on that investment.

Station is airing 4 standard definition signals on DTV channel, including WCYB-TV's primary network NBC, WB, UPN and Doppler radar, with NBC and local news also on Doppler channel. Digital signals are converted to analog at cable headend (one for each channel) with \$488 RCA converter manufactured by Harris. Noncable subscribers can use same converter in homes for same purpose and device is expected to cost less than \$100 once it's mass-produced, Macione said.

"We are making money on WB... The dollars are not great yet, but our costs are low and we're seeing great improvement," Macione said. WCYB-TV does considerable time-shifting of syndicated shows and other programming from over-air WCYB-TV to WB digital channel when that network isn't on air. Even when switched to analog at cable headend, standard definition signal is "far superior" to WCYB-TV's over-air analog signal, he said.

WCYB-TV (owned by Lamco Communications) has joint sales agreement with WKPT-TV Kingsport, Tenn. (ABC, UPN), in same DMA. Lamco has similar DTV operation in start-up stage at its WCTI New Bern, N.C. station, and plans to install system at KTXS-TV Sweetwater, Tex.

While other groups have digital plans of their own, none that we could determine has yet progressed nearly as far as WCYB-TV. "Macione's story is very unique," said Charles Sherman, NAB exec. vp for TV. It's "setting a model that others can follow."

Under then Chmn. Reed Hundt, FCC was "the most intensely regulatory" of broadcasting of any Commission in the 23 years that former Comr. James Quello was on Commission, Quello said in his new book, *My Wars: Surviving WWII and the FCC*. "The difference in the way Chairman Hundt and I viewed the First Amendment can be summed up in two sentences," Quello said. "I see the Bill of Rights as a limitation upon government action; Chairman Hundt apparently saw it as a regulatory mission statement. Second, I considered freedom of expression to be the result of the government's abstention from editorial decision-making; Chairman Hundt evidently saw it as a gift to be bestowed by politically appointed bureaucrats." Person Quello called "Attila the Hundt" probably got more mentions in Quello's book than any other, although it's studded with mentions of hundreds of others that will be familiar to communications industry. It criticizes Hundt, among other things, for "assumption of unilateral power" at FCC, claiming public interest values were supported by First Amendment, being inflexible on kidvid, pressing FCC indecency actions. Book also repeats many of stories that Quello has used in his speech-making, as well as including detailed analysis of First Amendment and its effect on industry. He devoted nearly half of book to his World War II and broadcasting experiences (before joining FCC), saying that even though FCC can be "blood sport," his war experiences put it into perspective. Book, just under 150 pages, is available from Alexis de Tocqueville Institution in Arlington, Va.

HUGHES SILENT ON MERGER: Hughes Electronics Chmn. Michael Smith steadfastly declined comment May 2 on possible merger of Hughes with News Corp.'s Sky Global Networks, deferring to parent General Motors (GM) board that earlier authorized negotiations to continue. Smith, speaking at SG Cowen Securities conference in N.Y., stuck with statements in GM news release and focused on highlighting Hughes' DirecTV, Hughes Network Systems and PanAmSat units. Negotiations are expected to continue for several weeks on tax and governance issues. GM has wanted deal to be tax-free and Smith has bridled at ceding day-to-day management of Hughes to News Corp.

News Corp. is said to have sweetened its bid by scaling back its ownership of merged company to 30% from 35%. It also pulled some proposed assets off table, including Italian pay-TV service Stream. Under proposal being discussed, GM would get \$7.2 billion in cash and notes — less than \$8 billion it had sought — by redeeming majority of its 30% interest. How much of stake GM will redeem will depend on how Hughes stock trades. GM wants to keep small stake in company, which is expected to have market capitalization of \$50 billion. Deal would give News Corp. access to one of Hughes's most valuable assets — DirecTV, which has 9.8 million subscribers to U.S. satellite service and 1.4 million to similar operation in Latin America.

Microsoft and Liberty Media are expected to add \$3 billion and \$1 billion in cash, respectively. Remaining \$3.2 billion for GM would come from Hughes. Microsoft and Liberty investments would give them 10% of combined entity. Microsoft declined comment and GM spokeswoman said that while discussions with News Corp. didn't represent "exclusive negotiating arrangement, it is certainly where we are going to focus our attention."

Industry observers said intensified negotiations by Hughes and News Corp. could force EchoStar to enter fray. EchoStar indicated in quarterly report to SEC that DirecTV had rejected overtures it made to GM to merge with all or parts of Hughes. In separate FCC filing, EchoStar said existing DBS spectrum is too constrained to compete with cable and consolidation would level playing field.

Possible merger with News Corp. probably would change Hughes's strategy "very significantly" as it became part of global company with worldwide satellite assets, said Pegasus CEO Marshall Pagon, whose company sells DirecTV service in rural U.S. "It would be very good because you would have a company with a totally different focus that is global and on media," he said, noting News Corp.'s substantial programming and film assets.

Meanwhile, Loral Space & Communications CEO Bernard Schwartz said that company's satellite-making unit wasn't for sale despite industry reports that Loral had approached Lockheed Martin about possible deal. Space Systems Loral (SSL) has reported bookings for 6-7 satellites this year, but its first-quarter revenue fell 19% and it said there was only one order for new bird in quarter. It has forecast flat manufacturing revenue through end of year.

Washington law firm Wiley Rein & Fielding opens office in suburban Va. at 7925 Jones Branch Dr., Suite 6200, McLean 22102, phone 703-905-2800. Partners Michael Senkowski and Rand Allen will be co-heads of Va. office.

BROADBAND OPPORTUNITIES: Broadband links to consumers will help entertainment vendors hit home run on Internet, media leaders agreed on panel at Credit Suisse First Boston "Media and Broadband Conference" in N.Y. May 3. Executives of AOL, Disney, USA Networks and Viacom also said economy was in turnaround and ad revenue would pick up in 2nd half.

Boom from interactive services via Web is sure thing but won't come until broadband transmission costs decrease, speakers said. "Right now, every consumer you get, you lose money on, but that will change as costs come down," Disney Chmn. Michael Eisner said. AOL Time Warner CEO Gerald Levin agreed: "Because of the dot-com bust, there's this pessimism about what is the most profound event in our industry. The Internet gives consumers what we used to call the 3-Cs: Choice, Convenience and Control."

USA Networks CEO Barry Diller cautioned that business models for broadband interactive content on Web needed to keep feet on ground: "We didn't run to get into the Internet where there are big audience-acquisition costs, or you have to sell products for less than you paid for them. Somehow that didn't just make sense. But the 'box' is really going to change everything when the PC gets a bigger screen and 2-way data. We're at the beginning of the revolution, not the end of it."

Broadband "revolution" will affect all ways entertainment conglomerates traditionally have done business, Eisner predicted. Citing average 100 min. that viewers spent online during Webcasts on Academy Awards night in March, he said "the major entertainment companies will be the major winners in the Internet space along with the K-marts."

Viacom CEO Sumner Redstone was most ebullient among panelists on 2nd half prospects for upturn in ad revenue. "We feel good about the upfront ad flow," he said. "Advertisers don't buy stations or programs. They buy content." Redstone advised audience of investment analysts that advertising wasn't only source of media companies' revenue, which also includes content-centric income from TV syndication, among others. Nonetheless, ad revenue will improve this year, he said. "We are convinced there will be a turnaround in the 2nd half. Every time the Fed [Federal Reserve Bank] starts to ease, the effects are felt 11 or 12 months later."

Despite complaints by CE manufacturers and retailers, NCTA told FCC that cable industry continued to make progress in resolving DTV-cable compatibility issues with consumer electronics industry (TVD April 30 p14). In its 2nd 6-month update to Commission, NCTA said CableLabs had completed its OpenCable hardware specifications for competitive digital cable set-top boxes to be sold at retail level. Group said CableLabs also was developing companion OpenCable software specifications for digital cable boxes. NCTA said cable and CE industries had completed gaining approval of new network interface specifications that NCTA and CEA negotiated early last year. NCTA also said cable industry was working with its set-top manufacturers to implement carriage of independent Program & System Information Protocol (PSIP) data for electronic program guides on cable systems, which cable and CE industries also agreed to last year. "As we said in our November 30 report, the agreement focuses on the carriage of PSIP through the distribution chain and not its creation by program providers," NCTA said. "As such, these carriage requirements are based on the availability of PSIP data from the content provider."

MSOs, BELLS, ISPs RAISE DATA PRICES: With competition subsiding from upstart rivals, leading MSOs, Bells and ISPs are raising prices for their respective high-speed data services. In last week, AT&T, BellSouth and Verizon announced or confirmed plans to boost their monthly service rates across U.S., as well as increase some installation costs. They follow lead of SBC Communications and EarthLink, which raised their high-speed prices earlier this year. Industry observers expect more to join them, particularly on cable side.

Price increases come as DSL and cable modem subscriber growth slows after setting torrid pace last year. While AOL Time Warner, BellSouth, Charter Communications and Cox Communications posted stronger customer gains in recently completed first quarter than in 4th quarter 2000, AT&T, SBC and Verizon all picked up notably fewer subscribers. Overall, 4 Bells added 506,000 DSL customers in first quarter, down from total of 534,000 in 4th quarter. Analysts estimate that leading MSOs, all of which haven't reported their financial results, signed up 800,000-900,000 cable modem subscribers in first quarter, down from about one million in previous quarter.

Industry observers expect subscriber growth for both high-speed data technologies to slow more in rest of year as price boosts cut into high consumer demand for services. "They have a dampening effect," Kinetic Strategies Pres. Michael Harris said. He said SBC's DSL additions fell 25% to 187,000 in first quarter, same period as one in which Bell pushed data price \$10 (25%) to \$50 per month. "There will undoubtedly be consumer backlash," agreed Cynthia Brumfield, principal analyst, Broadband Intelligence, who questioned "timing" of cable and Bell rate increases.

Companies cited several reasons for raising high-speed prices, ranging from increased operating, capital and customer support costs to unquenchable consumer demand for service to end of special rate promotions. "The demand is very high," said spokeswoman for AT&T Broadband, which revealed plans last week to boost most cable modem subscribers' rates \$6 (15%) to \$45.95 per month. "We decided that even with the \$6 increase, we still think it's the best value in the market today." AT&T added 206,000 data subscribers in first quarter, down from 259,000 in 4th quarter, to retain its dwindling lead over AOL Time Warner with 1.3 million customers.

Analysts blamed price raises largely on other factors, including reduced threat of competition from DLECs and cable overbuilders and Wall St.'s renewed emphasis on earnings. "It's gone from a market share battle to one of business fundamentals focused on profitability," Harris said. Analysts also argued that companies felt more emboldened to boost rates now because they had secure customer bases. "I don't think a lot of people are going to disconnect because of the extra \$10," Brumfield said: "The question going forward is will the same number of newcomers come online at the higher rate."

With BellSouth preparing to join SBC and Verizon in raising DSL prices, observers suspect other MSOs will follow AT&T on cable side. Charter confirmed plan to boost monthly service fees in its home town St. Louis market \$5 (25%) for 2 of its 3 tiers of high-speed service, as well as in 2 of its other 11 regions. Insight Communications said it was "reviewing our price points," while AOL Time Warner said it didn't intend to raise prices now. "I think they [other MSOs] may let AT&T take a couple of arrows," Harris said.

Analysts said they expected MSOs to keep their wide, albeit narrowing, market share lead over telcos this year even though Bells, starting from lower base, continued to add data customers at faster clip. In first quarter, Brumfield said, Bell DSL subscribers grew 22% to reach nearly 2.3 million. By comparison, she estimated, cable modem customers rose 19% to close in on 5 million. "The gap does continue to narrow," she said. "The telcos continue to do their best to make up for lost time."

FCC Mass Media Bureau policy of "flagging" or deliberately delaying action on some license transfer applications still is going on under Chmn. Powell, Comr. Furchtgott-Roth told reporters May 3. Practice, which surfaced under then-Chmn. William Kennard, involved holding back certain transfers, often related to mergers or acquisitions, because they would result in increased market concentration. Furchtgott-Roth has been critical of flagging in past, saying it gives bureau too much power that should be exercised by full Commission. He told reporters May 3 that bureau personnel confirmed they still were flagging transfers. "It may not be illegal but it definitely isn't right," he said, because it treats some applications differently from others. There are thousands of license transfers and most are treated quickly and routinely, Furchtgott-Roth said. However, in previous administration, some were held up for months, he said. They would be put out for public comment but then not acted upon. When asked whether bureau was doing this under orders from Powell, Furchtgott-Roth said such action had to involve "tacit approval by someone higher up." Furchtgott-Roth also said: (1) He expects Congress to approve new FCC commissioners by Memorial Day or, at latest, before July 4th recess. He plans to leave to join think tank as soon as new commissioners take their seats. He hasn't said which think tank. (2) Proposal for FCC action on News Corp.-Chris-Craft merger is expected to be circulated on 8th floor this week. Commissioners haven't voted on issue.

NCTA officials said they expected exhibit space and attendance to be down at least 10% at national cable convention in Chicago next month because of slowing economy. NCTA Pres. Robert Sachs said 248 exhibitors had bought space at this year's show so far, down 15% from last year's pace, as such major technical equipment suppliers as Cisco Systems and Nortel Networks had pulled out, Lucent Technologies has drastically cut back its booth and many dot-com firms have gone out of business. "They made the ultimate cutback," Sachs quipped, referring to disappearing dot-coms. NCTA officials said they expected attendance to be about 30,000, down from nearly 33,000 last year. But Sachs said programming networks had shown no signs of cutting back at national show, even though several major networks already had pulled out of Western Cable Show in Dec.

Financials: **Hearst-Argyle TV** profit climbed to \$20.3 million in quarter ended March 31 from \$4.6 million year ago, even though revenue dipped to \$148.3 million from \$169.9 million. Lower operating profit was offset by \$48.8 million gain on sale of stations... **Hispanic Bctg.** had \$3.6 million profit in quarter ended March 31, down from \$5.2 million last year, but revenue edged up 2.7% to \$47.8 million... **Charter Communications** posted much larger net loss of \$280.7 million in first quarter ended March 31, despite 14.4% jump in revenue to \$873.8 million. Charter said its pro forma operating cash flow rose 9.7% to \$387.9 million in quarter... **WorldGate Communications** said its net loss narrowed slightly in first quarter ended March 31 as its revenue more than doubled to \$4.1 million.

SMALL MSOs SEEK BROADBAND AID: Large group of small cable operators descended upon Congress last week, seeking to make sure various broadband deployment bills aid cable as much as telecom. Some 50 members of American Cable Assn. (ACA), which represents 900 smaller MSOs, spent time on Capitol Hill, hoping to sway lawmakers to put technology-neutral provisions into measures. They argued that without such help, legislators would favor phone companies over cable operators even though they said latter had done better job of extending broadband services to rural and poor areas.

ACA cited its latest membership survey in which 38 small MSOs said they already had started offering high-speed data service to 840,000 homes in 355 communities. That group and 36 other cable operators said they planned to extend service to another 880,000 homes in next 2 years. "ACA members are investing in infrastructure, transacting with unaffiliated ISPs and offering cable modem services to millions of smaller market consumers," group said.

Rep. Stupak (D-Mich.), member of House Commerce Committee, agreed that cable operators had done more than their phone rivals to wire rural and poor areas for broadband. In speech to ACA members, he opposed Tauzin-Dingell bill that would deregulate Bell provision of data service. "Why should we now give them [Bells] an unfair advantage over those who are already doing it?" he asked, to applause. While bill is "well-meaning," he said, "it's not going to do anything to help deployment" of broadband services. He questioned Bells' commitment to rolling out DSL to inner city and rural areas.

Stupak predicted Tauzin-Dingell bill would pass House but would die in Senate this year. In its wake, he said, he hopes to introduce revised version of his own broadband deployment incentives bill that failed to make it through his committee last year.

Paul Margie, senior counsel to Sen. Rockefeller (D-W.Va.), sought to rally support of ACA members for Rockefeller's broadband deployment bill, which would grant tax credits of 10% or 20% per year to companies that wired rural and underserved areas for high-speed access. In panel discussion, Margie said tax credit bill, now co-sponsored by 53 senators and 147 House members, was aimed to aid cable as much as telecom. "Our intention is to have it as technology-neutral as possible," he said.

Will Nordwind, counsel to House Telecom Subcommittee Chmn. Upton (R-Mich.), focused on DTV transition. While his boss hasn't reached any conclusions on spurring transition, Nordwind said, Upton is especially "anxious to understand" potential impact of broadcast industry's proposal to mandate digital tuners in most new TV sets. "He wants to understand the similarities to the UHF tuner debate" in early 1960s, Nordwind said.

Citing ACA's opposition to mandatory dual-carriage of analog and DTV signals, Nordwind said Upton "really understands the capacity issues that cable companies face" in trying to add more channels. "I think he feels those arguments have merit and we need to be very careful," he said. Nordwind said Upton planned to hold more hearings on DTV transition.

ACA members also lobbied Congress to consider jacking retransmission consent rules for smaller regions because of what they said was rules' "marketplace failure." They called on lawmakers to ensure that access to broadcast and other pro-

gramming "be on terms, rates and conditions that result in reasonable rates for consumers" in smaller and rural areas.

Following meeting last month on interference issues, satellite digital audio radio service (SDARS) licensees and Wireless Communications Services (WCS) operators don't appear any closer to agreeing on terrestrial repeaters. In ex parte filings at FCC, XM Radio and Sirius Satellite Radio proposed rules that would cap number of high-power repeaters that could be deployed without first coordinating with WCS licensees. WCS licensee AT&T Wireless (ATTW) offered counterproposal, saying SDARS plan still would cause interference to fixed wireless operations. XM said AT&T Wireless "recently disclosed that its concerns with terrestrial repeaters are based on its having designed the front end of its receivers to tune to the entire 2305-2360 MHz band, covering both the WCS and the DARS band, and that it has no filtering to eliminate DARS transmissions in the 2320-2345 MHz band." XM said it shouldn't have to bear costs of AT&T's "failure to adopt reasonable engineering practices." Sirius said WCS licensees should have used receivers with enough front-end selectivity to reject "the amount of interference that the rules already permit from nearby WCS operations." XM proposed rule that would: (1) Put no additional limits on low-power repeaters. (2) Define "medium-power" repeaters as operating between 2 and 10 kw. (3) Limit to 250 number high-power repeaters, operating at 10-40 kw, that XM would operate without coordination. AT&T said its interference analysis found: (1) If SDARS licensees operated terrestrial repeaters at levels of 10-13 kw each, "interference to the ATTWS fixed wireless base station would preclude the provision of service to more than 171,000 households in Atlanta alone." (2) If SDARS licensees operated repeaters at 40 kw, interference to base station would preclude AT&T fixed wireless service to almost 435,000 households there. (3) If high-power repeaters were replaced with multiple standard power repeaters operating at 2 kw, SDARS licensees could "achieve the same coverage for their own service but reduce the size of the exclusion zone in Atlanta" by 43.2%.

CEA kept up its campaign for FCC to take immediate action to create competitive retail market for digital cable set-top boxes. In its 2nd 6-month update to Commission on outstanding DTV-cable compatibility issues, CEA called on agency to force cable MSOs to "invest wholly in open standards for system upgrades," make MSOs "use the same technologies as those made available to competitive entrants" and curb "the anticonsumer and anticompetitive provisions" of cable industry's POD-Host Interface (PHI) license for copy protection technology. CEA group also urged Commission to ensure that cable industry "provides expeditious solutions to allow competitive products to access video-on-demand, pay-per-view and other advanced services." CEA, which must provide status reports on DTV-cable issues along with NCTA, complained that last 6 months "have seen too-slow progress on the standards needed to ensure compatibility between digital cable systems and digital television receivers." Despite technical agreements signed with NCTA in Feb. 2000, CEA charged that cable industry had dragged its heels in implementing standards and had shown "continued preference for proprietary technologies" that frustrated consumer choice.

FCC meeting May 10 will consider rulemaking on whether ban on cross-ownership of newspapers and TV should be eliminated or modified. FCC Comr. Furchtgott-Roth told reporters at media breakfast May 3 that he had "great skepticism about the value of cross-ownership rules, particularly those not statutorily based, and newspaper cross-ownership is not statutorily based."

CROSS-OWNERSHIP IS ISSUE IN CANADA: Canada's TV regulator was skeptical last week how country's media conglomerates could maintain editorial diversity in face of cross-media consolidation and convergence. At license renewal hearings for Canada's 2 private national TV networks, CTV and CanWest Global, Canadian Radio-TV & Telecom Commission (CRTC) asked conglomerates, which own TV networks, newspapers and Internet portals, to explain why bigger was better. Increased competition from U.S. border stations, new specialty channels and loss of viewers to Internet make it imperative that TV networks be part of larger companies, Global TV's Pres. Gerry Noble said.

But CRTC Vice Chmn. of Bcstg. Andree Wylie questioned how media giants could maintain editorial independence across their operations. Given "the potential negative impact on the diversity of voices, editorial independence and quality broadcast programming" from cross-media ownership, CRTC may need to impose safeguards, including code of conduct and complaints mechanism, Wylie said. Those measures would ensure "functional separation between editorial decision-making and management of the broadcasting and print media," she said.

Wylie suggested both companies consider following code of ethics adopted recently by Quebec print and TV conglomerate Quebecor Media. In that voluntary code, newspaper and TV reporters can't work in same building, communicate in person, by phone, fax or Internet, or share equipment, she said. In response, CTV volunteered code of ethics that would separate TV and newspaper decision-makers and board members but allow them to share reporters, researchers, administrators. "We have put forward what we believe are strong safeguards," CTV Pres.-COO Trina McQueen said. She said CRTC must not stretch its regulatory powers so far as to interfere with freedom of press.

CanWest would accept code of conduct imposing limited degree of separation between its print and TV operations, but strict code like one for Quebecor was "bordering on, if not, unconstitutional," CanWest Pres.-CEO Leonard Asper said. Moreover, Quebecor code isn't necessary in English Canada, where there are more media choices, he said.

It seemed foregone conclusion that commission would impose some conditions, Wylie said. Any conditions CRTC imposed on TV networks as part of their licensing regimes also would affect their print and Internet assets, Wylie said. With 7-year licensing terms, that regime will define dealings between CRTC and media industry for next decade, commissioners said.

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Withdrawal of Warner Bros. (WB) syndication arm from NATPE convention exhibit floor "has been totally blown out of proportion" by press, NATPE Pres. Bruce Johansen said May 4 following group's board meeting in L.A. He said WB withdrawal wasn't mentioned at meeting and several other Time Warner affiliated companies will show at NATPE 2002 in Las Vegas: "Not a single major studio has withdrawn" and exhibitors reserving for next Jan. are "on par" with this year's convention, Johansen said. Most of time at board meeting was spent on NATPE's international activities and "strategic initiatives," he said. NATPE is expected to renew for another 3 years its contract with Assn. of Local TV Stations (ALTV) to meet immediately ahead of NATPE — with one joint session of 2 groups. "It certainly does help" NATPE's attendance, Johansen said of arrangement with ALTV. Arrangement began in 1991, and under new pact NATPE will pay ALTV about \$150,000 annually.

Obituary

Edward Codel, 87, pioneer in representation of TV stations in sale of advertising, died April 21 in New Canaan, Conn., nursing home after long illness. He entered broadcasting after World War II as sales mgr. of WPAT(AM) Paterson, N.J. Shortly thereafter, he founded *FM Business* magazine, which was merged into *Sponsor* magazine in 1947, when Codel joined Katz Agency rep firm where he founded TV sales dept. He was only non-CEO to be pres. of Station Representative Assn. and in fact had turned down presidency of Katz to continue to concentrate on selling TV stations' time to national advertisers. He retired at 55 in 1968, which had been his announced goal, and lectured extensively at Syracuse U. During World War II, Codel was civilian with Office of War Information and became head of Radio Luxembourg after it was liberated by Allies during Battle of Bulge Christmastime 1944. He was brother of late Martin Codel, who founded *Television Digest* in 1945, which is published today by Warren Communications News. Son survives.

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TV affiliates aren't seeking FCC enforcement action against networks, Network Affiliated Stations Alliance (NASA) said in letter to FCC Chmn. Powell. As result, it said, NASA petition (TVD March 12 p1) shouldn't be treated as restricted proceeding because that would "deprive members of the public of the opportunity to comment" on it. "NASA did not seek to pursue... complaints against the networks or seek forfeitures," NASA lawyers said. "Its goal was, and remains, a stronger, fairer, healthier network/affiliate relationship." Affiliates want FCC to rule on questions such as whether terminating affiliate status upon station sale or requiring carriage of network programming violate FCC rules, they said. Letter said "procedural formalities" of enforcement process weren't needed and "would inject a punitive element."

FCC should reconsider its tentative decision that cable doesn't have to carry all channels multicast by DTV station, 15 members of Congress said in letter to Commission. Letter said must-carry decision would have disproportionate impact on Hispanic and smaller stations not affiliated with major networks: "These emerging network and independent broadcasters are vital to the diversity of programming and digital television." Letter also said Congress "may need additional time to fully contemplate the intent of the statute and consider input from the broadcast television and cable industries." It was signed by Reps. Baca (D-Cal.), Brown (D-Fla.), Deutsch (D-Fla.), Foley (R-Fla.), Frost (D-Tex.), Hilliard (D-Ala.), Hutchinson (R-Ark.), Meek (D-Fla.), Ortiz (D-Tex.), Reyes (D-Tex.), Ros-Lehtinen (R-Fla.), Serrano (D-N.Y.), Shaw (R-Fla.), Stearns (R-Fla.), Wexler (D-Fla.).

Blaming "sluggish economy," Radio Ad Bureau (RAB) reported local radio spot ad dollars were down 6% in March. While national spot was off 21% from same month last year, for Jan.-March 2001 combined local and national revenues were down 7%, local spot off 3%, national 20%, RAB said. However, said RAB Pres. Gary Fries, "local radio continues to be more stable relative to other media sectors... The nature of the radio business is so embedded in the local marketplace that it will sustain our medium through this slowdown in the economy."

Ex-FCC Chmn. William Kennard has joined Carlyle Group, private equity firm, as managing dir. of group's telecom and media practice. Kennard said job would give him opportunity to pursue his long-time goal of "expanding communications opportunities worldwide."

Personals

Changes at Paxson: **Argie Frudakis**, ex-Fox Family Channel, appointed regional dir.-cable distribution, West Div.; **Joel Genove**, ex-The Box Music Network, named regional dir.-cable distribution, Northeast Div... **Susan Tully**, ex-WCAU Philadelphia, joins KXAS-TV Ft. Worth-Dallas as news dir... Changes at Pearson TV N. America: **Brian Harris** resigns as CEO, replaced by **Tony Cohen**; **Catherine Mackay** adds title of deputy CEO; **David Lyle** named pres.-entertainment... **Al Blanke**, consultant, appointed news dir., KDKA-TV Pittsburgh.

Michael Cascio, ex-NBC News, appointed exec. vp-gen. mgr., Animal Planet... **Cinnamon Rogers**, ex-NTIA and staff of Sen. Boxer (D-Cal.), and **Cliff Riccio**, ex-House Commerce Committee staff, named NCTA legislative counsel and govt. relations mgr., respectively... Changes at Lifetime: **Victoria Gusciora**, ex-EMI Music, named vp-finance; **Christa Horan** promoted to vp-finance... **Kim Becker** advanced to vp-public relations, Bravo Networks... **Barry Frey**, ex-Space.com, named senior vp-managing dir., global ad sales, Hallmark Channel international edition... **Loiett Gore** advanced to dir.-mktg. and business development, Showtime Digital Media Group... **Craig Senia**, ex-Netstream Communications, appointed gen. mgr., Cox Business Services Central Coast.

Bonnie Hammer promoted to pres., Sci Fi Channel... Changes at Rainbow Ad Sales: **Brian Gault** advanced to exec. vp-operations; **Kimberly Norris** promoted to senior vp-ad sales, local division; **Robert Dahill**, ex-Focus One Media Group, named senior vp-ad sales, MuchMusic USA... **Kevin Kay** promoted to exec. vp-production, Nickelodeon and The National Network (TNN)... **Rich Cronin**, ex-Fox Family Channel, named pres.-CEO, Game Show Network.

Bryan Tramont, legal adviser to FCC Comr. Furchtgott-Roth, moves to Wireless Bureau May 14... **Tricia Kinch** becomes FCC Comr. Tristani's permanent confidential asst. after replacing **Yvonne Hughes** on interim basis... **Jim Spurlock**, AT&T dir.-federal govt. affairs, takes early retirement to teach and work on U.S. history dissertation at George Washington U.

Jim Plant, ex-Geocast, named exec. vp-business and strategic development, NewTek... **Dallas Clement**, Cox, elected to VSI Enterprises board... **Margaret Cutler**, ex-Motorola, named exec. vp-human resources, Chinook Communications... **John Cole**, ex-Motorola, appointed vp-gen. mgr., Tellabs Asia Pacific region... **Craig Thomson**, ex-Motorola, named vp-gen. mgr., SpeechWorks Europe, Middle East and Africa region... **Daniel Levi**, ex-MTV, joins YouthStream Media Networks as vp-gen. mgr., Out-of-Home Media Div... Changes at Kobalt Interactive: **Guy Pepper**, ex-NBC News, named CEO; **George Krieger**, ex-One-on-One Sports, becomes pres... **Carla Stratford**, ex-Backweb, appointed senior vp-N. American sales, RealNetworks... **Gene Fein**, ex-ABC In Concert, appointed pres., DotClick.

Speakers for upcoming lunches of Federal Communications Bar Assn. in Washington: May 11 — House Telecom Subcommittee Chmn. Upton (R-Mich.), Hyatt Hotel; June 21 — FCC Chmn. Powell, Capitol Hilton, during which Margaret Tobey of Morrison & Foerster is to succeed Anne Swanson of Dow, Lohnes & Albertson as FCBA pres.



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TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcast, Consumer Electronics and Allied Fields

(ISSN 0497-1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

This Newsletter is available electronically via Predicasts, Nexis. Dow Jones Interactive and Infonautics and also may be received via email.

Warren Communications News, Inc. is publisher of Audio Week, Cable & Station Coverage Atlas, Communications Daily, FCC Report, Local Competition Report, Long Distance Competition Report, Mobile Communications Report, Multimedia Wire, Public Broadcasting Report, Satellite Week, State Telephone Regulation Report, Telco Business Report, Television & Cable Action Update, Television and Cable Factbook, Television Digest with Consumer Electronics, Warren's Cable Regulation Monitor, Washington Telecom Newswire, Daily Document Service, and other special publications.

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White House formally sent nominations of 3 new FCC commissioners to Senate. As previously announced, appointees are: Kathleen Abernathy, who will fill Comr. Furchtgott-Roth's slot (5 years from last July 1); Kevin Martin, who takes former Chmn. William Kennard's position (5 years from this July 1); Mike Copps, who will take Comr. Ness's spot (5 years from July 1, 1999). Chmn. Powell was nominated 2 weeks ago for additional 5 years, beginning next July 1. Senate Commerce Committee could move quickly on all 4 nominations. Panel is looking at May 17 for hearing, spokeswoman told us.

Consumer Electronics

A Section of *Television Digest* with *Consumer Electronics*

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending April 20, and year to date:

	APR. 14 - APR. 20	2000 WEEK	% CHANGE	APR. 7- APR. 13	16 WEEKS 2001	16 WEEKS 2000	% CHANGE
TOTAL COLOR TV	371,011	499,543	- 25.7	314,551	7,396,357	7,821,750	- 5.4
DIRECT-VIEW**	355,593	481,303	- 26.1	305,511	7,107,535	7,472,500	- 4.9
TV ONLY#....	278,405	357,134	- 22.0	249,156	5,955,433	6,265,991	- 5.0
TV/VCR COMBO.	77,188	124,169	- 37.8	56,355	1,152,102	1,206,509	- 4.5
PROJECTION...	15,418	18,240	- 15.5	9,040	288,822	349,250	- 17.3
TOTAL VCR**....	308,369	523,065	- 41.0	227,674	5,243,922	6,761,747	- 0.2
HOME DECKS...	231,181	398,896	- 42.0	171,319	4,091,820	5,555,238	- 26.3
CAMCORDERS.....	92,202	87,787	+ 5.0	72,957	1,421,639*	1,386,272	+ 2.6
DVD PLAYERS....	98,502*	76,596	+ 28.6	101,595*	2,626,029*	1,351,460	+ 94.3

Direct-view TV 5-week moving average#: 2001-400,901; 2000-433,389 (down 7.5%).

Projection TV 5-week moving average: 2001-20,320; 2000-21,380 (down 5.1%).

VCR deck 5-week moving average: 2001-282,760; 2000-426,623 (down 33.7%).

TV/VCR 5-week moving average: 2001-84,677*; 2000-95,384 (down 11.2%).

Camcorder 5-week moving average: 2001-114,690*; 2000-112,298 (up 2.1%).

DVD player 5-week moving average: 2001-207,582*; 2000-83,581 (up 148.4%).

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

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

SDMI HACKERS BLINK BUT MAY GET LAST LAUGH — FORRESTER: Despite music industry's success in dissuading university researchers from revealing how they hacked watermarks developed for Secure Digital Music Initiative (SDMI), concerns over free speech and academic freedom will prompt federal court to declare anticircumvention clause of Digital Millennium Copyright Act (DMCA) unconstitutional — very clause that RIAA and SDMI invoked to deter publication of research.

That's conclusion of statement issued by Forrester Research before 2nd U.S. Appeals Court in N.Y. began hearing arguments last week in MPAA's attempt to use DMCA to quash dissemination of DeCSS program that decrypts DVD's Content Scrambling System. Eric Corley, publisher of *2600 Magazine* who was sued by MPAA last year for posting DeCSS code on Internet in 1999, is appealing permanent injunction against him by U.S. Dist. Court last Aug. Defendant and supporters contend DMCA clause that outlaws description of means to circumvent content encryption violates free speech rights under Constitution. Appeals Court has given parties until May 10 to submit final briefs.

Princeton U. scientist Edward Felten "makes an ideal DMCA martyr" because "defense can point to the practical chilling effect of the DMCA on academic free speech," Forrester report said. Felten was part of team that claimed success in SDMI's hacking challenge last fall. Effort wasn't recognized by SDMI because team declined to agree not to disclose its attack method. Under pressure from RIAA and SDMI, hackers backed down from scheduled April 26 presentation on how they defeated Verance and other watermarks developed for use in DVD-Audio and portable music players.

Presentation was to be given at International Information Hiding Workshop in Pittsburgh. But on April 9, SDMI sent Felten letter requesting he withhold details of hacks on basis that Verance watermark already was in use and others tested in challenge might be used. Letter from Matthew Oppenheim, SDMI secretary and RIAA senior vp-business and legal

affairs, said disclosure of hacks "could subject you and your research team to actions under the Digital Millennium Copyright Act." Letter asked that research paper be removed from materials distributed at workshop distribution and destroyed.

Cat already was out of bag, though: Document said to be preliminary draft of hackers' paper was posted on Internet (www.cryptome.org) along with SDMI's letter April 20 and could be found at mirror sites soon after. Similarly, DeCSS hack has been posted widely on Internet since Norwegian hackers released it in Sept. 1999. MPAA has identified some 500 postings on individual sites worldwide since then.

Although conflict between free-speech rights and DMCA remains unresolved, decision to withhold publication and presentation was because "litigation is costly, time-consuming and uncertain, regardless of the merits of the other side's case," Felten said before scheduled appearance at workshop. "Ultimately, we, the authors, reached a collective decision not to expose ourselves, our employers and the conference organizers to litigation." Workshop's organizers said Felten was free to present paper despite potential for legal action.

Oppenheim immediately issued statement claiming SDMI "does not — nor did it ever — intend to bring any legal action" against academic researchers and that RIAA "strongly believes in academic freedom and freedom of speech." Oppenheim said group sent letter to Felten because it felt obligation to watermark licensees who had submitted "their valuable inventions" for SDMI Challenge. He said "we have encouraged Professor Felten and the technology companies to resolve this matter. We leave it in their hands to do so." Statement referred any questions to Verance.

Question buzzing around academic and technology communities for SDMI and Verance at workshop was why defeated technologies were being used at all, and how they expected to keep lid on hack that already was being disseminated. April 9 letter from Oppenheim said group appreciated that Felten's contemplated disclosure seemed motivated by desire to "ensure that SDMI does not deploy a flawed system."

Besides predicting Appeals Court would strike down DMCA clause, Forrester contended Congress wouldn't intervene when content owners petitioned for watertight controls over copy protection circumvention and conditional access to digital media. Copyright Office was to give Congress report May 1 on impact of DMCA's anticircumvention provisions, but said it would be delayed week or 2.

Whatever outcome of DMCA battle, movie studios will win in marketplace anyway, Forrester said. Research firm said cable-based video-on-demand would overcome any appeal for pirated movies on Internet.

SATELLITE INDUSTRY AWAITS NEWS CORP.-HUGHES DECISION: Proposed merger of Hughes Electronics and News Corp. has set off scramble within satellite industry as EchoStar weighed entering fray and Pegasus braced for possible change in relationship with DirecTV.

Hughes officials have declined comment since parent General Motors board last week authorized continuing negotiations with News Corp. Discussions are expected to continue for several weeks, leaving EchoStar time to mount possible counteroffer. GM has wanted deal to be tax-free and Hughes CEO Michael Smith has bristled at ceding day-to-day management of Hughes to News Corp.

News Corp. is said to have sweetened its bid by scaling back its ownership share in merged company to 30% from 35% it had proposed. It also pulled some proposed assets off table, including Italian pay-TV service Stream. Under proposal being discussed, GM would get \$7.2 billion in cash — less than \$8 billion it had originally sought — and notes by redeeming majority of its 30% interest. How much of stake GM will redeem will depend on how Hughes stock trades. GM wants to keep small stake in company, which is expected to have market capitalization of \$50 billion. Deal would give News Corp. access to one of Hughes' most valuable assets in DirecTV, which has 9.8 million subscribers to U.S. satellite service and 1.4 million to similar operation in Latin America. News Corp. has no satellite presence in U.S. despite attempts to launch own American Sky Bctsg. (AskyB) service and later combine business with EchoStar. It operates Sky Latin America.

Microsoft and Liberty Media are expected to add \$3 billion and \$1 billion in cash, respectively. Remaining \$3.2 billion that GM would get would come from Hughes. Microsoft and Liberty investments would give them 10% of combined entity. Microsoft officials declined comment and GM spokeswoman said that while discussions with News Corp. didn't represent "exclusive negotiating arrangement, it is certainly where we are going to focus our attention."

Industry observers said, however, that intensified negotiations between Hughes and News Corp. could force EchoStar to enter fray. EchoStar indicated in quarterly report filed with SEC that DirecTV had rejected its overtures to

GM to merge with all or parts of Hughes. In separate FCC filing, EchoStar said existing DBS spectrum was too constrained to compete with cable and that consolidation would level playing field.

"EchoStar is capable of making an offer, but that offer would be to General Motors shareholders and I can't predict how they would vote," EchoStar CEO Charles Ergen told analysts in conference call. While GM board's decision "clearly puts News Corp. in the driver's seat," shareholder value is best served by "some combination [of DirecTV] with EchoStar," he said.

If EchoStar makes bid for Hughes, it probably will encounter questions from FCC as to whether merger would limit competition in rural markets, Ergen said. Most rural areas don't have digital cable, chief competitor to satellite in most metro regions of U.S.

EchoStar has history of acting as spoiler. After proposed merger with News Corp.'s ASkyB collapsed in 1997, it filed breach of contract suit. It later fought against News Corp.'s proposed merger of ASkyB assets with Primestar, which also collapsed before latter was acquired by Hughes.

Potential deal with News Corp. could spend spell end for process that began last summer when GM decided to spin off Hughes. Smith was charged with rounding up bids for Hughes and approached 18 companies, *Wall St. Journal* reported last week. But most of those approached were willing to discuss only minority stakes and few were interested in GM's desire for tax-free reverse merger, *Journal* said. GM later took over search for Hughes suitor and in Feb. reached handshake agreement with News Corp. that would have created publicly traded company owned 64% or 65% by Hughes shareholders.

Possible merger with News Corp. probably would change Hughes's strategy "very significantly" as it became part of global company with worldwide satellite assets, said Pegasus CEO Marshall Pagon, whose company sells DirecTV service in rural regions of U.S. Pegasus has been "positioning itself" for last 3 years for possible spinoff of Hughes, Pagon said.

"It's been fairly obvious that the current ownership of Hughes was unstable and likely to change at some point," Pagon said. "If we were not preparing ourselves for change and the opportunities that those might present we wouldn't be responsible to our shareholders. If there is change, it will happen very rapidly in many different respects. For the satellite business as a whole it's a very good thing because you'll have a company that has a totally different focus that is global and on media. News Corp. is fairly relentless in how it drives the business."

Meanwhile, Pegasus is said to have reached distribution agreement with Tweeter Home Entertainment for its Pegasus Express Internet access service that's based on Hughes Network Systems' DirecPC platform. Pegasus has shipped limited number of DirecPC receivers to Tweeter's HiFi Buys stores in Atlanta area and also has signed on as subsponsor at some of concert venues where retailer has naming rights, sources said. Pagon delined comment.

Since launching DirecPC service in mid-April, Pegasus has gained "slightly less than" 1,000 subscribers, 90% of them in areas outside regions in which it sells DirecTV service, Pagon said. Earthlink entered DirecPC derby last week in introducing service of East Coast expert with goal of rolling out nationally by month's end. DirecPC receiver and installation are priced at \$649 and \$250 respectively, while service carries \$69.95 has fee that includes 6 e-mail addresses and 20 hours of free dial-up roaming at over 7,500 local phone numbers. Earthlink, which tested service earlier this year near hq in Atlanta and in Cal., also sells DSL and cable modem services. Still on hold is Juno, which is expected to introduce DirecPC service by midsummer behind target of first quarter. DirecPC currently has 61,000 subscribers, 20,000 of which were transferred from former one-way service, company officials said.

Also taking aim at consumer market will be Hughes's Spaceway project 3 Ka-band spotbeam satellites that are scheduled for flight in late 2002, HNS Pres. Pradman Kaul said. Goal is to transfer DirecPC service to Spaceway by 2003, he said. Each satellite will be capable of delivering data at uplink speeds ranging from 512 kbps to 2 Mbps and downloads at 440 Mbps, Kaul said. Spaceway service will target small businesses and home offices during day and switch to consumer market in evening, he said. Service is likely to be sold in packages starting at 512 kbps and increasing in increments to 2 Mbps, he said. Pricing will be competitive with DSL and cable modem services that currently carry \$40-\$50 monthly fee, Kaul said.

SES Astra also may make push into Interet access market in U.S. via 17% stake in Starband it's expected to inherit as part of proposed acquisition of GE Americom, SES Americas Exec. Rep. Dean Olmstead said. EchoStar halted sales of Starband, which is partly owned by Gilat Satellite Networks, in March after running into cross-polarization problems during installations. EchoStar resumed shipments of Starband in late April, Ergen said. SES is reviewing Starband business with eye toward possibly increasing financial stake and/or converting it to Astra Net software platform, Olmstead said. SES's proposed purchase of GE Americom is expected to close in Oct., he said.

"The cross-polarization issues that tripped up Starband are issues that the industry has to essentially eliminate," Pagon said. "So we're being a little deliberate in the initial 60-90 days of launch."

BOSE ADDS INTERNET RADIO: PC becomes "peripheral" of tabletop clock-radio that Bose will sell this week, using company's proprietary software that lets PC tune Internet radio stations and leverages PC's memory, modem, CD and hard disc drives to assemble interactive audio system with comprehensive music archive and on-screen menus.

New Wave/PC radio (\$449) can tune 700 Internet stations worldwide out-of-box in Real Audio format, using vTuner service downloaded from Bose server. Actual selection available from vTuner is 2,500 to 3,000 stations but Bose preselected 700 based on signal reliability, sound quality and other criteria, said Rob Brown, Bose mgr.-integrated systems mktg. Bose will increase station choices on servers over time, and meanwhile user can add other stations to playlist, he said.

Internet stations can be selected by genre, country, keyword search and other parameters, then stored in memory presets. User doesn't have to know station URLs as Bose software and server automate them, Brown said. Access to selection of Web radio stations Bose provides from vTuner comes at no cost to consumer; Bose pays fee to vTuner under nonexclusive contract, Brown said. Meanwhile, Bose is developing transactional software for paid-subscription Webcasts such as to Major League Baseball broadcasts from out of town, Brown told us. This and other upgrades can be downloaded to system to avoid obsolescence, he said.

Wave/PC radio also tunes local terrestrial AM/FM stations. User simply enters zip-code and server displays all available stations along with descriptive information that includes signal strength. Credit-card remote control operates all Wave/PC functions — displays need not be on-screen and audio system can operate even while PC is used for other tasks. System even obviates need to fiddle with PC's sound card, such as for volume settings. Connection to PC is by 15 ft. serial cable. System works with broadband or dial-up modem.

CD and MP3 functions of Wave/PC are many and flexible. Remote control can activate PC's ROM drive to play Red Book music CDs or MP3-encoded discs. System also can access music stored on PC's hard disc. It even automates CD recording to hard disc, either as compressed or uncompressed (WAV) files. Compression formats supported include MP2 and MP3 (MPEG-1 Layers 2 and 3 — latter has greater compression), AAC (Advanced Audio Coder) and WMA (Windows Media Audio). Others could be added by download as necessary, Brown said.

Yet another downloadable feature is access to CDDA (Compact Disc Data Base) — Internet service that supplies information on individual CD content such as artist names and track titles. User simply inserts CD and connects to Website, where CDDA analyzes disc and downloads information to hard drive for future reference. Function is performed in background, enabling user to listen to music while CDDA furnishes information. Service identifies CDs by analyzing lengths of individual tracks, so it's possible user will be offered information on multiple CDs for download, especially in case of CD singles.

By harnessing PC, Wave/PC can create customized playlists of thousands of tracks by song, artist, genre, other criteria, Brown said. Wave/PC has same styling and cosmetics (white or gray) as current AM/FM Wave (\$349) and CD-equipped model (\$499). It becomes available May 10 through Bose-owned stores, Bose Website (www.wavepc.bose.com) or mail order (800-444-BOSE).

MARION WORKERS CLEAR CONTRACT: Unionized workers at Thomson's Marion, Ind., TV tube plant have approved new 3-year contract that guarantees work won't be outsourced to 3rd party for length of agreement.

Contract, which will increase hourly wages 10.5% over 3 years — 4% in first year and 3.5% in each of next 2 years — also requires that some work previously farmed out to 3rd parties be returned to factory. Workers, who had rejected earlier draft over concerns about job assignments (TVD April 23 p9) approved pact on 1,085-430 vote. Factory, which produces 20"-38W tubes, has 2,000 employees.

New contract better defines what jobs workers can perform and increases amount Thomson matches for 401K plan to 3% of employee's contribution from 2% and boosts incentives for perfect attendance to \$200 per quarter. Contract also has incentive for employees eligible for pension to retire early.

"With this economy, there is no way to go on strike," Nathan Johnson, one of 961 members of IBEW Local 1160 that rejected original contract in April, told *Marion Chronicle-Tribune*. "Keeping our jobs, that's the main importance here." Thomson spokesman declined to disclose details of new contract, but said company was "delighted" that union had approved what he described as "fair and equitable settlement."

Workers at Marion plant remembered that Thomson had closed Bloomington, Ind., TV assembly plant in 1998 and moved production to Mexico. It's also gearing up to open tube factory in Mexicali in July that will start with 32", size previously handled at Marion. Workers at Thomson facilities in Circleville, O., Lancaster, Pa., and Indianapolis earlier accepted contract to replace one that expired April 1.

New contract also was critical for Thomson, which is in midst of corporate-wide cost-cutting effort that includes hiring freeze and layoffs in some business units. It has attributed belt tightening to plunge in prices of analog direct-view TVs that eventually will be replaced by DTV versions.

Philips will shrink portable MP3-capable CD player by issuing model in fall that uses 8-cm (3.14") CD instead of conventional 12-cm (4.72") disc. New eXpium EXP-401 weighs less than 8 oz., including single AA alkaline battery, company said last week. It yields 3 or more hours of compressed-music from 8 cm CD with 200 MB capacity, and supports compression from 32 to 320 kbps depending on desired codec — including variable bit-rate, Philips said. To prevent disc-skipping when player is subject to vibration, such as when users jog or exercise, portable has data-buffer rated at 100 sec. of MP-3 file compressed at 128 kbps "CD quality" sound. Interesting kicker to Philips announcement was disclaimer on copyright law. "Unauthorized duplication and distribution of Internet/CD recordings is a violation of copyright law," company said. It said use of product might require authorization from copyright holders in "certain countries, including the United Kingdom and certain Commonwealth countries." Home copying of music recordings is illegal under U.K.'s 1988 Copyright, Design and Patents Act, although enforcement is unfeasible and therefore nonexistent. So, music copying in U.K. is considered "privilege" by default, but not legal right.

Video Display Corp. signed credit agreement last week with SouthTrust Bank that nearly doubles line to \$10 million from \$5.5 million.

JVC REDESIGNS WEB SITE: JVC Co. of America announced last week it had redesigned consumer products area of its Web site, www.jvc.com. It also revealed that it had authorized at least 9 online retailers to sell JVC products as of last week.

Web site now offers more easy-to-use interface and control system and company said site now immediately shows new products that have been added to line. JVC said redesign was in conjunction with Purple Crayons Interactive.

Video Community area of Web site clearly was designed to put spotlight on JVC's digital video products. It now offers users ability to create and broadcast video over Web and add variety of special effects to digital images. Game center also allows user to add images of family and friends to 5 games.

Meanwhile, spokeswoman told us JVC recently finalized e-commerce policy, but details were unclear at our Fri. deadline. She also said list of JVC authorized retailers was added recently to site's dealer locator section. That list, as of last week, had only 7 online retailers: Abt Electronics, Crutchfield, 800.com, Goodguys.com, J&R Music World, One Call, Vann's.

Glaringly absent from authorized retailer list at JVC.com as of Fri. were BestBuy.com and CircuitCity.com, despite fact that both also were authorized to sell JVC products. Explaining why 2 sites hadn't been added, spokeswoman told us: "Part of what we request — part of the authorization [process] — is that we ask that [retailers] develop a page so that when we link to them it goes right to the JVC page and [BestBuy.com and CircuitCity.com are] still in the process of putting that together. But they are authorized."

Spokeswoman for Best Buy and its online division didn't return call for comment. Circuit City spokesman told us his company "really doesn't talk about our contractual and negotiating status."

Among questions left unclear last week was whether JVC had authorized those 9 online dealers for full lines of its products or just select items. JVC spokeswoman told us she wasn't aware of mobile electronics' specifically being excluded from online dealer authorization agreements. But majority of manufacturers we have talked with in last year are hesitant to allow many online retailers to sell their mobile products. That, in large part, is because of importance of installation in 12 volt arena and e-tailer's need to have configurator of some sort to allow consumer to figure out what products are designed for their particular vehicles.

JVC Pres.-CEO Katsuhiko Hattori told us last year that when company did finalize e-commerce policy, JVC, at least at start, would select only brick-and-mortar dealers with Web presence as opposed to pure plays such as Amazon.com (TVD Feb 21/00 p10). With exceptions of Crutchfield, 800.com and One Call, JVC authorized dealers to date have met that criterion.

It was unclear whether JVC had authorized Amazon. At CES, Amazon Electronics Product Mgr. Richard Chin told us company was continuing to talk with JVC to sign authorized dealer agreement (TVD Jan 15 p19).

JVC spokeswoman also told us last year that when company finalized e-commerce policy and communicated terms to retailers it would consider taking legal action against dealers who violated policy. It wasn't known Fri. whether JVC had opted to take that route.

Only products that JVC currently is selling direct to consumers via JVC.com are accessories. In keeping with what JVC said last year, spokeswoman told us last week: "At this point, there is no plan [to sell other products direct to consumers]. It's sort of on the back burner."

Brick-and-mortar dealer locator at redesigned JVC site is same as previous one, which spokeswoman said received "constant update." Like other online manufacturer dealer locators we have seen, however, there still are at least certain dealer locations that fall through cracks at JVC.com. For example, locator last week didn't include Best Buy store that opened on Staten Island in N.Y.C. last year. That particular exclusion probably was made on Best Buy's end, JVC spokeswoman said: "We get the information from the dealers, but the updates are done by us."

Thomson's bid to become "true multimedia company" begins next month when parent of RCA introduces broad PC-accessories line co-branded with Hewlett-Packard (H-P). Global marketing alliance expands to Canada and Latin America in fall, Europe early next year and Asia-Pacific region later, partners said. Although first of 18 products at start will be variety of surge suppressors, major push will be for SystemLink home networking modules that use household's AC power line and outlets to connect PCs and peripherals. Flagship product, developed by Thomson affiliate Inari, will cost \$249 for 2-node connection, \$129 for additional nodes, but companies said price was likely to drop quickly. It has serial and USB connections to PCs, ships data at 2 Mbps rate that's faster than Internet, and signal is encrypted so data can't be read by other 6 to 8 households that typically share single curbside power transformer. System also is immune to AC power line noise as it transmits data in small compressed packets with redundancy, partners said. It was tested in 12,500 homes and developed no problems, including in homes with aluminum wiring that's potential fire hazard when overloaded, they said. Testing for SystemLink continues in Europe, which has higher wattage AC (220-240v) than U.S. (110-120v) and wider variety of plug and outlet types. Ditto for power line telephone modem adapters that H-P/RCA will offer. They use AC wiring to connect PC's modem to phone line in installations where phone jack isn't located conveniently. Thomson said it had sold 4 million of first-generation model to date since Oct. 1994 U.S. introduction of DirecTV satellite receivers, which require modem connection not often found near typical home's living room AV entertainment center. As for A/V applications for SystemLink, companies said current 2 Mbps transfer rate wasn't fast enough for digital video but they were working on upgrades to link DVD and other digital video sources to TV sets around home. Meanwhile, data rate can support online videogaming through PCs, they said. Next brace of co-branded accessories will include UPS (uninterruptible power supply) battery-backup for PCs. PC accessories present huge opportunity for Thomson, company said. It has top share in \$1 billion AV accessories market; PC accessories market is \$3 billion. Thomson factories in Asia and elsewhere give partnership ability to maintain "98% in-stock" service that retailers demand, partners said. Margin-rich accessories are key profit center for dealers, whose accessory sales increase 18%-42% when RCA brand is stocked, while H-P marque "gives instant credibility" among PC consumers and retailers, they said. Thomson might offer color printer with H-P to support its RCA Ultimate TV receiver, digital cameras and camcorders. First retailers for co-branded line will be CompUSA and Fry's Electronics. CE chains are eligible and will be identified later.

VWM REVENUES TO START IN 2002: Royalty revenues flowing from combined DVD-Video watermarking technologies will be in "limited" amounts in 2002 but will begin "ramp-up" following year, said William Krepick, pres.-COO of Macrovision, which will be exclusive worldwide licensing agent for VWM Group.

VWM Group, created in late April to combine watermarking efforts of Galaxy (Hitachi, NEC, Pioneer and Sony) and Millennium (Digimarc, Macrovision and Philips) groups, is expected to submit proposal to DVD Copy Control Assn. (DVD CCA) by June, Krepick said. Proposal then will be reviewed by 3rd parties, and DVD CCA is expected to make decision by Sept., he told analysts in conference call on Macrovision's first quarter earnings.

Video watermarking technology is regarded as essential in preventing unauthorized digital-to-digital and analog-to-digital copying and providing recording and playback control for next-generation digital recorders and playbacks. Macrovision is to be responsible for VWM's marketing, licensing, technical support, certification and license enforcement programs.

VWM has established tentative royalty structure, but Krepick declined to disclose details including whether it was more than 6¢ per disc that Macrovision currently receives for adding copy protection to DVDs. He also declined to comment on whether payments would be made to consortium. Revenues will come largely from semiconductor manufacturers at outset and will be in small amounts as studios slowly gear up to implement technology, Krepick said.

"We certainly aren't expecting anything in 2001 and there will be a limited amount in 2002," he said. "But the strategic importance of this deal is that we're kept in front of the studios."

Meanwhile, one major record label is nearing completion of internal test of Macrovision's SafeAudio copy protection for audio CDs while another readies replication of "tens of thousands" of discs containing technology for testing purposes, Krepick said. Results of internal test are expected within 30 days, at which point field trial will begin, he said. Macrovision also has signed on 2 independent labels to test technology. Macrovision in March said major record label had completed beta test of its SafeAudio Toolkit (TVD March 5 p9). Macrovision jointly developed SafeAudio with TTR Technologies as elaboration of AudioLok Red system created by C-Dilla, British think-tank that copy protection company acquired in 1999.

Overall, Macrovision reversed year-earlier \$2.9 million loss to post \$3.6 million profit, largely on strength of DVD and its GLOBEtroter electronic licensing software unit. Revenue rose 43% to \$23 million from \$16.2 million.

Revenue from video copy protection soared 49% to \$14.6 million from \$9.8 million, and DVD increased to \$7.6 million from \$3.6 million, offsetting 17% drop in videocassette revenue to \$2.9 million from \$3.5 million. Digital pay-per-view (PPV) jumped 54% to \$4.1 million from \$2.6 million, with large part of that generated by set-top box royalties. In quarter, U.K. digital terrestrial TV provider ONdigital licensed PPV copy protection.

GLOBEtroter Div. revenue gained 54% to \$5.3 million from \$3.4 million, making up for 2% decrease in SafeDisc business to \$2 million from \$2.4 million. SafeDisc, which provides

copy protection for CD-ROM software, suffered from "softness" in PC game business. Videogame console market "continues to eat into the open PC software" and is likely to be "challenging" for next several quarters, Krepick said. Turn-around could occur as sales of blank CD-R discs rise to 5.3 billion units worldwide this year from 3.5 billion in 2000, increasing likelihood that PC games will be copied. "SafeDisc copy protection will continue to grow over time," he said.

Meanwhile, JVC reduced stake in Macrovision to less than 5%, it said in proxy filed with SEC. JVC had owned 3.1 million shares, 7.8% of those outstanding. Macrovision Chief Technology Officer Matthew Christiano, whose GLOBEtroter company Macrovision purchased last year, is top stockholder with 6.8 million shares (13.7%) followed by Kopp Investment Advisors, 3.4 million (6.8%, down from 9% year ago); Putnam Investments, 3.2 million (6.5%) and TCW Group, 2.7 million (5.5%). Chmn.-CEO John Ryan received \$225,000 salary in 2000, same as previous year, but added \$131,931 bonus, while Krepick received \$250,000 and \$105,000 bonus, up from \$245,833 and \$94,100. He also was granted options for 66,000 shares.

NVidia must return up to half of \$200 million advanced by Microsoft if agreement is terminated before full repayment is made, graphics chip developer said in annual 10K. Rest is converted into nVidia preferred stock at 30% premium to 30-day trading average price of common at time pact ends. Microsoft advanced nVidia money last spring (TVD April 24/00 p18) to fund development of graphics chipset for X-box videogame system due this fall. NVidia media processor for X-box was released to Taiwan Semiconductor Mfg. Co. (TSMC) in Feb. for prototype fabrication. TSMC is building media processor using 0.15-micron technology that's similar to one used with nVidia's GeForce3 chip for desktop PCs. Microsoft agreement is key to nVidia's broadening its business, which has focused largely on PC market. Edom Technology, nVidia's Asian stocking rep, accounted for 25% of company's \$735.3 million in revenue in fiscal 2001, following by contract manufacturer Celestica (11%). Missing from roster of customers that represented more than 10% of sales were Creative Technologies, which accounted for 17% of \$374.5 million in revenue in fiscal 2000, followed by Edom and Diamond Multimedia (15%) and ASUStek (10%). Meanwhile, superior court judge in Canada is expected to issue decision within 2 months in suit Graphiques Matrox filed in Feb. 2000 accusing nVidia of "improperly" soliciting its employees and encouraging them to break confidentiality agreements. Case was subject of trial in April. Nvidia has countersuit pending in U.S. Dist. Court, San Jose, alleging that Matrox's efforts to "prevent" employees from pursuing new job opportunities represented unfair competition. NVidia also completed \$70 million acquisition of former rival 3dfx's assets in April, ending patent infringement suit that latter filed against company in Sept. 1998.

Rentrak sold 300,000 shares in partly owned Rentrak Japan to So-Tsu Co. for \$4 million. Agreement gives distributor right to sell its remaining 180,000 shares (3% of those outstanding) in Rentrak Japan to So-Tsu for \$2.4 million. So-Tsu also received right to buy 1% stake in Rentrak's 3PF.com, distributor for online retailers including Outpost.com. In separate agreement, Rentrak repurchased 390,000 shares of Rentrak Japan from Culture Convenience Club (CCC) for \$1.5 million, part of which is being sold to So-Tsu. Restructuring of Rentrak Japan is most recent action taken since Rentrak's new management took over last fall following proxy battle that ousted founder Ronald Berger (TVD Sept 25 p19).

WIZ TO OPEN 43RD STORE: The Wiz will open its 43rd store this fall in Manalapan, N.J., spokeswoman for Cablevision's N.Y. metro area CE retail subsidiary told us Fri.

Location will be 3rd stressing new "residential" store look that Wiz developed after former Fortunoff CEO Norman Goldberg became COO last July, spokeswoman said.

As part of remodeling, company is toning down dark, neon store signs that Wiz has used in favor of lighter colors. It also is seeking to continue increasing presence of Cablevision properties at stores, she told us.

First store to feature new design was 42nd location, which opened in Plainview, L.I., in Nov. It was followed by Milltown, N.J., outlet that opened April 5, she said, although that was replacement for E. Brunswick, N.J., store.

Although spokeswoman said company had no plans for any additional new stores through year-end, she said it planned to remodel 4 other locations by 2002. Those stores will include one in Kings Plaza, Brooklyn, with remaining ones all on L.I. — in Carle Place, Huntington and Massapequa. Company wants to move last store to nearby site outside of mall where it's located now, she said. As result, new store design — which Wiz said it already has "gotten really good feedback on" — will be in place at total of 7 locations by year-end, she said. Company isn't planning any store closings this year, she said.

The Wiz earlier renovated store at 46th St. and 5th Ave. in Manhattan with format designed to sharpen chain's focus on digital CE technologies and services offered by parent Cablevision (TVD March 22/99 p16).

Company later opened new format stores in Bayshore, L.I., and Scarsdale, N.Y., that Wiz said were designed to provide "hands-on experience" for home theater, car audio and other categories (TVD Jan 31/00 p15). That format change was designed for Wiz's then-existing base of 30,000-40,000 sq.-ft. outlets as well as larger stores. But spokeswoman told us last week that Wiz had decided to jettison plans to expand that new look to additional stores in favor of new residential concept after Goldberg came aboard.

On e-commerce front, spokeswoman said company opened www.thewiz.com Web site last fall in time for holiday season, where it sells hand-picked selection of about 100 rotating products direct to consumers: "We are currently looking at ways to build up the site a little more," saying Wiz was using information it gathered from experience — which currently is functioning essentially as "test" — to help make decision on what to do in future on e-commerce front. All products sold at site have been authorized for Web sales by manufacturers, spokeswoman said.

Kingfisher reassured investors Fri. that separation of general merchandise businesses from its do-it-yourself (DIY) and CE operations was on target to be completed by Aug. Kingfisher, which has seen its stock fall 25% in last 12 months, said it would provide further details on planned demerger at annual meeting May 23. Under plan, Kingfisher CEO Geoff Mulcahy will continue to head U.K. DIY chain B&Q and CE units Comet and Darty, while new boss is to be found for demerged unit that will include Woolworths and health and beauty retailer Superdrug. Kingfisher was said to have had offers for entire general merchandise business, but that none was acceptable.

INTERPLAY GETS \$5 MILLION ADVANCE: Microsoft agreed to provide Interplay Entertainment with "advance payment" of \$5 million for publishing exclusive version of game *The Matrix*, based on film of same name, for upcoming Xbox console.

Terms of arrangement were outlined in annual 10K filing by Interplay last week. Filing said that if Interplay didn't pay full amount back to Microsoft by June 30, 2003, Interplay must pay rest by July 15, 2003, "plus accrued interest at the prime lending rate plus 1%."

Xbox version of *The Matrix* will be different in various ways from versions of title for any competing game systems. For one thing, Xbox version will be only one to include online gaming capabilities and Interplay has agreed to spend at least \$500,000 on development of online content, features and functionality for game.

Game maker also agreed to ship title in each country it is licensed for "no later than its release of the PlayStation 2 version" of game in that country and "in no event later than 3 months following the commercial theater release of the *Matrix 2* motion picture in that country."

Interplay agreed "that for a period of 6 months after the first commercial release of *Matrix*, [it] shall not release in any territory any interactive entertainment software product based on or related to *Matrix* and/or *The Matrix* or *Matrix 2* motion pictures (or further sequels to or derivative works thereof) as for any platform now known or hereafter developed, unless such product is an add-on or sequel to *Matrix* for the Xbox platform and approved pursuant to the terms of the publisher agreement."

Interplay included extensive terms of Microsoft's standard Xbox Publisher License Agreement. *Matrix* deal is part of Supplementary Agreement.

Interplay wasn't alone in unveiling specifics of Xbox relationship with Microsoft in SEC filing in last couple of weeks. NVidia in its 10K gave details of its deal to develop graphics chipset for console (see separate report, this issue).

Game industry generated 220,000 jobs and almost \$9 billion in wages and personal income tax revenue in 2000, said economic impact study commissioned by Interactive Digital Software Assn. (IDSA). Report, *Economic Impacts of the Demand for Computer and Video Games*, also said industry generated additional \$10.5 billion in economic activity from sale of computer and videogame software and related game hardware. It said game software sales grew at 14.9% rate, which IDSA said was "more than double the rate of growth of the U.S. economy as a whole and far outpacing sales growth in related industries." Report showed game software publishing industry devoted 14% of its receipts to R&D, in comparison with other entertainment industries that devoted only 9-12%. Commenting on report last week, IDSA Pres. Douglas Lowenstein said: "This new study clearly dramatizes the growing importance of the videogame industry in America's high-tech sector. With the introduction of new advanced game machines, surging demand for videogame software and an expanding base of dedicated and casual game players, it's clear that the industry will be a major force in the American economy for years to come." IDSA said study was written by Robert Damuth of Nathan Assoc., who based most of report on U.S. census and other publicly available economic data.

LOSSES CONTINUE FOR MIDWAY: Midway Games last week again reported reduced revenue and increased loss that it blamed primarily on its platform transition strategy.

As part of that strategy, Midway vastly cut down on number of titles it shipped for legacy game systems in its 3rd quarter ended March 31 to concentrate on product it will be providing for next-generation systems. In fact, Midway shipped only one new home videogame in quarter — *NBA Hoopz*. It also has continued to shift its resources away from coin-operated side of its business to next-generation home systems.

Midway said worsened to \$25.85 million (-69¢ per share) for quarter from \$11.48 million (-30¢) in same period year ago as revenue fell to \$23.72 million from \$54.95 million. Of that revenue, \$12.14 million came from home segment of its business and \$11.59 million from coin-op. That compared with \$26.90 million for home and \$28.04 million for coin-op year ago.

Past quarter's results included \$3.64 million restructuring charge related to its shift away from coin-op business, Midway said. It cut 60 jobs as result of that shift. Its coin-op business now is focused mostly on its Midway Tournament Network, still in tests, and its countertop touch-screen systems.

Midway said it decided to change its fiscal year-end to Dec. 31 from June 30. In conference call with analysts last week, Midway CEO Neil Nicastro said company decided to make change because "the calendar year more closely coincides with the natural business cycle of the retail-focused home videogame industry." Midway said it originally picked June 30 date of nature of coin-op business.

Results for past quarter "were in line with our expectations," Nicastro said. He called results "short-term consequence of our platform transition strategy. We've swallowed such short-term bitter medicine to create a healthier future." New product development is "moving along on schedule," he said: "As we approach the end of this transition period, it's clear that we made the right decision." For one thing, he said, demand for legacy system games continued to decline "rapidly" in past quarter.

Midway said its release plans for current quarter included *C.A.R.T. Fury* and *Gauntlet Dark Legacy* for PlayStation 2 (PS2) and *Ready 2 Rumble Boxing: Round 2* for Game Boy Advance (GBA). *Gauntlet* started shipping last week. *Rumble* will ship in time for GBA's debut June 11 in N. America, it said. Company will follow those with *NHL Hitz 20-02* and *Spy Hunter* for PS2 in quarter ending Sept. 30. Nicastro described latter as redesigned version of popular arcade game of same name.

Company plans at least one title for each of 4 major next-generation platforms in quarter ending Dec. 31. At that point, it said it would have versions of *Arctic Thunder*, *NFL Blitz 20-02* and *NHL Hitz 20-02* ready for Xbox bow. It also plans to ship its first 2 titles for GameCube — versions of *NFL Blitz 20-02* (expected to be ready at that game system's start) and *NHL Hitz 20-02*. For PS2, company plans to ship *Legion: Legend of Excalibur* and versions of *Arctic Thunder* and *NFL Blitz 20-02*. Version of latter also will ship for GBA in quarter, Midway said.

Midway's release schedule, Nicastro said, "will result in a more vibrant future" for company. He said it planned to ship "over 31" titles in 2002, although "at least 14" of them will be individual games. Difference between 14 and 31 relates to ti-

titles' being ported over to other game systems. Of those 31, 12 will be for PS2, 10 for Xbox and 9 for GameCube, he said. New titles include "a revolutionary fighting game" — *Mortal Kombat 5*. Midway also plans to ship "several titles" for GBA in 2001 and 2002. Nicastro said company had yet to sign exclusive deals with hardware makers for any of its titles along lines of one Interplay revealed (see separate report, this issue).

Nicastro said "only a small minority" of upcoming games would be created outside company. He said that at this point, 80% of 375 employees on company's 15 product development teams were working on its home videogame side.

In same conference call, Midway Exec. Vp-Finance Harold Bach said he expected revenue for quarter ending June 30 to be \$18-20 million, with 20% coming from coin-op. Loss, he said, should be "slightly less" than in 3rd quarter. Nicastro, responding to analyst question, declined to say in what quarter he expected Midway to see profit again.

Nicastro said company was in process of raising additional capital and expected to close financing round by end of current quarter.

Blank CD prices will rise this year for retail customers worldwide, Memorex-brand parent Memtek predicted. Company, whose Memorex and Memtek trademarks are owned by Hanny Magnetics (Hong Kong company registered in British Virgin Islands), said increases would be result of "strict enforcement of royalty fees by patent holders" — presumably Philips and Sony, who have tightened noose in recent months on licensed and unlicensed suppliers. Memorex itself will raise prices June 1. Although company didn't quote specifics, it said per-disc costs for all vendors had increased 30% since end of 2000. It attributed move to tightening of worldwide supply owing to consolidation among manufacturers in wake of royalty enforcement. Blank CD business changed "dramatically" in last year, Memtek Pres. Michael Golacinski said. Since early 2000 "many small and medium-sized manufacturers have closed their doors," he said, and bargain prices last year were result of desperation as "manufacturers without a consistent market for CD-Rs sold their inventory on a 'spot' type market. As a result, excess inventory was often sold drastically below manufacturers' production cost." Golacinski said U.S. market for CD blanks was just over one billion last year and was forecast to rise to 1.46 billion this year, with "significant portion" at retail to consumers. He said "major overseas manufacturers are unwilling to produce discs without executable purchase orders in hand," because "CD-R patent holders will aggressively enforce their licensing agreements and collect their royalty fees." Notwithstanding, Memtek is "working closely" with its vendors to assure product availability in all its channels, Golacinski said. Ironically, comments came shortly after Sony and TDK announced they had discontinued U.S. production of blank CDs, audiotape and videotape, citing plummeting pricing owing to worldwide oversupply.

RadioShack (RS), citing slowdown in U.S. economy, said sales in April dropped 4% to \$313.4 million from \$327.5 million year ago on 2% decline in same-store sales. Chmn.-CEO Leonard Roberts called April "challenging month," but said recent rollout of Verizon store-within-a-store format coupled with new sales agreement with DirecTV "will help us regain our sales momentum." RS reported year-to-date sales had risen 6% to \$1.41 billion from \$1.34 billion on 5% gain in same-store sales.

SIRIUS CHIPSET DUE IN AUG.: Agere is expected to deliver "commercial spin" of chipset for Sirius Satellite Radio receivers by Aug. and DARS operator is in discussions with Ford and Daimler Chrysler on including service in limited number of vehicles by year-end, Sirius CEO David Margolese told SG Cowen Securities conference in N.Y. last week.

Sirius recently said it expected to ship under 20,000 receivers to retail starting in 4th quarter using discrete chips being built by Matsushita. But Agere, formerly Lucent's microchip operation, now will compete "neck and neck" with Matsushita to release production-ready chipsets, Margolese said. Chipsets are expected to be priced at \$50 at start, but will need to be reduced to under \$20 so receivers will be adaptable for larger base of mainstream cars, Margolese said. He said if Agere was on time with newest Aug. delivery schedule, Sirius might never have to deploy discrete chips, which he categorized as "backup plan." Sirius executives have said there was no fundamental performance difference between receiver using discrete chips and that built on Agere chipsets. However, it has said former would be costlier to produce, was slightly larger and was more power-consuming than Agere-based version.

As incentive to get Ford and Daimler Chrysler (which have invested combined \$120 million in Sirius) to offer service by year-end, company is likely to provide subsidy, Margolese said. Exact form of subsidy hasn't been determined, but it could include giving car makers cut of \$9.95 monthly subscription fee, he said: "We will do what's necessary to jump-start [DARS business], but we won't do something that is not in our best interests.

Provided that Agere chipset is delivered in Aug., Recoton will start production of Jensen-branded receivers within month thereafter and ship product by 4th quarter. Kenwood also plans to have product by fall. "So much of it depends on Agere," Recoton Pres. Robert Borchardt told us. "We've been doing R&D and work on our units for several years and we're kind of waiting for them at this point. Predicated on the Aug. date [for delivery of chipsets] we could be in production very quickly."

Sirius receivers will be available as purchase option by 2nd quarter 2002, although Margolese declined to comment on when they would be included in base price of vehicle. "That [including serviced in base price] we anticipate, but have not yet achieved," Margolese said. "We've been working on programs like this for about a year and we think we're close."

Separately, trunk-mounted module that will be step toward "interim" interoperability of Sirius and XM Satellite systems remains on target for 2002 and will be available in Audi, Honda and Nissan vehicles, Margolese said. Fully interoperable system won't be introduced for 3-5 years.

Home decks with DARS service could be available next year, with portable units 1-2 years later, Margolese said. Sirius also will grant automakers "sliver" of its satellite bandwidth so they can "figure out new applications for value-added services" for telematics products, he said.

Meanwhile, almost lost in DARS shuffle is in-band, on-channel (IBOC) service proposed by iBiquity, company created by merger of Lucent Digital Radio and USA Digital Radio. While Harman Kardon has said it would have iBiquity-capable home receivers by 2003, other licensees are less certain. "We

haven't moved very far along with it," said Borchardt, whose company was Lucent licensee. "They need to be a little further along before we can understand where we want to be with it. I think it's a good product and something that is going to become part of a standard in car audio and if it is, we'll add that to what we are doing."

Despite current transition to next-generation platforms, Paris-based game maker Ubi Soft Entertainment reported consolidated sales of \$239 million (259.8 million Euros) for fiscal year ended March 31 — 39.4% over previous year. Figure topped Ubi Soft's published target of 30% sales boost, it said. Ubi Soft said sales were helped by strong 4th quarter in which they climbed 52% from year ago to \$72.3 million (79.5 million Euros). Minus results from its acquisitions of Blue Byte, Red Storm, Sinister Games and 3D Planet, sales for year "on a like-for-like basis" were \$194.8 million (211.8 million Euros) — 13.5% over prior year. Company attributed improved results to variety of factors: Its strategy based on acquisition of strong brands, quality internal development, continuation of its worldwide distribution strategy, early positioning on PlayStation 2 (PS2) front. Sales of PS2 games, it said, now exceed those of PlayStation titles, accounting for more than 20% of quarterly sales revenue. Ubi Soft, which now has more than 1,300 developers in studios worldwide, said its top-selling titles in last year included *F1 Racing Championship* and *Rayman* series. Europe, it said, continued to see high growth rate — especially in U.K. and Germany. Ubi Soft said Europe's share of total net sales in 2000/2001 was nearly 68%, producing revenue of \$161.9 million (176 million Euros). It said N. American sales expanded 30% to \$65.3 million (71 million Euros) and accounted for 27.5% of all sales for year. Results in Asia Pacific region increased 100% to \$11 million (12 million Euros) and accounted for 4.5% of annual net sales. Company said that, as result, it now was generating more than 76% of its sales outside its home territory of France, up from 69% year ago. Ubi Soft said it now had 160 games in development for all platforms, including *Myst III: Exile*, *Rayman M* and *Tom Clancy's Ghost Recon*, as well as *Batman* and *Tarzan* titles.

Broadband delivery will revolutionize ways entertainment conglomerates have traditionally done business including home video distribution, Disney CEO Michael Eisner said on panel at Credit Suisse First Boston "Media and Broadband Conference" in N.Y.C. last week. Citing average 100 min. that viewers spent online during Webcasts on Academy Awards night in March, he predicted "the major entertainment companies will be the major winners in the Internet space along with the Kmart's." Viewers' access to broadband also will change entertainment companies' content-distribution and packaged-goods businesses such as home video — and impact companies that now retail them, such as Blockbuster Video chain. "As Sumner [Viacom CEO Sumner Redstone] knows, we're looking at ventures to deliver movies direct to consumers over the Internet, either by subscription or pay-per-view," Eisner said. Allusion was to co-panelist Redstone, whose company owns Blockbuster. Latter's attempt to set up broadband video-on-demand (VoD) network stalled out owing to inability to get movie content from studios, which seemed intent upon creating own online businesses rather than distribute VoD through retail channels. "We are looking to eliminate the middleman," Eisner said.

NGame signed agreement with AOL to provide 6 wireless games via latter's AOL Mobile service for Web-ready phones. U.K. content and technology provider nGame said titles would appeal to wide selection of cellphone users.

ECHOSTAR NARROWS LOSS: EchoStar, despite taking \$92 million nonrecurring charge to write down investments in ReplayTV, Starband and Wildblue, reported first quarter net loss narrowed to \$167 million from \$185.1 million year ago. Revenue increased to \$862 million from \$566 million as EchoStar added 460,000 subscribers to end quarter with 5.72 million.

Write-downs came as EchoStar resumed shipping Starband's satellite-based Internet access product in late April, CEO Charles Ergen told analysts in conference call. EchoStar halted delivery of Starband product in March after system installers ran into cross-polarization problems.

Less clear was Wildblue, which is expected to launch Ka-band satellite Internet access service in late 2002. EchoStar invested \$50 million each in Starband and Wildblue (formerly iSky) last year.

EchoStar also was early investor in ReplayTV, but never introduced product based on personal video recorder (PVR) technology platform. Nonrecurring charge covering EchoStar, ReplayTV and Wildblue totaled \$59.4 million and was coupled with unrealized losses of \$29 million including \$19 million from decline in value of OpenTV. Latter is providing interactive software for EchoStar's Digital Sky Highway (DISH) receivers as well as new combo product with PVR.

"It was my fault in terms of not being smarter in how we invest," Ergen said. He also again raised possibility that EchoStar would seek merger with Hughes Electronics and its DirecTV subsidiary, saying that satellite company was "capable of" mounting offer to counter News Corp.'s bid (see separate story, this issue).

Overall, EchoStar posted earnings before interest, taxes, depreciation and amortization (EBITDA) of \$51 million, reversing negative \$88 million year ago. It said revenue per subscriber increased to \$48.23 from \$43.85 due partly to satellite service's signing up more customers to higher priced Top 150 programming package. Acquisition cost per subscriber was \$432, down from \$467 year ago. Churn remained flat at 1.5%, analysts said.

Revenue from DISH service rose to \$794.4 million from \$476.8 million but direct-to-home (DTH) equipment sales and integration services slid to \$41 million from \$62 million. DTH equipment customers include Bell ExpressVu in Canada and Via Digital in Spain. EchoStar Technologies, which oversees OEM business, has experienced slowdown in business and "you won't see much growth from them in the first 3 quarters" of current fiscal year, Ergen said. That could change with delivery of EchoStar's "gateway" receiver later this year, he said. Bell ExpressVu already has signed for product, he said.

Ergen also conceded that rollout of combo PVR/satellite receiver based on OpenTV platform was moving more slowly than planned and that software was "still not perfect," but that improvements would be made by 4th quarter.

"We're not going to sell a million PVRs this year," Ergen said. "We released it because it is good enough, but we will have improvements by the 3rd or 4th quarter." Indeed, OpenTV, which currently delivers interactive news and weather to DISH service, is expected to add 6 new applications by 3rd quarter.

EchoStar plans to add local channel service to 36th market May 18 when it enters Birmingham, Ala. Spot beam satellite due to launch in 4th quarter could enable it to hit up to 50 markets, depending on outcome of must-carry issue at FCC, Ergen said.

Satellite service also has encountered mechanical problems with EchoStar-6 bird, including leak in one of 12 thrusters, he said. Transponders on satellite briefly turned off, but service has been restored, he said. Insurance on bird expires in July and EchoStar had cash reserve of \$78.2 million for it at end of first quarter.

EchoStar also has begun hearing at American Arbitration Assn. on fee dispute with attorneys who handled its breach of contract suit against News Corp. after proposed merger collapsed in 1997. Attorneys asked for damages of \$56 million, figure that EchoStar said "significantly overstates" amount they should "reasonably be entitled to receive." Hearing is to resume Aug. 7.

Separately, 11th U.S. Appeals Court, Atlanta, is scheduled to hear argument on May 24 on EchoStar's appeal of U.S. Dist. Court, Miami, action in issuing preliminary injunction requiring that distant network programming be halted to some customers. TV networks filed suit in 1998 and separate motion in March 2000 seeking injunction that would require EchoStar to turn off distant network signal to some subscribers. Also due to start July 9 in U.S. Dist. Court, Wilmington, Del., is trial in IPPV Enterprises suit alleging that EchoStar infringed on patents covering impulse pay-per-view, parental control and category lockout.

ReplayTV's exit from PVR hardware market prompted licensee and investor Panasonic to issue statement last week confirming its plans to market device as Panasonic ShowStopper PVR. "While ReplayTV has chosen to focus on developing software and digital networking solutions, Panasonic continues to develop and market an expanding array of products that use ReplayTV Service technology," said e-mail from Jason Gastman, Panasonic product mgr.-hard disc recorders. They include PV-SS2710 combination TV/PVR and 3 standalone PVRs (www.panasonic.com/showstopper). Message took swipe at competing PVR platforms such as TiVo and Ultimate TV: "Unlike our competitors, Panasonic does not require any ongoing fees. The ShowStopper recorder includes a free lifetime subscription to the ReplayTV service — the only PVR to do so. And, we don't ask consumers to subscribe to a satellite service, or purchase and install a satellite dish, in order for our Channel Guide to work," Gastman said.

Songs downloaded via Napster plummeted 36% in April as company's filtering system became more effective, digital entertainment analyst Webnoize said. Number of files swapped since Napster installed blocking system to keep copyrighted songs off its site has fallen more than 80% as music fans shifted to alternative systems such as Aimster and BearShare, Webnoize said.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥122 = \$1, except where noted.

TIN PROJECT 'ON SCHEDULE': Tetratel said its TIN Project 3D peripheral for videogame consoles was "advancing on schedule."

Edmonton, Alberta, startup claimed in March that it had been licensed to apply its EyeFX 3D entertainment technology to Xbox (TVD March 5 p17). But Microsoft 3rd Party Relations Dir. Kevin Bachus told us then that Tetratel Pres. Ken Tetterington had misunderstood nature of talks and they had signed no licensing agreement.

Tetterington now has conceded to us that without certified Xbox distribution agreement, his company couldn't use Xbox name or logo on any product it manufactured. But he said Tetratel "in the near future" would approach Microsoft to obtain Xbox distribution agreement. Microsoft spokeswoman didn't return call for comment by our Fri. deadline.

In March, Tetterington told us his company was likely to spend \$1 million on Xbox project. He also said TIN Project specifically related to product using EyeFX 3D technology for Xbox. Tetratel said "combined EyeFX technology and Microsoft TV videogame system will feature unprecedented performance by combining 360° player movement within a full 3D viewing environment," apparently via eyewear peripheral that would be strapped around user's head in much same way as eyewear already used by certain portable DVD players.

But Tetterington is saying now that TIN Project is "not specifically for the Xbox" at this point, but rather relates to applications of his company's 3D technology for videogame consoles in general. Company already has been marketing similar system for computers.

Tetterington said Tetratel's technology also should support PlayStation 2 and Nintendo 64 hardware. But he said he wasn't yet certain whether it would be compatible with software for those game systems. He said it was "the intention" of his company "to support all 3 of the main game systems." However, he said company had yet to check into compatibility for Nintendo's GameCube.

Tetratel also said late last month that it acquired 100% interest in U.S. Patent No. 5,489,951 which describes "a projection apparatus which creates laser-generated visible images without the need of a projection surface." Company said patent was acquired from Tetterington, who had acquired it for 100,000 common shares and \$1 from inventor of apparatus, Jeffery Hauser. Tetterington, in turn, sold it to Tetratel for \$1, company said. Tetratel said patent "will form the cornerstone of a new, patented technology that will project 3-dimensional images that may be viewed without the need for a projection surface and do not require special eyewear or headgear."

Hauser was appointed to Tetratel's Special Advisory Committee to assist company on TIN Project. He, Nan Liu and Richard Balliant each will be granted 50,000 stock options in company, exercisable into common shares at 25¢ for period of 2 years pending approval of Canadian Venture Exchange, Tetratel said.

Music files are downloaded by 6 million people daily, but most are free and unauthorized, Pew Internet study reported. It said downloading wasn't limited to teenagers — 29% of adults surveyed said they had downloaded music. Pew said figures meant billions of dollars in lost revenue for entertainment companies and artists.

CREATIVE POSTS LOSS: Loss of \$101.03 million (-\$1.27 per share) was reported by Creative Technology for its 3rd quarter ended March 31, compared with \$88.32 million (\$1.09) profit in same period year ago. Sales tumbled in quarter to \$263.03 million from \$330.02 million.

Singapore-based company said loss included one-time charges of \$31 million, including previously announced \$19.8 million for restructuring and write-down of investments of \$75.4 million. Excluding charges, it said it would have posted profit of \$4.6 million (6¢). Result year ago was \$88.3 million (\$1.01).

Creative Chmn. Sim Wong Hoo said company, "for the first time" saw "a net loss from our investment portfolio." He explained: "Many of our investee companies were hit hard by the downturn in the private and public equity markets, causing us to write down our holdings. However, we do believe that a number of our investee companies continue to show promise, both strategically and financially."

Hoo also said company "took serious actions to better position Creative... including measures to reduce the cost of our products and aggressive pricing on the Nomad Jukebox [that] position us to increase market share and solidify our leadership position in the strategic digital audio player market." He said: "The digital audio player market represents huge potential and, with our lower cost structure, we plan to drive this market and capitalize on it."

Craig McHugh, pres. of company's Cal. subsidiary Creative Labs, said: "Between the difficulty of the economic climate and the restructuring of our businesses, this was a challenging quarter. However, we achieved some important successes during the period." For one thing, he said, company "made significant reductions in our operating expenses that will better position us going forward." He said Creative also "met our revenue target as we continued to generate strong demand for retail audio products."

"We substantially reduced our inventory level, achieving our target of net inventory of \$200 million at the end of the quarter," McHugh said, "and, excluding the effect of the restructuring charges on cost of goods sold, we met our margin guidance of 27%."

Earlier, Creative Labs said it was named in patent infringement suit by General Patent Corp. International (GPC) subsidiary Acticon Technologies. Creative said suit, filed in U.S. Dist. Court, Houston, seeks to enforce 3 Acticon patents that cover specific aspects of PC card modems used in laptop and notebook PCs.

GPC Senior Vp-Gen. Counsel Paul Lerner said: "Creative Labs was notified of the infringement in March of 2000. Litigation is always the last option for us. However, we felt that we have exhausted our earnest efforts to resolve this matter and must proceed resolutely with the lawsuit in order to enforce our proprietary rights." GPC said it successfully enforced patents on behalf of Acticon while litigating 6 separate suits. Defendants in those cases included Boca Research, IBK Smart Modular Technologies, Motorola and U.S. Robotics, GPC said.

Streaming audio's audience increased 2.4% in April despite several radio stations' taking programming off Internet as result of contractual dispute with content owners, MeasureCast survey found. It also said 14 of top 25 online stations now were Internet-only, compared with just 5 in week ended April 1.

LEXAR REVENUE RISES: Number of technology licensing partners in Lexar Media's corner is about to leap, Fremont, Cal., company said while announcing first-quarter results.

Pres.-CEO John Reimer told analysts in conference call that company had 4 licensing deals signed already and would name companies and provide other specifics this month.

Company said loss increased to \$23.47 million (-41¢ per share) including special charges for quarter ended March 31 vs. \$8.31 million (-\$1.01) year earlier on revenue that edged up to \$16.22 million from \$16.05 million.

Lexar also said new Coolpix 995 3.34 megapixel digital camera from Nikon comes bundled with 16 MB USB-enabled CompactFlash card from Lexar.

Earlier, Lexar had announced it had signed licensing agreement with Samsung Electronics giving latter nonexclusive, worldwide, nontransferable, royalty-bearing license for Lexar's controller technology (TVD April 23 p17). That deal followed licensing deals with SanDisk and Sony.

Reimer said in conference call that company opted to hold off on specifics of new licensing announcements so they wouldn't play 2nd fiddle to financial result details.

Saying he was "pleased with our results during the first quarter," Reimer said company had slightly improved revenue and "attained a significant decrease in cash burn."

Lexar CFO-Vp Ron Bissinger said: "We expect that licensing and controller sales revenue for 2001 will increase from the previously projected \$3 million to more than \$12 million based on our agreement with Samsung Electronics and other anticipated agreements that we plan to announce in the near future."

Bissinger and Reimer said they were confident company would be able to report profitability by end of this fiscal year thanks in large part to increasing number of license agreements.

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Funcom will ship game *Anarchy Online* in U.S. June 27. Game maker based in Durham, N.C., said release of title would "mark a milestone in the massively multiplayer online gaming arena" that would be "the first game in years to take up competition with the existing online worlds of *Ultima Online* [Electronic Arts], *EverQuest* [Sony] and *Asheron's Call* [Microsoft]." Funcom Pres. Andre Backen said last week: "Online games are the future of the industry, and a subscription-based business model will in some years become a common platform for making money." He said: "Funcom has been working on *Anarchy Online* since 1996 and considers this the most ambitious project the industry has yet seen with over 70 employees dedicated to working on this game." Company said it was gearing up to unveil revised version of *Anarchy Online* Web site, www.anarchy-online.com.

Rio Music Center download service was introduced by SonicBlue unit Rio at www.riohome.com. Secure download service is designed to be used in conjunction with company's Rio handheld digital audio players. Downloaded tracks reside only on Rio player until user replaces them with new tracks. Company said service would feature continually changing selection of music from top labels with up to 20 new tracks per week.

American Appliance, which struggled as national chains invaded its markets, has filed for bankruptcy protection and closed its 24 remaining stores. Chain, based in Pennsauken, N.J., abruptly closed stores in late April and began liquidating inventory. At one point it had operated 30 stores, but had closed 6 in recent months in bid to right itself. Pres. William Rowland wasn't available for comment, but chain said it was liquidating to satisfy creditors, and changes in commercial credit arena were primary factor in decision to close. Several trailers of appliances were removed from it warehouse by GE Capital, which is said to have supplied loans that covered 70% of inventory. American has been meeting with potential liquidators gearing up for final sale in effort to satisfy \$20 million owed suppliers. CE vendors we contacted said chain remained on floor plan largely through its membership in NATM Buying Corp. and hadn't been switched to cash-on-delivery (COD) that typically is used when one is on shaky financial ground. American, which was hurt by slow sales of air conditioners last summer and then soft holiday season, attempted to right itself by closing 6 stores several months ago, sources said. It also had moved in recent years to open larger stores in its Mid-Atlantic region to fend off invasion by Best Buy and Circuit City and at one point signed deal to sell CE and appliances through Philadelphia Gas & Electric (PG&E) bill payment offices. "They've been struggling the past couple of years and the competition kept getting tougher and tougher," JVC Exec. Vp Harry Elias said. "When new competition comes into a market they don't have an impact for 3 to 5 years and it's been about that long since Best Buy and Circuit entered American's markets." But chain also ran afoul of state regulators. It paid N.J. \$50,000 in 1996 to settle allegations of misleading advertising. And in 2000, American agreed to pay \$300,000 to settle suit by Del. Attorney Gen.'s Office that accused it of false advertising and bait-and-switch.

Total online spending on CE products in March expanded to \$207.21 million from \$195.58 million in Feb., latest Forrester Online Retail Index showed. Forrester said spending on videogames and toys increased to \$102.70 million from \$86.15 million, computer hardware to \$400.45 million from \$304.51 million, software to \$135.83 million from \$110.98 million, videos to \$81.32 million from \$51.88 million. But music declined to \$102.39 million from \$114.82 million. Total online spending in all categories climbed slightly to \$3.51 billion in March from \$3.36 billion in Feb., report said. While average spent by each consumer increased to \$263.07 from \$247.89, report said number of overall buyers dipped to 13.35 million from 13.55 million.

British CE market grew to £4 billion (\$5.75 billion) in 2000, British Radio & Electronic Equipment Mfrs. Assn. (BREMA) said in annual report. Group said gains came on strength of record year for TV sets, with 6.2 million sold and increasing proportion of large-screen and widescreen sets. U.K. accounted for 39% of 16:9 aspect ratio TV sales in Europe, fueled by ready availability of widescreen programming on digital broadcasts, BREMA said. DTV penetration has reached 30% of U.K. households since 1998 debut and should reach 40%-45% this year, it said. DTV is available by cable, satellite and terrestrial delivery in U.K., either free or by subscription. Downbeat area for British CE industry is domestic manufacturing, owing to strength of pound, BREMA said. TV production dropped to 3.2 million and VCRs to 2.3 million last year as manufacturing shifted to central and eastern Europe. BREMA, founded in 1923, itself will dissolve this year following July 1 integration with Federation of the Electronics Industries (FEI).

DivX video compression technology is making further inroads on digital transmission of video over Internet, to extent of spawning own summit conference. L.A.-based Hollywood Syndicate announced forum to discuss how to transform underground codec into legitimate format for video-on-demand. Event is scheduled for July 30-31 at Sofitel Hotel in L.A. (www.divxsummit.com). DivX codec enables video to be compressed to size easily distributed through streaming, downloading or sharing while retaining high quality. Organizers said Internet, DivX and recordable discs were changing entertainment delivery "from push to pull, from distribution to hyperefficient delivery determined by end users, not providers." Summit's goal "is to address the lessons learned by all sides in the digital music debate," said Phil McGovern, co-founder of Hollywood Syndicate. "There's a wonderful opportunity to do this right," he said, "before device manufacturers, Internet service providers, studios, networks, production companies and individuals end up on opposite sides in a courtroom."

Promotion RentMyDVD.com is running in conjunction with Cablevision's N.Y.C.-area retail subsidiary The Wiz kicks off May 13 and will last through April 30, 2002, companies said. As we reported, consumers who buy DVD player at any of The Wiz's 42 locations and sign up for at least one month of any of RentMyDVD.com's "Hooked on DVD's" subscription plans will receive coupon good for free 2nd month of DVD rentals (TVD April 16 p19). RentMyDVD.com told us last month it had expected promotion to kick off in April, but start isn't until May 13. Wiz spokeswoman told us Fri. deal was good on any brand DVD player that company's stores carried, including Aiwa, Mitsubishi, Panasonic, RCA, Sony, Toshiba. Calling DVD "one of our hottest categories," Wiz spokeswoman said: "We really feel that this promotion adds a lot of value to the [customer's] purchase." Although RentMyDVD.com already has been offering similar promotion deal on Samsung DVD players, Wiz is first retailer to offer promotion with online DVD rental company. Wiz doesn't carry Samsung DVD players, spokeswoman told us. She said Wiz "will be promoting" RentMyDVD deal, but declined to provide specifics.

Cobra Electronics has scrapped tender offer for Lowrance Electronics, marking 2nd time in 2 years that acquisition has been abandoned. Cobra proposed in Jan. to buy Lowrance for \$53 million in equity and assumption of debt. CE maker first offered \$8.50 in cash for each of Lowrance's 3.77 million outstanding shares, but lowered price to \$7.50 in April. Lower price, which dropped value of deal to \$48.3 million including assumption of \$20 million in debt, came after companies extended earlier deadlines for closing sale. Cobra CEO James Bazel said "variances in financial projections" for Lowrance caused "material adverse change" in acquisition, forcing company to drop tender offer. Lowrance Pres.-CEO Darrell Lowrance denied there had been material change and said company had reversed year-earlier loss of 8¢ per share to post 17¢ profit in first 6 months of fiscal 2001 on 3% rise in revenue. Cobra similarly dropped plan to buy radar detector rival Beltronics in 1999 (TVD May 17/99 p17) after review of company's books "didn't prove out the purchase price."

DVD/VCR/MP3 combo by Samsung was introduced in U.K. New S-DVD1E (£399, about \$575) has DVD-Video drive capable of playing MP3-compressed CDs, but DVDs can't be copied to VHS Hi-Fi VCR. Samsung said DVD could be viewed while VCR recorded separate TV program. Company also offered 2 TV/DVD combos in 20" and 27" flat-screen sizes.

Kodak and Sanyo agreed to cross-license their patents in deal they said was designed to expand market for digital photography. Kodak is granting Sanyo license for its patented digital camera technologies and withdrew patent infringement suit it recently filed against Sanyo and several of latter's customers. Financial terms weren't announced. Companies said they "agreed to work together to simplify and promote online, digital printing of images so that customers can obtain high-quality prints." Eastman Kodak Senior Vp-Digital & Applied Imaging Pres. Willy Shih said: "Kodak and Sanyo have a special technology collaboration relationship in developing and commercializing OLED flat-panel display technology." He said: "Cross-licensing our digital camera patent portfolios will enable Kodak and Sanyo to deliver better imaging products and services to consumers and businesses worldwide."

Liquid Audio will reduce its work force 40% across all departments as part of corporate restructuring announced last week. It said it also would consolidate its 3 Redwood City, Cal., locations into one and was taking other expense management initiatives. Pres.-CEO Gerry Kearby said: "To preserve our strong cash position while focusing on the emerging digital subscription business, we will be leveraging our core competencies to enable our retail and channel partners to enter into this new music arena. Correspondingly, we have restructured the company to more effectively address the technological needs of this marketplace." Kearby said company would be "de-emphasizing its efforts in noncore business areas, including kiosks and other micro-businesses." Liquid said it expected to post cash charge of \$3.5-\$4 million related to restructuring in its 2nd quarter. It's scheduled this week to announce results for its first quarter ended March 31.

Sony provided us with breakdown on PlayStation 2 (PS2) shipments for last fiscal 12 months by region. Sony Computer Entertainment America (SCEA) spokeswoman told us 3 million pieces of hardware were shipped in N. America, 2.9 million in Europe (including PAL territories), 3.3 million in Japan. On software side, she said 14 million units were shipped in N. America (for 4.7:1 ship-in tie ratio), 7 million in Europe (2.4:1 tie ratio), 14 million in Japan (4.2:1 tie ratio). She added that cumulative tie ratio for Japan since system was launched there March 4, 2000 was 3.6:1. In announcing its financial results for year (TVD April 30 p17), Sony said worldwide PS2 hardware shipments reached 9.2 million consoles vs. 1.4 million year earlier, which included only March 4, 2000, rollout in Japan. Cumulatively, total worldwide shipments were 10.61 million consoles. In fiscal year, Sony said 35.4 million software units were shipped vs. 2.9 million year earlier, for cumulative worldwide total of 38.3 million units through March 31.

KB Toys said it "successfully bid for substantially all" inventory of now-defunct e-toy in auction in latter's bankruptcy proceeding. Inventory represents more than \$40 million in merchandise at full retail prices, KB Sales Promotion & PR Mgr. John Reilly told us. KB, based in Pittsfield, Mass., said inventory included videogame hardware and software. Reilly said KB agreed to pay \$5.4 million for inventory and was interested in acquiring other eToys assets including its Web address. KB said it planned to offer merchandise from eToys "at considerable savings" through its stores and online.

Police in Sydney, Australia, were trying to track down \$370,000 worth of stolen PlayStation and PlayStation 2 videogame consoles that were snatched from factory, Australian news report said last week. Report said half of game systems were defective and were at factory waiting to be repaired.

Hype over Pearl Harbor movie from Disney's Touchstone Pictures keeps escalating with film just 2 weeks from scheduled "world premiere" aboard aircraft carrier *U.S.S. John C. Stennis* in Hawaii and May 25 theatrical opening in major U.S. cities. Trade daily *Variety* reported that Disney-owned ABC Network would feature movie's cast in "charity editions" of TV program *Who Wants to be a Millionaire*. Separately, online publication *Video Business Premieres* said Disney was considering "behind-the-scenes" documentary of \$5 million premiere on Navy ship as value-added feature for DVD version of movie, whose home video debut has yet to be announced. Movie's box office and home video legs could make difference in whether Disney tops its profit goals for fiscal year ending in Sept., CEO Michael Eisner said last month. Movie about attack that brought U.S. into World War II cost \$135 million to produce and analysts said it would need to make \$250 million at box office to break even.

Chinese CE vendor Amoisonic will open U.S. sales and technical service hq in L.A. in July, company told us. We first reported on Amoisonic from Jan. 2000 CES, where company had major booth on main floor exhibiting AV and wireless telecom products — including digital video recorder that uses CD-R/W blanks to make copies in DVD-quality MPEG-2 format. That recorder (VDR2000) will be part of inaugural offerings in U.S., Amoisonic N. America Mgr. Rebecca Xie told us last week. Company also will offer variety of DVD-Video players from entry level to high end; AV receivers and amps in same range; mini- and floorstanding home theater systems; MP3-type music portables. Under development but expected this year are hard disc PVR and combo DVD/AV receiver, Xie said. Publicly traded company has been making CE products for 20 years, has yearly capacity for 4 million optical disc players, 2 million receivers/amps, 1.5 million speakers, 2 million wireless phones. It also offers multifunction printer/fax/copier, Xie said.

Latest acquisition Microsoft has opted to make on software front is *Age of Empires* game maker Ensemble Studios. Under agreement announced last week, Ensemble will continue to create games from its Dallas hq. Microsoft Games Div. Gen. Mgr. Stuart Moulder said: "We are thrilled to bring Ensemble Studios under the Microsoft banner. The depth of talent and the leadership of [Pres.-CEO] Tony Goodman is a winning combination, and this acquisition will help strengthen our mutual commitment to remaining a PC games industry leader." Goodman said: "This announcement today is a natural evolution from the relationship we've had with Microsoft [for last 6 years]. Both companies have tremendous respect for each other. This deal gives Ensemble and Microsoft a long-term strategy for doing what we do best: Working together to make world-class games." Financial terms of deal weren't announced. Companies also announced development of their latest PC game, *Age of Mythology*, which they said would be unveiled at Microsoft's booth at E3 next week.

Nickelodeon and THQ announced new relationship to create and publish original videogames with multimedia franchise potential. They said they would develop videogames based on original characters and storylines with potential to become film, online, TV and consumer product franchises. THQ will publish and distribute games while Nickelodeon Interactive and Book Publishing Vp Stephen Youngwood will manage relationship on Nickelodeon's side. Companies said they were "accepting and evaluating game submissions." Separately, THQ said *Red Faction*, being developed for PlayStation 2, would ship nationally May 22.

Consumer Electronics Personals

Promoted at Pioneer Car Electronics Div.: **Kevan Morris** to senior vp, national accounts; **Keith Burnett** to vp-mktg... **Axel Ruckert** appointed CEO at Philips Consumer Communications, replacing **Thom Swartsenburg**, resigned to pursue other interests... **Douglas Dunn** ex-chmn., Philips Consumer Electronics, elected to STMicroelectronics board... **Michael Schroeder**, DSI Distributing board member, withdraws nomination to EchoStar board, citing possible conflict in DSI's ties with DirecTV... **David Trachtenberg**, StarBand pres.-chief mktg. officer, appointed to Penn affiliate Lauder Institute board of govs... **Dennis Perry**, ex-United Distillers & Vinters West, appointed group CEO, VTech's Electronic Learning Products Div... **Robert Potter**, R.J. Potter pres.-CEO, named to Cree board... **Srinivasan Rangarajan**, ex-Indian Space Research Organization, joins WorldSpace as senior bcst. networks implementation vp... **Foy Sperring**, Audible gen. mgr., promoted to strategic alliances senior vp; **Chet Van Wert**, ex-CMJ Network, appointed exec. mktg. vp; **Emmanuel Kampouris**, ex-American Standard Companies chmn., joins SmartDisk board... **Jonathan Kaplan** steps down as Sega.com pres.-CEO; CFO **Fred Huey** appointed interim COO... **Carla Stratford**, ex-Backweb, named RealNetworks senior N. American sales vp... Best Buy Vp **Lynn Morris** shifts to Bestbuy.com senior operations vp... **Larry Gaines**, Wherehouse Music exec. vp-COO, advanced to pres.-COO, replacing **Hugh Hilton**, who returns to turnaround firm Alvarez & Marsal... Zany Brainy Pres. **Thomas Vellios** appointed CEO, having served in that post in interim capacity.

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LSI Logic, blaming slump in demand for semiconductors, said first-quarter net income before amortization of goodwill plummeted to \$9.5 million from \$88 million year ago as sales plunged to \$517.2 million from \$615.2 million. "Big correction of inventory" in first quarter was likely to carry into 2nd when LSI has forecast 7¢-per-share loss on 10-15% decline in sales, Chmn.-CEO **Wilf Corrigan** said. Lone bright spot were chips used in CE devices where sales were strong. Among them was Sony PlayStation 2 for which LSI is chip supplier. C-Cube Microsystems, which is expected to complete sale to LSI this quarter, said first-quarter net income dipped to \$1.21 million from \$1.28 million on 18% decline in sales to \$50.1 million. Earnings benefited from \$22.5 million tax rebate from C-Cube's spin-off of Divicom last year. Inventories dropped to \$13.2 million, down substantially from 4th quarter when they were heavily weighted with DVD-related chips. Sales of codec and decoder chips to professional market and for video CD (VCD) products decreased, while those designed for DVD and set-top box (STB) applications rose 40% and 30%, respectively. Gross margin slid to 53.9% from 56.1% year earlier. In DVD, in which C-Cube claims more than 30% share of decoder market, samples of new ZiVa 5 chip have shipped and new codec for recording will be available in 2nd half, CEO **Umesh Padval** said. C-Cube also is developing chip for cable modems and is seeking DOCSIS certification at Cable Labs.

Samsung's 63W plasma display panel (PDP) did vanishing act at Las Vegas Hilton during recent National Assn. of Bcstrs. (NAB) convention. Prototype, one of only 3 Samsung has developed thus far, was taken from hotel room April 23 before start of show. Taken with PDP, which is scheduled to enter production for professional market later this year, was Sencore player and Samsung set-top decoder box. Samsung had shown PDP at Comdex in Nov. and CES in Jan.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

MAY 14, 2001

VOL. 41, NO. 20

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Broadcast - Cable

SET MAKERS BACK 1394 DTV interface, 5C, raising pressure on movie studios. CEA group urges Powell to push cable on standards, copyright technology. (P. 1)

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LACK NAMED NBC PRES.-COO, becoming Wright's heir-apparent. Wright becomes chmn. Shapiro becomes news pres. (P. 3)

NEW CABLE BUREAU CHIEF is Powell friend Ferree. Lawyer represented cable, competitors. (P. 4)

NESS BIDS ADIEU to FCC, is disappointed by lack of radio market decision. (P. 5)

SET MAKERS ENDORSE 1394 DTV INTERFACE, 5C : Major CE manufacturers turned up heat on Hollywood film studios, throwing their full support behind 1394 DTV interface and 5C copy protection standards. In 3-page letter to FCC Chmn. Powell May 10, CEA Pres. Gary Shapiro said majority of TV manufacturers plan to install IEEE 1394 digital interface in their DTV products and have endorsed Digital Transmission Content Protection (DTCP) system, also known as 5C, for protecting content transmitted over 1394 plug. List of endorsing manufacturers includes all major TV set makers, including JVC, Panasonic, RCA, Samsung, Sony, Thompson and Zenith. "We're ready to move forward," said CEA spokesman. "Each of our manufacturers will support 5C."

Move seems clearly designed to boost pressure on Hollywood studios to agree to use 5C standard for digital copy protection. While Sony Pictures and Warner Bros. have signed memorandum of understanding with 5C group of software developers, other 5 major studios — Disney, MGM, Paramount, 20th Century Fox and Universal — continue to balk at software licensing terms. "We hope the others will get on board," said CEA spokesman.

Seeking to sell more DTV sets and displays, CE manufacturers are also trying to stem congressional opposition to 5C standard fomented by broadcast networks ABC, CBS and Fox. Sources said set makers fear new broadcast encryption battle is really "smokescreen" by balking film studios to postpone adoption of 5C standard. In lobbying of lawmakers, networks have sought to delay implementation of 5C, arguing that technology wouldn't prevent their terrestrial TV broadcasts from being copied repeatedly by consumers or distributed illegally by Internet pirates. Broadcasters lined up 12 key lawmakers who, in March 2 letter to Powell, warned that "the digital transition will slow considerably" and free, over-the-air TV would suffer if 5C were adopted because TV producers would move their shows to cable and satellite channels "where protections are clearly stronger."

Consumer Electronics

MITSUBISHI ADDS HDTV SETS while slashing prices \$300-\$1,000 on new HD-ready models by lowering manufacturing costs. (P. 9)

CE INDUSTRY AT 'EDGE OF CLIFF' in determining whether 2nd-half business recovery is possible, Sony Electronics Pres. Nishida tells reporters. (P. 11)

SACD ADVANCES AT N.Y. SHOW: Sony-backed format now boasts 240 music titles compared with 24 for rival DVD-Audio as more multichannel players arrive. (P. 12)

MAJOR STAKE ACQUIRED in Denon parent Nippon Columbia by N.Y. investment firm. (P. 13)

MORE GAMECUBE, XBOX DETAILS EXPECTED to be unveiled this week at Electronic Entertainment Expo in L.A. (P. 14)

ZENITH TO SELL ACCESSORIES BUSINESS to Gemini Industries as it tightens focus on digital products market. (P. 17)

Expressing concern about that letter, Shapiro told Powell that CE manufacturers “do not disagree with the view that copyrighted broadcast programming should be fully protected by the copyright laws.” Indeed, he wrote, “we are particularly sensitive to the content community’s concern over the mass Internet retransmission of such programming.” But, noting that unscrambled broadcast TV “lacks the legal protection against circumvention that protects signals that are provided through conditional access systems such as cable and satellite,” he argued that “the ability to apply the DMCA in circumstances where the content is not scrambled or encrypted is very difficult.” He said it would take “an Act of Congress,” not FCC action, to impose “a mandate to protect broadcast content.”

MPAA, which has taken no position on 5C standard, declined comment. MPAA spokeswoman said 5 studios are continuing to negotiate with CE manufacturers and software developers over 5C licensing terms but remain deadlocked over issues, especially copyright protection for unscrambled broadcast programming. Industry observers see Disney leading charge against 5C, with Universal possibly wavering in its resistance.

CEA also appears to be trying to deflect any criticism of consumer electronics industry in continuing Washington debate over lagging pace of DTV transition. In that debate, broadcasters, cable operators, set makers, film studios and software developers have each sought to pin blame on other industries. CEA-backed Home Recording Rights Coalition (HRRC) sent its own letter to Powell May 4, complaining anew that cable industry continues to stymie speedy transition by dragging its heels on technical standards for competitive digital cable set-top boxes and licensing terms for its own copy protection technology. In that letter, Shapiro, who’s also HRRC chmn., urged Powell to seek public comment on cable’s POD-Host Interface (PHI) copy protection license and force all set-top manufacturers to adhere to same OpenCable technical standards. “Almost a year after the Commission’s deadline, cable industry standards and practices still do not support reliable manufacture of, or consumer investment in, cable-ready digital television receivers,” Shapiro said.

NCTA officials rejected HRRC arguments. “The CEA letter merely repeats arguments that the consumer electronics industry has made before,” said NCTA Gen. Counsel Neal Goldberg. “CEA is unalterably opposed to copy protection and refuses to accept that the FCC has already found it is appropriate to include copy protection requirements in a manufacturing license. CEA also is opposed to reasonable certification requirements even though the FCC has indicated that CableLabs certification of OpenCable-compliant products, patterned after the successful CableLabs cable modem program, would be in the public interest.”

Meanwhile, FCC set deadlines for comment on petitions for reconsideration of its Jan. digital cable must-carry order, which tentatively concluded that mandatory dual carriage of analog and digital broadcast signals violated free speech rights of cable operators. Oppositions to petitions are due May 25, replies June 4.

OWNERSHIP DECISION DELAYED: Even though majority of FCC commissioners appeared willing to open rulemaking on eliminating broadcast-newspaper cross-ownership rules, FCC was forced to withdraw item from its agenda because majority couldn’t agree on text of rulemaking, we’re told. FCC spokesman would say only that item wasn’t ready for final action. Delay almost certainly means broadcast-newspaper cross-ownership rulemaking won’t be started until after new commissioners take office, sources inside and outside agency said.

Main dispute was between Comrs. Furchtgott-Roth and Tristani, both of whom were prepared to vote against rulemaking, sources said. Tristani reportedly was unwilling to accept any textual language that would indicate willingness to ease cross-ownership restrictions. Furchtgott-Roth was said to be equally unwilling to accept any language that might indicate there was justification for keeping restrictions. “There was simply no consensus on how the document should be drafted,” one person involved in process said.

Chmn. Powell has indicated he’s skeptical about keeping restrictions and was willing to begin rulemaking (TVD April 9 p4), and Comr. Ness reportedly was willing to at least start rulemaking, although one official said she also was pressing for “concessions.” Furchtgott-Roth also was said to be reluctant to accept changes that Ness was proposing, mainly language supporting diversity rationale for FCC regulation.

Such heated disputes over notices of proposed rulemakings (NPRM) are “rare,” one official said, since notices only begin process of asking questions about issue and actual decision would come in later vote. However, NPRM “sets the tone” for final action with questions it asks, official said, and disputes over language become “a matter of conviction and principle.” One official suggested they were willing to hold up rulemaking because it could be as little as one month before new commissioners would be in place, but others said delay could be longer because it would take some time for new commissioners to become fully informed on issues.

BROADBAND FIGHT CONTINUES: Next step in fight over broadband deregulation (TVD May 7 p1) will be up to House Speaker Hastert (R-Ill.) as House Judiciary Committee seeks go-ahead to review legislation making it easier for Bells to compete directly with cable and others for high-speed data and other services. House Commerce Committee cleared legislation for floor action on 32-23 vote after 8 hours of debate last week, but opponents said tally indicates legislation still faces problems.

Meanwhile, House Commerce Committee Chmn. Tauzin (R-La.) isn't going to rely on good-faith efforts of telcos and others to comply with Telecom Act and will move on repeated calls to bolster FCC's enforcement authority, spokesman said: "We are going to give the FCC expanded authority to enforce the Act." Move follows FCC Chmn. Powell's recent recommendation that Congress raise level of fines imposed for violations of Telecom Act's competition requirements.

Bill (HR-1542) that cleared Commerce Committee was sponsored by Tauzin and ranking member Dingell (D-Mich.). Judiciary Committee Chmn. Sensenbrenner (R-Wis.) recently asked Hastert for "sequential referral" of Tauzin-Dingell bill and plans May 22 hearing. Hearing also will discuss merits of bills (HR-1697 and HR-1698) introduced by Reps. Conyers (D-Mich.) and Cannon (R-Utah), which would ensure that antitrust laws aren't superceded by Telecom Act, officials said.

Tauzin-Dingell legislation is "a bill that should never have seen the light of day, and its difficult passage out [of] Committee shows we are hardly alone in that opinion," said Steve Mossbrook, U.S. Internet Service Providers Alliance advisory board member. AT&T blasted pace that Tauzin moved bill, which Vp-Federal Govt. Affairs Len Cali described as "abbreviated process that required a rush to judgment." Supporters of bill vowed to step up efforts to educate uncommitted members and consumers on purported benefits of HR-1542. Commerce Committee spokesman said supporters of HR-1542 are not swayed by suggestion vote margin is sign of trouble. "Opponents of bill threw everything at us including the kitchen sink," he said. "We'll be better prepared when the bill goes to the House floor."

Sen. Kerry (D-Mass.) said last week that Tauzin-Dingell bill was "reaching too far, too fast." Wireless, cable and other technologies that provide "access to people's homes" should be allowed to develop before the marketplace is adjusted, he said. However, Rep. Boucher (D-Va.) said broadband deployment into last mile "is the greatest single Internet challenge that we are facing at the present time." He said he supported Tauzin-Dingell because it called for regulatory parity with other service providers. Boucher also said he intended soon to offer bill governing interactive TV service offerings to address open access requirement to ensure that "vertically integrated transport service providers" don't discriminate against unaffiliated content providers. Tauzin said Subcommittee should explore that issue, but level of legislative action should be contingent upon how market was working.

In May 4 letter to Congress, Powell suggested raising forfeiture maximum to "at least \$10 million" from present \$1.2 million per violation. He also recommended longer statute of limitations, now set at one year, for FCC investigations of competition violations and asked for Commission authority to award

punitive damages in formal complaint cases. Given "the vast resources" of firms, current forfeiture level "is insufficient to punish and to deter violations in many instances," Powell wrote. House Telecom Subcommittee Chmn. Upton (R-Mich.) recently made similar proposal. Although he submitted and then withdrew proposal during subcommittee markup, staffer said Upton intended to introduce proposal as standalone bill.

LACK NAMED NBC PRES.-COO: Robert Wright announced May 8 he would turn over his title as pres. of NBC to News Pres. Andrew Lack while assuming title of network chmn. (which has been vacant for years) and remaining as CEO. Move, effective June 4, positions Lack, 53, in newly created job as pres.-COO, to succeed Wright, 58, who also is vice chmn.-CEO of parent GE, as network CEO — although that's not clear in announcement. "We wouldn't say that in so many words," said Wright, "but the announcement speaks for itself."

"I would sure think so," NBC official said when asked whether Lack's promotion signaled that he was heir apparent to Wright, who has been pres.-CEO since GE acquired network in Sept. 1986. "Bob is a very activist vice chairman of GE," official said, and his time is "stretched so thin" serving in both capacities. He was elected to GE post last July. Neal Shapiro, exec. producer of *NBC Dateline*, was named to succeed Lack as pres. of NBC News.

Wright said that as NBC chmn.-CEO, "I will continue to be extremely involved at NBC... and I care deeply about the company and its continued success." By moving Lack up to pres., Wright told teleconference, he would be able to "devote myself in a more spirited way to some of the GE issues."

GE will be looking to acquire new properties, not divest, he said: "The challenge that I have... is to find good, solid growth opportunities for NBC... It is not to sell out [or] to merge the company."

Lack was named NBC News pres. in April 1993 after long career at CBS News. In his new position, news, entertainment, MSNBC, owned stations, CNBC, operations, sales, TV network and NBC Cable will report to Lack. Sports, finance and CNBC International will continue to report to Wright. While at CBS, news shows that Lack produced won 16 Emmys, 4 du Pont Awards, 2 Peabodys and one George Polk Award. He attended the Sorbonne in Paris and received fine arts degree from Boston U. in 1968. Two days after Lack announcement, *Dateline* Exec. Producer Neal Shapiro was promoted to NBC News pres., also effective June 4. He joined NBC in 1993 after 13 years at ABC News, where he was producer of *PrimeTime Live*.

Consumer electronics makers are exaggerating cost of adding DTV tuners to analog sets, broadcasters said May 7 in joint reply comments on FCC's DTV rulemaking (00-39). Instead of \$200 per set additional cost suggested by manufacturers, broadcasters said economies of scale could reduce premium to \$50 per set by 2006: "Broadcasters, of course, would not advocate a requirement that would raise television set prices beyond consumers' means." MSTV and NAB have hired consulting firm to conduct 8-week study on effects of DTV tuner requirement, and they, along with ALTV, said FCC shouldn't decide on DTV tuner until results were available: "There should be no question, however, that a DTV tuner requirement is necessary to promote the transition."

POWELL NAMES NEW CABLE CHIEF: Making his first bureau chief appointment, FCC Chmn. Powell named Washington telecom attorney Kenneth Ferree as head of Cable Bureau, replacing departing chief Deborah Lathen. Powell announced May 10 that Ferree, partner in Goldberg, Godles, Wiener & Wright law firm, and adjunct law prof. at Georgetown U. Law Center, would take over post May 21, right after Lathen left.

Move comes as industry observers speculate that FCC may combine cable, broadcasting and satellite TV regulation in one overall TV bureau, instead of current split of responsibilities among 3 separate bureaus. There's also speculation that radio regulation will be set up in separate bureau of its own.

Ferree, 40, attended Georgetown Law with Powell, graduating year ahead of chmn. Both also clerked for U.S. Appeals Court, D.C., Chief Judge Harry Edwards, also one year apart. "We've remained in touch ever since then," said Ferree, who earlier earned MBA from San Jose State U. and B.A. in English from Dartmouth College. "I know him well."

Ferree told us he had represented clients before every FCC bureau, including Cable. He said he had worked on regulatory issues for both franchised cable operators and "new entities," including private cable operators and electric utilities. Most notably, he represented TXU Electric in controversial pole attachment case now heading to U.S. Supreme Court. In that case, TXU and other utilities have won 2 lower court rulings that overturned FCC's authority to regulate pole attachment rates for cable-delivered and wireless Internet service.

Calling himself "extremely delighted that someone with the depth of understanding of telecommunications issues as Ken Ferree is willing to join our team at the FCC," Powell said Ferree "has had a remarkable breadth of experience with the many issues and industries that will be facing the Cable Services Bureau and the Commission. He will be a valuable asset at the FCC as we grapple with complex issues, such as convergence, digital conversion, open access and many others, in the months and years ahead."

Ferree, who also will inherit Lathen's oversight of digital cable must-carry rulemaking, interactive TV inquiry, DBS must-carry rules and program access mandates, said he was familiar with many cable issues from his private practice. But he declined to spell out his plans for Cable Bureau before assuming office. "I want to get myself settled and see the lay of the land," he said.

Sources said Ferree may wind up in charge of much bigger TV division if smallish Cable Bureau, which now has fewer than 100 staffers, is recombined with Mass Media Bureau and satellite unit of International Bureau, as has been suggested. Powell has supported idea as part of broader reorganization of FCC. Cable Bureau spokeswoman declined comment.

Lathen, who presided over FCC's reviews of AOL-Time Warner, AT&T-MediaOne and AT&T-TCI mergers, announced her resignation May 9, effective May 18. Appointed by former Chmn. Kennard 3 years ago, Lathen wrote Powell that she owed "a huge debt of thanks" to Kennard for "entrusting me with the responsibilities of this Bureau." She also thanked Powell for "your outstanding leadership and personal friendship." Lathen said she planned to "spend time relaxing and reflecting as I con-

sider new opportunities." Powell saluted her "hard work," "remarkable contributions" and "leadership."

"Deborah Lathen has done a first-rate job," NCTA spokesman said. "We wish her well." He said group also "looked forward to working" with Ferree. American Cable Assn. and NAB declined comment on Ferree.

Separately, Powell named Julius Knapp as deputy chief of Office of Engineering & Technology (OET) May 10. Knapp has been chief of Policy & Rules Div. in OET and was chief of FCC lab 1992-1997. Powell also announced Knapp would receive Eugene C. Bowler Award, which recognizes outstanding govt. employees. In another personnel move, Bryan Tramont is joining Wireless Bureau as associate bureau chief and chief of staff. Tramont has been senior legal adviser to Comr. Furchtgott-Roth, focusing on wireless, international, technology and enforcement issues.

Financials: **Fox** TV stations operating profit dipped to \$122 million in quarter ended March 31, from \$133 million year ago, but net profit was up slightly to \$1 million, vs. \$5 million loss year ago. Overall Fox operating profit was \$218 million, down from \$262 million. Network revenue fell to \$426 million from \$439 million, and stations to \$320 million from \$341 million, both attributed to soft ad market. However, cable network programming revenue jumped to \$339 million from \$273 million. Overall, Fox Entertainment Group had \$9 million loss in quarter, reversing \$19 million profit year ago. Parent News Corp. had \$11 million profit in quarter, down from \$300 million, and revenue edged up to \$3.27 billion from \$3.24 billion... **Sinclair** Bcst. net loss grew to \$39.2 million in quarter ended March 31 from \$4.4 million previous year. Revenue dipped 6.9% to \$149.7 million and cash flow to \$12.2 million from \$15.1 million, and Sinclair said 2nd quarter revenue was expected to be down 13-15%... **Cablevision Systems** posted \$1.13 billion first-quarter profit vs. year-earlier \$115.5 million loss, thanks to sale of \$1.4 billion in cable assets. Cablevision, which still had operating loss of \$56.3 million, credited most of gain to \$825 million sale of 20% stake in 4 national cable networks to MGM... **Comcast** reported net income of \$1 billion in first quarter ended March 31, vs. year-earlier loss of \$191.5 million, thanks largely to pre-tax gains of \$1.2 billion from swap of cable systems with AT&T Broadband and Adelphia and \$1.1 billion from investments. Comcast said overall revenue rose 13.3% to \$2.2 billion while operating cash flow climbed 9.2% to \$640.9 million... **Insight Communications** reported net loss of \$2 million in first quarter ended March 31 even as it posted nearly 47% increase in revenue to \$168.5 million... **Mediacom** said its net loss shrank to \$4.6 million and its operating loss dwindled to \$10 million in first quarter ended March 31 as its revenue jumped 16.7% to \$90.3 million.

House Commerce Committee won't be able to schedule hearings on DBS spectrum-sharing and interference issues in near future due to workload, spokesman said. EchoStar and DirecTV challenged rival Northpoint to immediately debate before Congress spectrum and interference concerns raised by recently released Mitre report, which set May 23 comment deadline on issues affecting 12.2-12.7 GHz spectrum (see separate story). "It's an issue we intend to pursue, but frankly there are so many issues currently before the committee that it's unlikely we'll have hearings before the summer recess," spokesman said. House Telecom Subcommittee spokesman voiced similar reasons for unlikelihood of DBS-related hearings at subcommittee level in next few months.

CANADA TO REVIEW BROADCASTING: Major review of Canada's broadcasting and copyright legal framework was announced by Canadian House of Commons Committee on Canadian Heritage. To start in Sept., 18-month review will cover wide range of issues, from foreign ownership and media concentration to role of Canadian Radio-TV & Telecom Commission (CRTC), Committee Chmn. Clifford Lincoln said.

Among issues targeted is impact of Internet on broadcasting, but some believe most key Internet issues will be resolved before study is completed. Committee suggested that complete overhaul of federal regulator might be forthcoming, asking: "Should the convergence of broadcasting and telecom lead to a revamped CRTC or to a new and different type of regulator?" and "will broadcast licensing become a thing of the past in an era of digital channels and Internet-based programming?"

Study will examine how to deal with globalization and its effect on broadcasting, Lincoln said: "There is a pressing need to review key aspects of the Broadcasting Act of 1991 to determine whether the Act remains an effective instrument to deal with challenges faced by the broadcasting industry and its stakeholders." Committee will explore such issues as broadcasting policy, ownership, production and distribution, Fisher said. Televised round table discussions across Canada will be used to collect information on nation's broadcasting system, he said.

In previous recommendations on role of new media, committee had said "government policy should be permissive, not restrictive, when it comes to determining how domestic cultural products get to Canadian audiences." Committee said technological neutrality was "one of the underpinnings of the broadcasting policy for Canada... What counts is delivering worthwhile content to Canadian audiences. If these audiences are spending more and more time in front of their computers, then this trend should be reflected in how the CBC and its sister organizations attempt to make contact with their audiences."

Canadian Assn. of Bcstrs. (CAB) "welcomes this review," said CAB Pres. Michael McCabe as "long overdue." He said "the factors that shape and influence our industry have changed dramatically and it is essential that the government... address these important issues." But, he said, it was "critical that the government understand the challenges Canadian broadcasters are facing and the public policy framework required to address them."

Library of Congress Copyright Office is seeking public comments on proposed change in requirements for submitting cable and satellite TV royalty fee claims. Copyright Office proposed amendments that would eliminate filing of "placeholder claims" by parties that weren't copyright owners whose work had been retransmitted by cable system or satellite carrier. Agency would forbid submission of such placeholder claims by both single and joint claim holders, requiring all claims to identify all copyright owners covered, not just some of them. "We wish to put an end to placeholder claims," it said, and it was taking action after "certain infirmities" were revealed in recent cable distribution proceeding. Copyright Office said changes were needed because placeholder claims "run afoul of the distribution process for cable and satellite royalties" by making it "impossible to identify the copyright owners entitled to distribution." Comments are due May 21.

NESS BIDS ADIEU: FCC Comr. Ness will leave FCC at end of May proud of her work on Telecom Act implementation but disappointed agency didn't redefine broadcast markets to ease radio concentration, she said after her last FCC meeting May 10. Ness reportedly has been thinking about going into academia, but she wouldn't give any hints other than saying any future job probably would involve communications.

Ness said after news conference that she was particularly sorry she couldn't continue pressing for action on radio market redefinitions, which affect number of stations one owner can have in large markets. Because of complex formula used, some markets are so concentrated that 2 top players have 95-98% of market, she said. Ness said she hoped FCC would act soon to address market definition issues and "provide an appropriate mechanism for reviewing mergers and acquisitions, particularly for radio." She said it "belies logic to draw conclusions based on a mechanism that doesn't work."

At meeting, FCC Chmn. Powell said Ness contributed, in particular, to WARC issues, DTV, children's programming. Powell said this might be Comr. Furchtgott-Roth's last meeting, too, because there was possibility his successor could be sworn in by June 20 agenda meeting. Furchtgott-Roth has pledged to stay on board until new commissioners take their seats, which will occur after Senate confirmation. Hearing on their confirmation is scheduled this week.

Writers of TV programs and movies will receive Internet and DVD residuals for first time under agreement reached late May 4 by Writers Guild of America (WGA) and Alliance of Motion Picture & TV Producers. Deal was reached after 3 months of negotiations (with one month hiatus) and will cost studios about \$41 million more in next 3 years than under 3-year contract that expired June 1, WGA said. At news conference announcing deal, Alliance refused to estimate cost of new agreement to its members. Under agreement, writers will receive 3% increase in minimum pay for screenplays and teleplays, with a 1.2% residual for TV shows or movies distributed on Internet, plus payment for original Internet content that later is adopted for TV or movies. Significant part of deal is agreement by Fox TV Network to begin in 2 years to pay residuals to writers equal to that paid by ABC, NBC and CBS in 2 years; under old contract, Fox had been paying only partial residuals as "fledgling" network. Following WGA-Alliance deal, there's much optimism in Hollywood that Alliance also will be able to reach quick agreement with Screen Actors Guild (SAG) and American Federation of TV & Radio Artists (AFTRA), whose contract with movie makers and networks expires June 30. Actors unions already have outlined areas they want to negotiate and were said to be more limited and less demanding than in previous talks. After WGA agreement, actors issued statement saying they would study deal "to see if it will be helpful in finding a way to address the specific needs of actors." SAG negotiations will be led by Brian Walton, head of WGA until 3 years ago.

Post of president of National Advertising Review Council (NARC), which has been vacant since April 1999 for lack of funding, has been filled once again on full-time basis by James Guthrie, former vp-mktg. promotion of Primedia's Channel One. NARC, ad industry's self-regulatory body, is supported by American Assn. of Ad Agencies, American Ad Federation and Council of Better Business Bureaus. National Ad Review Board and CBBB's National Ad Div. fall under NARC's aegis.

DBS SPECTRUM SOUGHT: MDS America has "proved Northpoint system can co-exist" with DBS on day-to-day basis, CEO Kirk Kirkpatrick said in interview. FCC issued experimental license to MDS America May 4. Company could compete with Northpoint and DBS, which is opposed to allowing terrestrial services in 12.2-12.7 GHz band. FCC is considering several spectrum-sharing options for satellite services. Kirkpatrick said his ultimate goal was to cause FCC to auction spectrum. He said MDS America had been "technology provider" for high-speed Internet and TV service providers in 20 global markets, and company's record showed spectrum sharing between terrestrial and DBS could operate without interference.

MDS wants to distribute service from tower using omnidirectional antenna to "underserved regions" of U.S.: "We can roll out bundled services in a matter of months." MDS America and Northpoint are promoting themselves as alternative to cable and DBS, but Kirkpatrick said his company's technology was superior. "We're not as dependent on the directional compass as Northpoint." Kirkpatrick said 3rd-generation Internet server was "delivering the fastest Internet on the planet" through wireless network.

System has been under development for 15 years and used successfully by French-based parent MDS International, Kirkpatrick said. Company has been sharing spectrum and operating system with DBS operators in Europe and Middle East since 1996, he said. He said all Northpoint "has done is show off-the-shelf hardware." Kirkpatrick said company hired LCI to test its system independently. It didn't participate in Mitre tests and company is prohibited from taking on private clients.

Kirkpatrick said FCC "auction is the best way" for MDS America and others to acquire spectrum to use terrestrial services in shared DBS spectrum. Northpoint in FCC filings has opposed auction.

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In face of slow economy, 9 over-air TV networks will be making their upfront presentations to advertisers and agencies this week, all in N.Y. NBC will lead off Mon. at Radio City Music Hall at 4 p.m., followed by Telemundo at 6:30 p.m., Ziegfeld Theater. Three presentations are scheduled Tues. — Pax TV at 9 a.m., Marriott Marquis; Univision at 10:30 a.m., Lincoln Center; CBS in afternoon at Carnegie Hall. WB will be up Wed. at 9 a.m., N.Y. Sheraton, followed by ABC at 4 p.m., New Amsterdam Theater. Winding up Thurs. will be UPN at 11 a.m., Madison Sq. Garden, followed by Fox at 4 p.m. aboard U.S. aircraft carrier museum U.S.S. *Intrepid*.

Public rates PTV and public radio among top 5 services for tax dollars, Roper Starch Worldwide said in new report. PTV received "excellent" or "good" grades from 60% of respondents and public radio from 58%. Only spending on defense (63%) and medical/technological research (61%) got higher rating. Study, released by CPB, found that public broadcasting's good standing cut across public in every age group, from G.I. Generation (born before 1930) to Generation Xers (born 1965-1980).

Three more TV stations have begun DTV broadcasting, according to NAB: WKMG-TV (DTV Ch. 58) Orlando, WESH (DTV Ch. 11) Daytona Beach-Orlando, and KUHT (DTV Ch. 9) Houston. NAB said 192 stations in 64 markets, reaching 68.2% of TV households, broadcast in DTV.

NCTA Pres. Robert Sachs lashed out at Disney and Viacom, whose cable networks are NCTA members, for seeking open access mandates on cable operators in emerging interactive TV (ITV) market. Speaking at Society of Cable Telecom Engineers conference in Orlando, Sachs said it was ironic that Viacom and Disney film studios refused to make their first-run movies available to cable video-on-demand (VoD) services while simultaneously calling for imposing ITV requirements on MSOs. "Should the government require Disney and Viacom to sell their first-run movies to video-on-demand on cable? Of course not!" he said. "But neither should the government require cable operators to carry whatever ITV services these companies might develop in the future." He also accused Viacom and Disney of seeking "a free ride on somebody else's investment." Noting FCC's current inquiry on ITV, Sachs warned that regulating nascent service "would only serve to discourage investment and slow deployment." He urged that govt. allow cable companies to fix any problems that cropped up with VoD and other ITV services. "If a viable market is going to develop for ITV — and I don't doubt that it will — it needs to be driven by free market forces, not the heavy hand of government regulation," he said.

FCC decision to permit Multichannel Video Distribution & Data Service (MVDDS) operations in 12.2-12.7 GHz band was "arbitrary and capricious," Satellite Bcstg. & Communications Assn. (SBCA) told FCC in reply comments. SBCA said Mitre report represented "new fact not previously on the record." EchoStar also asked Commission to re-examine its decision. DirecTV also called order deficient and said FCC failed to justify conclusions. Northpoint, MDS and Pegasus asked FCC to deny SBCA petition for reconsideration. Northpoint, meanwhile, said potential competitor MDS America made "serious misrepresentation" and attempted to "deceive" FCC and "American business community" by saying it was operating service in foreign markets that was successfully sharing spectrum with DBS operators in 12.2-12.7 GHz band. MDS America CEO Kirk Kirkpatrick disputed Northpoint allegations, calling it another "attempt to confuse the issue" and situation wouldn't be helped by "analyzing back and forth."

U.S. Appeals Court, D.C., should reject network appeal of national ownership cap on procedural grounds, as well as because appeal itself isn't justified, NAB and Network Affiliated Stations Alliance (NASA) said May 7 in joint brief to court. Brief repeated earlier claims that ownership cap was needed to preserve balance between networks and affiliates and to assure stations had freedom to meet local programming needs (TVD April 9 p5). They also said appeals court shouldn't even hear case because: (1) Networks were appealing only a report to Congress, in which FCC said no change was needed, and report didn't change anything and wasn't subject to judicial review. (2) Networks didn't have standing to appeal FCC action. (3) Court, at most, could only direct FCC to open rulemaking to consider eliminating ownership cap. NAB and NASA said networks could accomplish same goal by filing petition for rulemaking at FCC. Petition also rejected claim that ownership cap limited networks' First Amendment rights, saying it restricted only ownership, not speech.

Senate Commerce Committee plans confirmation hearing May 16 on Presidential nominations to Commerce Dept. and FTC., 9:30 a.m., Rm. 253, Russell Bldg., and confirmation hearing on FCC nominees, May 17, 9:30 a.m., Rm. 342, Russell Bldg.

CONSUMERS PUSH ACCESS: Public interest advocates began fresh push for open access to cable modems, DSL and interactive TV (ITV) networks with calls for "dot-commons" movement that would press for changes in broadband policy. In May 9 conference at Carnegie Endowment for International Peace, about 100 advocates met to rally support for federal open access mandates on both cable operators and phone companies.

They also discussed ways to counter prevailing deregulatory mood in Washington, debating new regulatory and legislative thrusts against media concentration, new rhetorical approaches on media diversity issue and budding local efforts to build competitive broadband networks.

Jeffrey Chester, former exec. dir., Center for Media Education (CME), used occasion to launch his latest venture, Center for Digital Democracy (CDD). Chester, whose new group sponsored confab with CME, urged attendees to battle moves by such large media firms as AOL Time Warner to limit Internet access on their high-speed lines by erecting "walled gardens" of proprietary content. He also called for "public interest safeguards" to keep MSOs and Bells from hampering outside ISPs, ITV content providers and Web sites.

Chester brandished resolution favoring open broadband networks from Transatlantic Consumer Dialog (TACD), coalition that includes both U.S. and European consumer groups. Resolution, which was approved May 4, recommended that U.S. and European Union member states "enact the appropriate policies to ensure open and nondiscriminatory access for broadband Internet services on all major platforms." It also called for requiring digital and ITV systems to "operate in a similarly open and nondiscriminatory manner" and said policies should be adopted to "ensure that noncommercial content providers receive favorable treatment on broadband platforms."

Stanford U. Law Prof. Lawrence Lessig said public interest advocates must change terms of debate in Washington by reframing their calls for preserving diversity of media voices. Thanks largely to cable industry's "extremely strong" First Amendment rhetoric, he said, federal courts are increasingly extending full free speech protections to cable operators, shielding them from content or network regulation. "The diversity rhetoric is dead for the current political culture," he said. "We've got to start talking about discrimination."

FTC Comr. Mozelle Thompson said his agency's consent decree for AOL-Time Warner merger should serve as model for cable industry. He said decree, which required AOL Time Warner to carry at least 3 outside ISPs when it started offering AOL's online service, "essentially broke cable monopoly model for the future provision of high-speed Internet service" and precluded company from discriminating against other content providers. "I think at the minimum it represents a standard for the top 20 cable markets for the time being and at least the next 5 years," Thompson said.

ACLU Assoc. Dir. Barry Steinhardt called walled garden "a very real free speech issue," saying that was why his group intervened in AOL-Time Warner merger review. "This is an extremely important free speech issue for the 21st century," he said. He contended that MSOs such as AOL Time Warner shouldn't be allowed to discriminate against other service providers, especially because they had received "the government-conveyed benefits of cable monopolies."

Timothy Denton, Ottawa lawyer and consultant promoting open access in Canada, said new option was for cities, school boards and others to build own fiber networks. David Farber, former FCC chief technologist and now telecom prof. at U. of Pa., warned crowd against "polarizing" FCC Chmn. Powell so early. Saying Powell had "an open mind" on issues, Farber called chmn. "an opportune person to go talk to rationally." Farber also said U.S. should shift its spectrum policy to let others use owners' vacant spectrum.

DBS TARGETS LATIN AMERICA: Latin America satellite TV companies Sky Latin America and DirecTV could become profitable if they merged, analysts said. Merger also would be positive for Grupo Televisa in Mexico and Globo in Brazil, which control Sky units and tower above cable operators in home markets. Sky-DirecTV Latin America speculation has become focus as talks between General Motors and News Corp. for Hughes-DirecTV unit heat up (TVD May 7 p4).

After 4 years in Latin America, neither DirecTV nor Sky is profitable. In Latin America, Sky Latin America-DirecTV merger would create company with almost no satellite TV competition and 2.8 million subscribers. DirecTV and Sky Latin America are locked in price wars in Latin America, where each company has 1.3-1.4 million customers. Analysts said wars meant diminished profit margins. In first quarter 2001, DirecTV Latin America loss deepened to \$44 million from \$38 million year ago. Financial analysts have predicted for last year that merger of 2 in Latin America was "inevitable" and "only hope" for survival of business.

"By eliminating a tough competitor from the market and reducing the downward pressure on prices, you can bring" DirecTV Latin America "to profitability at the bottom line," Deutsche Bank Alex Rene Pimentel said. UBS media analyst Matthieu Coppet said satellite industry was "natural monopoly" in Mexico and Brazil. DirecTV and Sky were "improving financially" but were losing money, he said. Satellite analyst David Kestenbaum said merger could save 2 companies \$50 million per year on leasing transponders alone.

Same analysts said convincing regulators to approve deal could be difficult. "It's going to be tough," said one, "but I think they can be creative, they can find a way of merging the businesses. You have to consider that cable is a competitor." Major factor in decision could be whether entire pay-TV market would be considered in competitive environment. Another problem is that Televisa and Globo control major cable TV networks in Mexico and Brazil as well as satellite TV companies.

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No evidence of unfair or anti-competitive behavior by cable operators against unaffiliated interactive TV (ITV) providers has been offered by pro-regulation advocates, NCTA said, stressing market-driven solutions to ITV deployment in reply comments to FCC's inquiry on ITV services. "The prospect of regulating ITV at this time should be unthinkable, wholly apart from any jurisdictional or constitutional barriers to such regulation," group said. Saying regulating nascent sector could harm ITV development, NCTA said risks of developing new services and difficulties in drawing investment capital shouldn't be "compounded by the threat of a wholly inappropriate regulatory scheme."

Personals

John Dimling moves from pres. to chmn.-CEO, Nielsen Media Research; Susan Whiting promoted to pres.-COO... Julie Kantrowitz resigns as exec. vp-media sales, Warner Bros. Domestic TV Distribution... Craig Jahelka, station mgr., WNEP-TV, Scranton-Wilkes-Barre, Pa., moves to gen. mgr., KERO-TV, Bakersfield, Cal... Steve Grund resigns as news dir., KWGN-TV, Denver... Troup Coronado, ex-Sinclair Bcst. Group, named asst. vp-federal relations, BellSouth... Sal DiMatteo, ex-Pacific Ocean Post, appointed CFO, National Mobile TV... Hugh Robinson, chmn.-CEO, Tetra Group, retires from Belo board... Changes at Citadel Communications: Thomas Garry, ex-AMFM, appointed pres.-Midwest region; Jerry McKenna, ex-Infinity Bcstg., named pres.-Far West Region.

Peggy O'Brien, Kiko.com and ex-CPB, becomes exec. dir-Cable in the Classroom... Jinling Elliott, ex-Knowledge Networks, joins CTAM as vp-research... Kent Lillie dismissed as pres.-CEO, Shop at Home; George Ditomassi and Charles Bone join Shop at Home board and office of chmn.

James Keplesky advanced to vp-ad sales, Walt Disney Internet Group's ABC branded properties (ABC.com, ABCnews.com and Enhanced TV)... Rory Lindgren, ex-Fleet Boston Financial, joins Pegasus Communications as senior vp-customer relationship management. Vincent Garlock, ex-majority counsel, House Judiciary Committee, named of counsel, Verner, Liipfert, Bernard, McPherson & Hand... Stephen Claypole, chmn., DMA-Media, appointed to TVnewsweb board.

Skybridge responded to opposition to its petition for reconsideration of FCC order in spectrum-sharing proceeding involving nongeostationary satellite (NGSO) FSS (fixed satellite service) and terrestrial systems in Ku-band, subsidiary terrestrial use of 12.2-12.7 GHz band used by DBS companies and application of Northpoint and Satellite Receivers. Company said in reply comments that FCC decision to permit multichannel video distribution and data services (MVDSS) such as Northpoint into 12.2-12.7 GHz band violated Administrative Procedure Act because Commission had said explicitly in Notice of Proposed Rulemaking that it was premature to make any proposals based on Northpoint petitions for license.

World Wrestling Federation (WWF) made it official with announcement that XFL Football won't return next year — despite \$100 million deal signed year ago with NBC, which already had pulled out for 2002. WWF Chmn. Vince McMahon said XFL was unable to come up with another TV or cable deal after UPN pulled out of negotiations. Ratings for 10-week season, which began in Feb., week after Super Bowl, decreased each week and by championship game (on NBC) was lowest rated show in prime time (Sat. night). "We just couldn't make it work from a financial standpoint," McMahon said. He said WWF after-tax loss on XFL will be about \$35 million.

U.S. Appeals Court, D.C., rejected petition by public interest groups for full court to reconsider its earlier decision striking down 30% cable ownership cap. Full D.C. Circuit turned down request to review March cap decision by 3-judge panel. Media Access Project Pres. Andrew Schwartzman said groups probably would appeal decision to U.S. Supreme Court, even though FCC Chmn. Powell had indicated that he probably would not go that route.



WARREN COMMUNICATIONS NEWS Telecom & Media Intelligence www.warren-news.com

TELEVISION DIGEST WITH
CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497-1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

This Newsletter is available electronically via Predicasts, Nexis, Dow Jones Interactive and Infonetics and also may be received via email.

Warren Communications News, Inc. is publisher of Audio Week, Cable & Station Coverage Atlas, Communications Daily, FCC Report, Local Competition Report, Long Distance Competition Report, Mobile Communications Report, Multimedia Wire, Public Broadcasting Report, Satellite Week, State Telephone Regulation Report, Telco Business Report, Television & Cable Action Update, Television and Cable Factbook, Television Digest with Consumer Electronics, Warren's Cable Regulation Monitor, Washington Telecom Newswire, Daily Document Service, and other special publications.

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Television and Cable Factbook

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Any congressional dual must-carry mandate imposed on cable for DTV transition likely would be rejected by courts, factor that must be considered before members consider such legislative action, House Telecom Subcommittee Chmn. Upton (R-Mich.) said May 11 at FCBA lunch in Washington. Upton also said must-carry mandate could interfere with cable's ability to upgrade and expand networks. He said subcommittee will hold hearings soon after Memorial Day on campaign finance reform and its impact on broadcast industry.

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Consumer Electronics

A Section of *Television Digest with Consumer Electronics*

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending April 27, and year to date:

	APR. 21 - APR. 27	2000 WEEK	% CHANGE	APR. 14 - APR. 20	17 WEEKS 2001	17 WEEKS 2000	% CHANGE
TOTAL COLOR TV	593,811	802,225	- 26.1	371,011	7,990,168	8,623,975	- 7.3
DIRECT-VIEW**	570,371	762,771	- 25.2	355,593	7,677,906	8,235,271	- 6.8
TV ONLY#....	472,510	594,389	- 20.5	278,405	6,427,943	6,860,380	- 6.3
TV/VCR COMBO.	97,861	168,382	- 41.9	77,188	1,249,963	1,374,891	- 9.1
PROJECTION...	23,440	39,454	- 40.6	15,418	312,262	388,704	- 19.7
TOTAL VCR**....	534,775	1,023,727	- 47.8	308,369	5,778,697	7,785,474	- 0.3
HOME DECKS...	436,914	855,345	- 48.9	231,181	4,528,734	6,410,583	- 29.4
CAMCORDERS.....	189,383	204,058	- 7.2	92,202	1,611,022*	1,590,330	+ 1.3
DVD PLAYERS....	340,700*	241,357	+ 41.2	98,502*	2,966,729*	1,592,817	+ 86.3

Direct-view TV 5-week moving average#: 2001-384,904; 2000-402,030 (down 4.3%).

Projection TV 5-week moving average: 2001-18,194; 2000-24,068 (down 24.4%).

VCR deck 5-week moving average: 2001-317,124; 2000-378,158 (down 16.1%).

TV/VCR 5-week moving average: 2001-80,823; 2000-113,382 (down 28.7%).

Camcorder 5-week moving average: 2001-129,763; 2000-132,398 (down 2.0%).

DVD player 5-week moving average: 2001-208,223*; 2000-109,091 (up 90.9%).

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

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

MITSUBISHI ADDS HDTVS, DROPS TAGS ON 'READY' SETS: Mitsubishi, making strongest push yet in HDTV, unveiled 5 integrated sets and new range of HD-ready models at prices \$300-\$1,000 below those of year ago.

New 55W (starting at \$4,299), 65W (\$5,499) and 73W (\$10,499) HDTVs have IEEE-1394 copy protection (TVD March 19 p10) along with Home Audio Video Interoperability (HAVi) and Mitsubishi-designed NetCommand. Last is combined with 2 Java-based levels of HAVi — full audio video (FAV) and enhanced intermediate audio video (IAV) — to create icon-based onscreen menu to control 5 different brands and more than 20 IEEE-1394-networked high-end models of DVD players, A/V and satellite receivers, cable boxes, VCRs. NetCommand was developed over 2 years by Mitsubishi, which also worked with VividLogic on HAVi software.

NetCommand also has database of remote control codes allowing it to operate existing analog products via 2 infrared blasters built into HDTVs. Also incorporating HAVi feature is D-VHS recorder (\$1,049) that Mitsubishi has held off shipping for more than 2 years pending resolution of copy protection issues raised by Hollywood studios.

New line represents significant push for copy protection technology developed by 5C group of Hitachi, Intel, Panasonic, Sony, Toshiba. Sony has committed to introducing 5C-equipped HDTVs with IEEE-1394, but has stopped short of adding HAVi. In incorporating new networking software, HDTVs have more than 2 Mb of memory (HAVi and 5C each consumes about 500 KB) and RISC-based processor that operates at equivalent of 200 MHz.

Mitsubishi has dropped audio components and speakers from line as well as entry-level DirecTV receiver in favor of models that combine satellite service with HD decoder. It also expanded progressive scan DVD player line

to 2 models by adding one with DVD-Audio (\$475) and introduced new version of DLP-based rear-projection TV (\$17,500). Latter adds new chassis with greater digital signal processing (DSP) power and boost in contrast ratio to 700:1 from 400-500:1.

Among more aggressive positions Mitsubishi is taking is new line of lower priced HD-ready sets. Eight HD-ready sets ranging from 46W (\$2,499, down from \$3,499 year ago) to 55W, \$3,599 (\$4,499) and 65W, \$4,299 (\$4,999). Sharp drop in prices is designed to meet competition, but also is related to Mitsubishi effort to drive down manufacturing costs. Earlier this year, company shaved price of 46W and 55W sets to \$1,999 and \$2,799 (TVD April 2 p10) in advance of Matsushita's shipping 47W model at \$1,999 later this month (TVD Jan 8 p16).

"We went with some equivalent parts [to hit lower prices] that were easier to obtain in mass production quantities," Product Development Mgr. Martin Zanfino said in referring to parts such as capacitors. "We were able to improve our own cost basis and pass that on without having to compromise our profitability. We looked for no compromise ways to get the cost down. We didn't take it out of the optics because you could see that or out of any place where the performance specs were going to suffer."

Platinum and Diamond series of projection TVs (46W-73W) received greatest expansion of line in moving to 5 models from 3. Stepup Platinum Plus series of three 55-65W sets (\$3,599-\$5,299) features new QuadField focus magnetic beam control that involves placing collar containing magnets around CRT yoke. Magnets "push in" on beam to create more tightly focused spot beam while also sharpening picture's edges and corners. Plus series sets also moved to 6" woofers used by Diamond series TVs from 5" year ago, but kept 1.5" tweeters and 10 w power output.

Diamond 55-73W TVs (\$4,999-\$10,499) added Tru-Focus 6-element lens in addition to networking software. All integrated HDTVs have built-in digital cable TV tuner, although Mktg. Vp Robert Perry conceded that with OpenCable specifications yet to be finalized, "we are a long way from having a TV with a fully 2-way system."

While Mitsubishi is taking high-profile stand in HDTV, it has no immediate plans to return to plasma display panel (PDP) business it helped start with 20" and later 40" models in mid-1990s. It halted production of PDPs in 1999 (TVD Jan 25/99 p15) after failing to achieve targeted yield, but is said to have continued developing 46W and 50W panels at Kyoto, Japan, plant. Mitsubishi is "studying" PDP market "very, very seriously" and could return to it "relatively quickly," Sales & Mktg. Vp Max Wasinger said, but he declined comment on timing of possible return. "We need to make sure that the panel technology that we decide to use is the right one. The key is, we can't have a me-too type of plasma display panel."

In DLP, Mitsubishi will ship 2nd generation 65W (\$17,500) rear-projection TV with same 0.75" chip with 1,280x720p resolution as earlier model (TVD Aug 28 p14), but with new chassis and additional DSPs. Additional DSPs, some of which were supplied by DLP inventor Texas Instruments, allow TV picture to be split to deliver digital programming and PC display simultaneously, each with 720x640 resolution, Zanfino said. Set retains 550 lumens, but increases contrast to 700:1, he said.

Further buttressing digital strategy, Mitsubishi also is readying D-VHS recorder and progressive scan DVD-Video deck that's capable of DVD-Audio, CD-R, CD-RW playback. D-VHS deck, which can record at up to 24.2 Mbps, was first targeted for late 1999 introduction (TVD May 17/99 p17), but was held up by copy protection concerns and Mitsubishi's lack of integrated HDTV, Zanfino said. "There were copy protection issues, but in our case, it didn't make sense until we had a TV to drive it because the HD portion of it would have been useless without an integrated set," he said. In addition to DVD-Audio compatible deck, Mitsubishi will field single-play DVD-Video model with component video output (\$205, down from \$299) and progressive scan unit that features boost in video processing speed to 54 MHz from 27 MHz year ago, while dropping price to \$375 from \$999.

While maintaining foothold in audio via DVD, Mitsubishi is dropping A/V receivers (\$599-\$799) and 6-piece speaker systems (\$899-\$999) that it has marketed as complement to video products for last several years. "It wasn't a particularly successful product line for us," Zanfino said. "While they were good solid products, they were good solid me-too products. We felt we should concentrate our efforts on the products where we could really make a difference."

In DirecTV, Mitsubishi is dropping entry-level piece in favor of combination receiver/HD decoders. Delivery of latter product, which is being built by Hughes Network Systems (HNS), was postponed several times in 2000 before hitting market earlier this year. "The category has become more feature- than performance-oriented and we knew our current

[receiver-only] product wasn't deserving of the term upscale and that's why we got out of it," Zanfino said. "That doesn't mean we're permanently out of that category, but for now we are."

As it introduced D-VHS deck, Mitsubishi kept hand in analog VCR market, although in slightly scaled-back manner. It trimmed S-VHS line to 2 models from 3, only of which is new unit with \$205 price, down from \$299 year ago. Standard 4-head hi-fi VCRs continue, albeit at lower prices at \$119 against \$149 year ago and \$159 (\$199). Speed of VCR's rewind and fast forward have been increased to 500X from 450X and commercial skip feature has been dropped.

Missing from Mitsubishi's lineup is personal video recorder (PVR) technology and front projector. Company has had discussions with hard drive suppliers Maxtor and Western Digital (WD) and has studied 35 GB external QuicView model with IEEE-1394 that former showed at National Assn. of Broadcasters (NAB) convention in April. WD also has IEEE-1394-equipped hard drive. While Mitsubishi has been "closely monitoring" PVR category, it has no immediate plans to introduce product, but will make decision within "next year or so," Wasinger said.

While Mitsubishi's Professional Products Group sells LCD front projectors, Consumer Div. isn't likely to field one again until market expands. Company carried LCD projector in 1999, but had limited success.

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Mitsubishi said it wouldn't deliver on digital TV upgrade promise until mid-2002. While it plans to provide consumers with module to upgrade its HD-ready set to full HDTV, device won't be available at sub-\$1,000 price until next year. Module, which is 1.5" thick and measures a little larger than 8.5"x11" piece of paper, will be affixed either to inside of set or will be mounted on outside in way that outputs aren't exposed, Zanfino said. It will have IEEE-1394, but not NetCommand software, which "reaches too deep into the microprocessor," he said. Mitsubishi will continue its sponsorship of TV networks' HD coverage of sports and special events, but hasn't decided whether it will provide funding for prime-time programming in fall, Perry said. Mitsubishi underwrote conversion of CBS-TV prime-time programming to HD in 1999, but switched to sponsorship strategy last year.

BOUNCEBACK POSSIBLE IN CE 'MARKET CONFIDENCE' — SONY'S NISHIDA: "Different" and "more cautious approach" pervades today's consumer electronics marketplace than relatively optimistic climate of 6 months ago, and industry will know within next 8 weeks whether significant recovery is possible in time for holiday selling season. So said Sony Electronics Pres. Fujio Nishida in regular semiannual briefing with reporters in which he said Sony has made significant inroads in laptop and desktop PC markets through more "clear-cut positioning" and differentiation of Vaio line as "entertainment PC."

"The business climate is not necessarily good," Nishida said, but he expressed hope that "market confidence" will return by 2nd half of 2001. He said "next couple of months will be key" in pegging whether turnaround is coming because June period is when major retailers plan 4th-quarter buying behavior. "So if the next couple of months continue to be dismal," order volumes might be disappointing for holiday selling season, he said. If you talk to major accounts today, he said, "you can't hear the good news." He said industry is "at the edge of the cliff" in terms of approaching crucial time frame when turnaround could be telegraphed.

Despite "turbulent" 2nd half, he said, Sony completed 2001 fiscal year in strong position. He said Sony Electronics finished year with 15% sales increase overall (22% in consumer sales), and U.S. electronics operations accounted for biggest chunk (31%) of total Sony electronics pie worldwide.

Year's biggest growth contributor under Sony Electronics umbrella was Vaio PCs, which grew 40% from year earlier, Nishida said. During year, he said, Vaio overtook Compaq as top-selling notebook PC line at retail in terms of dollar volume. Moreover, he said, Vaio desktops moved into number 3 market share position in that category. Digital imaging products also fared well for Sony in year, he said, rising 30%, highlighted by Memory Stick devices having reached installed base of 10 million for first time. Meanwhile, he said TV sales were up 25%, home video rose 40% on DVD, and personal audio was up 10%, Nishida praising MiniDisc "connectivity" with PC as strategy that "is working very well." In audio, he said new year could mark breakthrough for mainstreaming of Super Audio CD (SACD), with price points reaching as low as \$399 for "most affordable" player.

Sony hasn't changed positioning of SACD as highest quality audio format "available today," Nishida said. "In that sense, it is still very limited to the audiophile." Compared with Sony's emphasis today on SACD affordability, Nishida acknowledged that senior management had stated in past that format wouldn't be big business for Sony. He said it's true that Sony Pres. Nobuyuki Idei 2 years ago compared SACD to "vintage wine." But as technology has evolved, he said, Sony has succeeded "in bringing down the costs." However, Nishida said he is not expecting SACD business "to explode" as CD market did before it.

SUPER AUDIO CD ADVANCES AT N.Y. SHOW: In battle of advanced audio formats, Sony-backed Super Audio CD (SACD) showed clear lead in software quantity compared with DVD-Audio going into last weekend's Home Entertainment Show in N.Y. Format also got boost on hardware side, with Sony introducing 5 new SACD players and line of compatible components.

SACD title-count is nearly 240 now, compared with about 57 for DVD-Audio (29 of which are from Warner Music), which made debut in Europe late last month and whose only support among major record labels remains Warner Music.

About half of SACD titles hail from Sony-owned record labels and 200 of total count are stereo-only. First multichannel SACDs have begun to appear as multichannel players hit market this spring, including Philips SACD-1000 (\$1,999) with DVD-Video. Selection of SACDs is split about evenly between single-layer, SACD-only titles and dual-layer "hybrids" with Red Book CD version on same disc for backward compatibility with CD players. Hybrids are offered exclusively by independent labels.

SACD-compatible products from Sony will number 14 by fall with models introduced last week. These include new reference player, multichannel SCD-XA777ES at \$3,000. Company added 3 multichannel SACD/DVD-Video combos, including entry-level \$300 model, \$400 step-up, and \$1,000 player with progressive-scan video output for DVD. Sony also added "reference" SACD/DVD-Video Dream system at \$1,000. Multichannel DAV-C900 combines disc player and AM/FM receiver in single chassis, bundles home theater speaker package including minitower.

Among SACD-compatible electronics, multichannel preamp and 2 receivers will make fall debut from Sony. STR-DASES (\$1,500) and STR-DA3ES (\$1,000) receivers have 6-channel amps. They and TA-P9000ES preamp (\$700) decoder SACD's DSD bitstream as well as Dolby Digital, DTS and Sony's "virtual matrix" 6.1 encoding.

In high-end video segment, Sony also used N.Y. show to introduce \$8,000 LCD widescreen front projector. New VPL-VW10HT is rated at 1,000 ANSI lumens, and Sony said improvements in contrast ratio render consistent black-levels even in low light. Projector uses 3:2 pulldown to scan motion images smoothly in big-screen presentation.

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Audible posted increased revenue and smaller loss for its first quarter ended March 31. Wayne, N.J.-based spoken audio content and service provider said its revenue leaped to \$2.13 million for quarter compared to \$723,390 in same period year ago and \$1.03 million for 4th quarter ended Dec. 31, 2000. Meanwhile, loss decreased to \$7.47 million (-28¢ per share) from \$8.50 million (-33¢) same quarter year ago. But loss was up slightly from \$7.17 million (-27¢) in 4th quarter 2000. Audible noted that its cash position was enhanced in quarter by \$10 million investment in company by Microsoft. Pres.-CEO Thomas Baxter said last week: "In what was surely a challenging economic environment, Audible demonstrated its increasing popularity and resilience by posting solid growth in both revenues and customer growth. We achieved 29% growth in our content and services revenues and growth of 36% in our customer count." Company, he said, also increased its AudibleListener service monthly membership base to almost 15,000.

Cobra Electronics will continue to pursue acquisitions despite recent collapse of proposed purchase of Lowrance Electronics (TVD May 7 p21), company officials said. While Lowrance "met our criteria" in terms of potentially expanding Cobra brand into new channels of distribution and providing manufacturing in Mexico, its sales results were "significantly below" revised forecast made after proposed deal was announced in Jan., CEO James Bazet said. "Lowrance demonstrates there are strong opportunities for acquisitions, but also that Cobra will not overpay for any transaction," Bazet told analysts in earnings conference call last week. Cobra had originally proposed paying \$8.50 cash for each of Lowrance's 3.77 million outstanding shares, but lowered price to \$7.50 in April. Cobra reported first quarter net income rose to \$722,000 from \$628,000 year ago on 44% increase in revenues to \$30.6 million, largely fueled by sales of 2-way Family Radio Service (FRS) devices. At same time, gross margin slipped to 27.6% from 28.8% due partly to sales of low-end FRS products, Bazet said. Inventories increased to \$22.4 million from \$18.9 million. Cobra's FRS sales tripled during quarter and it "closed gap" with market share leader Motorola. While Cobra has consistently maintained No. 2 market share position in FRS, Audiovox slipped past it for month of March, according to NPD Intelect. Overall, FRS sales rose to 866,000 units in first quarter, up from 661,000 year ago, said Peter Arato, senior account exec. for telecom at NPD. Average sale price dipped to \$51.55 from \$57.61 year ago and 2-pack increased share of revenue to 35% from 29%, he said. FRS factory sales hit \$370 million in 2000 and are forecast to rise to \$650 million by 2005, Bazet said.

Gracenote sued Adaptec subsidiary Roxio, alleging maker of CD-burning software violated its patents and trademarks covering its Cddb database of CD music titles. Suit, filed in U.S. Dist. Court, San Francisco, alleged Roxio issued version of its software after 2-year agreement with Gracenote expired on April 22 that directs users to music recognition database operated by open source group Freedb.org. Latter illegally uses Gracenote's data base technology, suit maintained. Cddb has database of 11 million audio tracks and 880,000 titles. Roxio is alleged to have posted message on its website May 7 telling users of CD Writer Software that it will soon offer update that it will "fix" inability to access Cddb database, Gracenote said. In letter dated May 8, Gracenote said it would no longer provide Roxio with access to Cddb database, lawsuit said. Roxio responded by arguing that Gracenote was "obligated" to continue to provide access and that it would hold company liable for failing to do so. Roxio Legal Affairs Dir. William Gowney termed Gracenote's allegations "unfounded" and said company was making infringement claims in "weak and ineffective attempt to damage Roxio's reputation." Lawsuit was filed as Roxio was spun off from Adaptec with regular trading scheduled to begin May 14. Roxio canceled IPO in Jan. citing stock market conditions. Gracenote is subsidiary of Ind.-based Escient.

Napster's troubles have been good news for file-swapping competitors, Internet research firm PC Pitstop said. Report said Napster installations declined 6% in March, partly because of court injunction. But it said other companies — such as AudioGalaxy, BearShare, mIRC, LimeWire, mIRC and WinMX — all showed increased installation rates in March, with BearShare and WinMX reporting greatest growth. "If or when Napster and its competitors move to paid or regulated models, it'll be twice as interesting to see how that regulation affects the services and file-sharing," PC Pitstop CEO Rob Cheng said — www.pcpitstop.com.

STAKE ACQUIRED IN DENON PARENT: Same N.Y.-based investment firm that agreed to replace Hitachi as biggest shareholder in Denon's Japanese parent Nippon Columbia continued on its buying binge late last week.

Tokyo-based news reports Fri. said N.Y.-based Ripplewood Holdings had received permission from Japanese bankruptcy court to acquire financially crippled Seagaia resort on southernmost Japanese island of Kyushu. Ripplewood earlier led consortium to purchase defunct Long Term Credit Bank of Japan and in April took 40% stake in Niles Parts Co., automotive parts manufacturers previously affiliated with Nissan. Reports said Ripplewood has established \$1.2 billion war chest to invest widely in Japan to exploit growing Japanese willingness to open up to foreign investments in wake of country's deep economic woes.

As for Nippon Columbia acquisition, complex series of transactions will give Ripplewood 41.7% stake in Denon parent. Under plan, Ripplewood will create holding company to buy preferred shares in Nippon Columbia, with about 20% of holding company to be funded by outside investors. Ripplewood has installed former BMG Entertainment CEO Strauss Zelnick as its next chmn.

Under plan, Nippon Columbia in July will allocate ¥4.14 billion worth of new common shares to Hitachi and ¥6 billion in new preferred shares to Hitachi and new holding company in Oct. With Ripplewood accepting over 83% of new preferred shares, it will acquire 41.7% stake in Nippon Columbia and replace Hitachi as its biggest stockholder. In turn, Nippon Columbia will spin off Denon to concentrate on reviving its financially beleaguered music software operations. Ripplewood fund will pay ¥5.9 billion for 98% control of Denon (Hitachi will control remaining 2%) and ¥5 billion for 77 million preferred shares that Nippon Columbia will issue in Oct.

Denon Vp-Sales & Mktg. Stephen Baker declined comment on any possible Denon impact of Ripplewood acquisition, other than to refer us to official Nippon Columbia statements. Mainstream news accounts virtually all referred to Nippon Columbia as financially ailing company that would seek rehabilitation under Ripplewood management, references to fact that Nippon Columbia expects to report 10th consecutive year of losses on poor music software sales and slump on AV equipment demand in Japan. Baker would say only that Denon AV sales in U.S. are healthy. "My business has never been better," he said.

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Judges hearing appeal in DeCSS case have asked each side to answer 11 questions to determine whether computer code qualifies as free speech. Issue is whether anticircumvention clauses of Digital Millennium Copyright Act (DMCA) violate First Amendment. In 1999, online magazine 2600 published DeCSS code that hacks DVD's Content Scrambling System and disseminated it on Internet. MPAA sued publisher Eric Corley, and last Aug. Judge Lewis Kaplan of Federal Dist. Court, N.Y., enjoined him from distributing code further. Final briefs in Corley's appeal were due May 10 at U.S. Appeals Court for 2nd Circuit, but 3-judge panel last week asked parties to answer questions concerning protected speech under Constitution. DMCA makes it illegal to distribute means of circumventing encryption or access-controls for copyright digital material. Questions by judges opens possibility that they'll rule more broadly on DMCA and free-speech rights instead of limiting opinion to Judge Kaplan's injunction.

Sonicblue is scrapping short-lived venture into handheld PCs. Diamond Mako was designed around Symbian platform, but Sonicblue parted ways after Psion left project. Sonicblue was largely interested in cellular phone applications of platform and "for us to enter the PDA market for a one product hit is something that isn't of interest," CEO-Chmn. Kenneth Potashner said. Sonicblue unveiled Diamond Mako last fall at \$399, designing it around Psion's Epoch operating system. Mako had 16 MB RAM, 4" LCD screen, full key board and optional 56 kbps modem... **High Tech Computer** has received \$700 million contract from Compaq to build its iPaq handheld PC. High Tech recently opened plant with one million unit monthly capacity that will be dedicated to Compaq orders... **Handspring**, bracing for possible price moves by Palm, has cut retail price \$50 on Visor Deluxe to \$199 and packaged it with free leather case, while also launching \$50 rebate program for Visor Platinum (\$249) that runs through June 17... Palm cut price of VIIx handheld PC to \$199 from \$299. When coupled with current \$100 rebate that runs through Dec. 31, price effectively drops to \$99. To qualify for rebate, customer must commit to one-year subscription to Palm.net wireless service starting at \$24.99 per month and ranging to \$44.99 for unlimited use... **Fujitsu** will introduce PDA based on Microsoft's Pocket PC platform in spring 2002, joining Casio, Compaq, Hewlett-Packard, NEC and others.

Tetratel has kicked off "a campaign to expose the company and its technologies to the investment community and introduce its EyeFX products to retail distributors." Edmonton, Alberta-based company said it would begin meeting with investment analysts and brokers in Canada, with stops in Calgary, Edmonton and Vancouver. Tetratel said it would also attempt to meet with members of investment community in L.A. this week during E3, which company is attending. Company said it will meet with distributors and retailers at show and demonstrate its Laser Projection Technology (LPT) project "to parties that have an expressed interest in the project." Week earlier, Tetratel said its TIN Project 3D peripheral for videogame consoles was "advancing on schedule" (TVD May 7 p19). Separately, company said it received notification from U.S. Patent & Trademark Office that patent application for its core EyeFX 3DT technology "has been allowed for issuance." Tetratel said patent describes method and apparatus to create artificial stereoscopic video mode and is applicable to both computers and HDTV systems: "The allowance of this patent increases [our] intellectual property and technology assets to now include 2 patents and one provisional patent in the United States... This key industry patent ensures Tetratel's short and long-term royalty revenue opportunities from within the existing marketplace."

New promotion — "Raid the Pepsi, Search for PlayStation" — is being sponsored by Sony Computer Entertainment America, Paramount Pictures, Pepsi-Cola Co. Promotion, to run May 14-June 24, coincides with upcoming theatrical release of *Tomb Raider* June 15. Included in promotion is contest offering such prizes as PS One and PlayStation 2 game consoles. Coupons on cans of Pepsi will give consumers \$5 off software titles for Sony game systems from Eidos Interactive. Contest is part of what Paramount said was "one of its most ambitious promotional campaigns ever." Studio said aggressive marketing campaign for film also would include such other brands as Ericsson, Land Rover, NBC, Taco Bell. Studio said major summer promotion for movie, based on Eidos videogame series developed by Core Design, would run May-Aug. and would cost \$15.5 million.

MORE GAMECUBE, XBOX DETAILS COMING: As Electronic Entertainment Expo (E3) gets under way in L.A. this week, much of spotlight at show will be turned to Microsoft and Nintendo. Companies are expected to finally unveil more details about their upcoming Xbox and GameCube videogame consoles.

Jupiter Communications Analyst Billy Pidgeon noted late last week: "A lot of questions will be answered." Among key details yet to be announced by Microsoft and Nintendo about its game systems slated to ship this fall are pricing and launch titles. Companies may provide certain other shipping details as well. But Pidgeon told us Microsoft and Nintendo will "probably make an effort not to over-promise" in terms of number of systems they plan to ship at launch because of what happened with PlayStation 2 (PS2) last year.

Noting importance of quality games for success of any console's launch, NPD Interactive Entertainment Account Exec. Richard Ow said: "Besides all the new hardware coming down the pike, it will be interesting to see what the new software game publishers have lined up at this year's E3." He added: "The quality of games is vital for a strong launch; N64 had Mario, Dreamcast and PlayStation 2 had NFL, and it remains to be seen what is in the works for Microsoft's Xbox and Nintendo's GameCube. Will there be one product that will help these systems achieve supremacy in the console wars? We'll just have to wait and see."

GameCube received much-needed nod of approval on 3rd party game maker side last week when Electronic Arts (EA) finally made it official: Redwood City, Cal., game maker said it will indeed support Nintendo's GameCube. Announcement represented major boost for Nintendo despite fact that it wasn't exactly major surprise in that EA supported Nintendo 64 console. Ten GameCube titles are planned by EA at this point, including *Madden NFL 2002* and *FIFA* soccer, *NBA Street* basketball and *SSX* snowboarding titles.

EA CEO-Chmn. Larry Probst said last week: "EA takes a systematic approach to evaluating new hardware platforms, and we're very excited about the potential for the Nintendo GameCube. Nintendo has a proven track record in the areas of vision, innovation and execution that positions the Nintendo GameCube to be a major force in the industry." Nintendo of America Pres. Minoru Arakawa, for his part, said: "Electronic Arts is one of the world's best developers. We're thrilled to have the variety of games they are creating for the Nintendo GameCube, especially the sports games which appeal so well to the teen and older players."

Elsewhere on videogame hardware front at E3, Sony Computer Entertainment is expected to still attract much attention from attendees on show floor — if not on news front — despite fact that its PlayStation 2 has been available since end of last year. "Sony will have some great stuff to show off," said Pidgeon, who noted that he is also looking forward to seeing more offerings on accessories and online game fronts, as well as demonstrations of upcoming Game Boy Advance games.

Pidgeon is slated to be panelist during Games Go Wireless session May 18. But, he admitted there likely won't be much on wireless front outside of panel at show. That category is just "not really developed enough" at this point, he said.

If abundance of announcements made by cross-section of game makers for past month or so are any indication, attendees can expect to be bombarded with new games for next-generation systems at E3. Also expected to be out in force are new accessories for those systems. (See separate reports, this issue.)

Thomson Multimedia is supplying components to its minority shareholder Microsoft for Xbox and has said it would incorporate Xbox technology in its own products. Thomson also is likely to field line of Xbox accessories. But while company's accessory division will have booth at E3 next week, Thomson spokeswoman told us last week company plans to show only its initial line of computer game peripherals.

Number of E3 registrants through last week was unclear at our deadline, as was number of exhibitors. Douglas Lowenstein, pres. of Interactive Digital Software Assn. (IDSA), which runs E3, told us last month that "pre-reg attendance [was] up about 10-12%" (TVD April 9 p11). E3 spokeswoman told us that as of March 29 there were "76 new exhibitors participating" this year that weren't there in 2000. But Lowenstein admitted that number of overall exhibit space sold was down — largely because of company consolidation.

CD Warehouse reported first-quarter net loss narrowed to \$113,000 from \$217,000 year ago on drop in operating costs and expenses in shut-down of e-commerce Web site last fall (TVD Oct 2 p15). Lower costs also were due to closing of 9 company-owned and 28 franchised locations (TVD Feb 5 p22). Overall, operating costs and expenses declined to \$6.6 million from \$8.6 million and retail store expenses to \$1.9 million from \$2.5 million. Revenues plunged to \$6.5 million from \$8.3 million on 7% decline in same-store sales. Retail store sales slid to \$5.6 million from \$7.1 million. Royalty fees from franchisees declined to \$771,330 from \$925,622 as CD Warehouse lowered royalty rate charged on new product sales to 4% from 5%. CD Warehouse ended quarter with 186 company-owned and franchised stores, same as year ago, while its Disc Go Round chain dropped to 32 from 45. Chain purchased 134-store Disc Go Round from Grow Biz International in 1998. CD Warehouse, which is shifting some emphasis from used CDs to new and used DVDs, plans to open 20-25 franchise stores this year.

Amazon.com was hit with yet another class action lawsuit — this one filed in U.S. Dist. Court, Seattle, on behalf of investors who bought common stock and publicly traded call options in e-tailer between Feb. 2, 2000, and March 9, 2001. Schatz & Nobel, which said it had "significant experience prosecuting class actions on behalf of investors," filed suit. Complaint was similar to recent ones we reported (TVD April 30 p24). It alleged that Amazon and 3 of its top officers misled shareholders and investing public during Class Period "by failing to disclose, among other things, that investments in various joint ventures were losing millions of dollars, and that revenues recorded as cash were actually highly speculative equity investments and were distorting the company's reported cash flow."

Nintendo of America (NOA) announced 4th color for its Game Boy Advance — translucent fuchsia. But it said color wouldn't be added to line for next-generation handheld game system's June 11 N. American debut. Rather, it said, fuchsia units would ship July 2. Color joins previously announced Arctic (white), Glacier (translucent blue), Indigo (violet). Last 3 are to be available at outset.

800.COM BUYS ROXY.COM: In deal that could significantly boost 800.com's annual sales of \$48 million, online CE retailer last week revealed that it had acquired assets of Roxy.com and Everything Wireless (EW).

As part of deal — terms of which weren't disclosed last week — 800.com acquired all rights to Roxy and EW Web site URLs, along with database of 800,000 names and catalog and creative assets.

Online CE retailer Roxy — originally based in Marlborough, Mass. — acquired Miramar, Fla.-based wireless product retailer EW in June 1999. Roxy, only late last year, had finished merging its operation with EW in Miramar while shifting focus of overall business to satellite and wireless (TVD Jan 8 p16). Combined, their businesses represent \$28 million in annual sales, companies said. Roxy was privately-held company, although Federated Dept. Stores subsidiary Fingerhut held 40% equity in it.

Roxy had as many as 170 employees, but was down to about 140 by time it consolidated its operation with that of EW, Roxy Chmn. Keith Clougherty told us. He added that staff was down to about 90 after consolidation.

800.com CEO Greg Drew told us last week that acquisition "made an incredible amount of sense" for couple of key reasons. For one thing, he said, 800.com had been looking to expand number of its categories, and businesses that Roxy and EW were strongest in — satellite and wireless — were 2 areas that made sense for 800.com to expand into.

In addition, Drew said, there was "very little overlap" in terms of product mixes of 800.com and Roxy/EW. Downside of that is that 800.com gains no new core CE brands. But 800.com already has authorizations from majority of key CE manufacturers anyway.

Although Drew said 800.com has had no experience selling wireless products up to now, he noted that company has been selling satellite products. But he admitted that 800.com's experience on satellite front wasn't same as Roxy's, which has been offering broad range of products and services online in satellite category for long time. Like 800.com, Roxy's main satellite business has been DirecTV and neither has been selling EchoStar's systems.

Clougherty and Drew said they have known each other since 1997 and have had conversations about their businesses since then. But they said they didn't start specifically talking about possible acquisition until early this year at CES.

Although Clougherty said Roxy was "dealing with some financial issues" before acquisition, he said his company wasn't running out of money to keep business going. Main reason he decided to make deal with 800.com was that Roxy was in process of making loan payments to secured investors, and acquisition was best way to make sure those investors were paid back. Like Drew, he declined to provide specifics on terms of deal and how many figures were in price 800.com made. He only told us they were "good figures."

Disposing of Roxy/EW's Fla. hq will be no problem, Clougherty said, noting his company has only been leasing out

its space, consisting of about 68,000 sq. ft. of warehouse space and 30,000 sq. ft. of office space.

Clougherty added that 800.com will be getting portion of Roxy's inventory and rest will be sold off. But inventory is fairly low, explained Clougherty, noting that Roxy had been preparing for acquisition and had been only ordering small amount of items for its warehouse.

Small number of key members from Roxy and EW management team, including Clougherty, will temporarily stay on to consult with 800.com, companies said. When asked what he will do in future, Clougherty said: "We'll see what happens after that."

Drew, for his part, said small number of Roxy employees may stay on with 800.com, which he said currently has work force of about 140.

Status of deals Roxy had forged with other companies — such as strategic alliances with NBC Internet and ValueVision International announced early last year (TVD Jan 10/00 p18) — are up in air for now. Drew told us: "We're going to evaluate those." He also said 800.com planned to evaluate such EW initiatives as wireless game delivery service. "We're going to be looking at everything they were doing very carefully," he said, adding that 800.com wants to consider what sort of initiatives will bring his company greatest return.

Drew said 800.com is "going to work over the next year" to transition EW and Roxy customers to 800.com name. Roxy.com and Everything Wireless names both have brand equity for customers, he said. Therefore, for at least time being, when Roxy and EW customers type in those names while doing Web search, they'll get to transitional Web page. But Drew said goal is to fully incorporate all EW and Roxy products into 800.com site. 800.com has already started adding EW and Roxy products to 800.com selection and process of adding products will continue. "We'll be done well before the holiday season," he noted.

800.com investors seemed to be giving acquisition thumbs up last week. For instance, Gerry Langeler of OVP Venture Partners said: "The profitability outlook is excellent." OVP and 800.com's other investors — including APV Technology, Trinity Ventures and Vulcan Ventures — had provided e-tailer with \$101 million in funding as of last week.

Drew added that 800.com still has no short-term plan for going public, noting: "We're not in a rush." Company still plans to be cash flow positive by year-end and Roxy deal will help 800.com accomplish that, he said.

Software glitch has halted sales of Sony's wireless phone for NTT DoCoMo's i-mode Internet access service. About 420,000 units of model S0503i have been sold since launch on March 9 and will be replaced at customer's request, NTT DoCoMo spokeswoman said. Glitch could affect database downloaded into Sony phone when user is upgrading an application that employs Java to access Internet, NTT DoCoMo said. Such malfunctions have occurred in "very limited" number of cases and user can still make phone calls and use i-mode e-mail and other Internet services. Sony spokesman said company wanted to fix software problem and resume sales as soon as possible, but declined comment on possible timing.

MAGNEQUENCH SUES OVER PATENTS: Sony was among cross-section of manufacturers and retailers named in patent infringement suit filed last week in U.S. Dist. Court, N.Y., by Anderson, Ind.-based Magnequench International (MI).

MI, which manufactures specialized magnetic powders and magnets, charged Sony and other companies with infringement of 4 of its patents relating to neodymium-iron-boron (Nd-Fe-B) magnets and magnetic materials. Materials are used for small motors in various computers and CE products, as well as automotive and industrial applications.

Jeff Day, MI's senior mktg. and sales vp, told us last week magnetic material is used by Sony in spindle motor that turns discs inside PlayStation 2 (PS2) DVD drive, as well as in CD-ROM and other disc drives found in computers and home entertainment systems manufactured by variety of companies. Magnetic material is also used in drives' stepping motors that help activate head that reads media placed in drive, he said. Magnequench said material is also used in motors that operate zoom lenses of camcorders.

Named in suit were Sony Corp., Sony Computer Entertainment America (SCEA), Acer America Corp., Acer Inc., Best Buy, Circuit City, CompUSA, Grupo Sanborns, Philips Electronics N. America Corp., Philips Business Electronics International B.V., Koninklijke Philips Electronics N.V., Samsung Electronics America, Samsung Electronics Co., Toshiba America Electronic Components, Toshiba America, Toshiba Corp.

Day told us retailers were named in suit because they sell infringing products. But there are, of course, many other retailers not named that sell same products. With PS2, for instance, Babbage's, Electronics Boutique and Toys "R" Us are among other retailers that could conceivably have been named but weren't.

Explaining reason why Magnequench only opted to name Best Buy, Circuit City and CompUSA among retailers, Day said: "Through market intelligence we chose targeted end applications. Then we tried to find ways of buying [products] in the United States. It just so happens that those retailers were among the sources of buying materials. We knew a lot more places get PlayStations. It was not our intent to sue everyone who sold PlayStations or to sue every retailer."

Best Buy, Circuit City and SCEA declined to comment on suit. Philips Electronics spokesman told us: "We do not know about the suit," noting that company, as far as he knew, still hadn't been served. But he added: "We would not comment on any kind of pending or current litigation" anyway. Spokespeople for other companies named in suit either didn't return calls for comment or couldn't be reached by our deadline.

Magnequench also filed similar suit in Indianapolis against Compaq and Hewlett-Packard.

U.S. Patents named by Magnequench in suits were: 4,496,395 ("High Coercivity Rare Earth-Iron Magnets"), issued Jan. 29, 1985; 4,851,058 ("High Energy Product Rare Earth-Iron Magnet Alloys"), issued July 25, 1989; 4,802,931 ("High Energy Product Rare Earth-Iron Magnet Alloys"), issued Feb. 7, 1989; 4,902,361 ("Bonded Rare Earth-Iron Magnets"), issued Feb. 20, 1990. Magnequench said first 3 patents

were originally issued to inventor John Croat, while latter one was originally issued to Croat and Robert Lee. Company added that all 4 patents were later assigned to General Motors, which in turn assigned them to Magnequench.

Explaining decision to file suits, Magnequench Pres.-CEO Archibald Cox said: "We did not want to file these suits but we were forced to in order to protect our intellectual property investments and the interests of our customers who play by the legal rules. Many of our customers have strongly encouraged us to take this action, and we previously sent warning letters to suspect companies. Our patent position is strong. Our proof of infringement is indisputable, and our patents have been validated previously by the International Trade Commission. We intend to prosecute infringers vigorously." Cox said patents "extend to 2007 and beyond."

Magnequench said it "used the services of an outside independent testing laboratory" to test merchandise produced and sold by those named in complaints. Company said it asked courts for past damages "measured by no less than a reasonable royalty, treble damages, a recall of all existing products of the defendants that infringe and the destruction or reconfiguration to non-infringing embodiments of all infringing products."

Company, formed in 1985, said Nd-FeB magnets were invented in 1982 and "have been recognized as being a significant advance over prior materials because of their strength and flexibility in manufacturing." Magnequench said high magnetic strength of magnets allows for miniaturization of products that use permanent magnets. As result, Magnequench said, these magnets "have contributed to the development of new electronic devices that would have been impossible or impracticable to make using other types of magnets."

Magnequench said 2 largest markets for products using magnets in question are computer data storage and automotive, which it said account for 55% of overall market.

Good Guys Chmn.-CEO Ronald Unkefer, through venture capital fund he controls, was among those who invested \$2.5 million in Internet music company RadioCentral. Unkefer's fund along with Ackerly Ventures were new additions to RadioCentral, which also received fresh financing from current investor FBR CoMotion Venture Capital. New round of funding comes less 4 months after RadioCentral raised \$7.25 million from FBR as well as Allegis Capital/Media Technology Ventures and PacRim Venture Partners. Unkefer's share was unlimited investment unrelated to registering for sale 3.8 million shares of Good Guys stock in Feb. in connection with warrants granted when he returned to chain he founded in 1999, spokeswoman said.

Device to improve resolution of video sources viewed on TV sets will be demonstrated at this week's E3 videogame show in L.A. by Nuwave Technologies. Fairfield, N.J. company said its Video Game Enhancer connects to TV through RCA cable. Technology, which we reported as early as Feb. 1998, performs signal-processing on gray-scale and chroma of analog video waveform sent to set. Nuwave said it also can be incorporated in video devices and TV sets. Chip is available and now is being evaluated by CE manufacturers, company said.

Correction: Norman Goldberg was Fortunoff COO before being named The Wiz COO in June 2000 (TVD May 7 p15).

ZENITH TO SELL ACCESSORIES UNIT: Zenith Electronics has reached agreement to sell accessories business to Gemini Industries, further sharpening focus on digital products. Terms of sale, which is expected to close within 30-60 days, weren't released, but acquisition includes assets and royalty payment for use of Zenith brand.

Still to be determined will be fate of 11 Zenith employees who handled accessories, including Vp Leonard Coakley, who signed on 3 years ago from Thomson as company transferred responsibility for category to separate division from parts and service business (TVD Nov 30/98 p15).

"As we increased our focus on a digital strategy, it was clear that accessories were not core to that business," Zenith spokesman said. Gemini will "capitalize" on brand "revitalization efforts" underway at Zenith and goal is to have "consistent" strategy across Zenith branded products, Coakley said in May 9 letter to dealers.

Decision to sell company came relatively quickly given that division was outlining product plans for this year as recently as Nov. (TVD Dec 4 p15). Zenith embarked on new digital strategy late last year and capped it by trimming analog product line and narrowing direct sales (TVD Feb 5 p10). It disclosed plans to shed accessories business in April (TVD April 9 p13).

Zenith had discussion with "variety" of potential buyers for business and Gemini emerged only recently, sources said. In buying Zenith brand, Gemini will pair it with Philips Magnavox and Magnavox A/V accessories brands that it already sells and likely target separate retailers.

"Dealers frequently need the same thing, but want something different so I think there is room for multiple brands," Gemini Strategy & Business Development Vp Robert Heilim said. "This wasn't done to swap out one brand for the other, and Zenith really has done a good job in short order" since establishing separate division.

Gemini and Zenith share many of the same product categories, such as remotes, headphones and antennas. Gemini, however, has more wide-ranging selection of 2,500 SKUs including phone accessories sold under Southwestern Bell brand and PC items marketed by PC Accessories Div. It once had AT&T brand for PC accessories (TVD Feb 23/98 p22), but has since discontinued line. Zenith has doubled A/V accessories line to 750 products in past 3 years and recently made plans to add DirecTV satellite dishes to line.

Combined brands will likely have biggest impact in remote controls. Zenith had 13% marketshare in unit sales of remotes in 2000, followed by Magnavox at 11%, NPD Intelect analyst Thomas Edwards said. Companies trailed RCA (40%) and One-For-All (20%) brands, he said. In dollars, Zenith had 11%, while Magnavox was at 9%. RCA again had top spot at 33%, followed by One-For-All (16%) and Sony (13%), Edwards said.

Zenith and Magnavox have largely made mark as suppliers of replacement and secondary remotes with Magnavox gaining strong distribution among mass merchants including Kmart, he said. While Zenith had gained retail placement in recent years, it also had distribution agreement for non-retail channels with

Wood Industries (TVD Jan 11/99 p22). Zenith also once sold accessories under Allegro name, brand that has since largely been discontinued.

Acquisition of Zenith also is one of York Management Services' first major moves since buying Clifton, N.J.-based Gemini from Merrill Lynch Capital Partners and installing own management (TVD Sept 20/99 p19).

Bose is packaging new surround sound technology with DVD-based Lifestyle shelf system priced at \$999, retail sources said. New Lifestyle line (TVD April 16 p11), Bose's first to include DVD, also includes models 28 (\$2,499) and 35 (\$2,999). High-end model features Bose's trademark 4½" Jewel cube satellite speakers and Acoustimass subwoofer module, said dealers who attended product preview earlier this month at Bose's Framingham, Mass., hq. Low-end Lifestyle shelf system contains 2 speakers and subwoofer, but uses technology to create surround sound effect, retailers said. In addition, Bose also has improved bass response of systems, dealers said. In introducing DVD-based Lifestyle, Bose will likely discontinue Lifestyle 12 and 15 systems, while keeping model 50, which has CD changer, dealers said. "Apparently, they were feeling the pinch [of not having DVD] to the point that mobilized and accelerated their development process much faster than anything they've ever done," east coast buyer said. Bose officials weren't immediately available for comment.

Although various companies have been suggesting otherwise, NPD Group said May 11 that retail sales of U.S. videogame hardware, software and accessories jumped 18% in first quarter, compared with same period year ago. Meanwhile, unit sales edged up 5% in quarter, NPD said, noting that consoles produced biggest sales gain with 146% leap in dollars and 49% in units. NPD said continued growth of console category was driven in part by PlayStation 2 and decreased price of Dreamcast. Breaking down specific results in other game categories, NPD said console software saw 7% dollar decrease and 3% unit decrease, while console accessories were up 18% in dollars and 4% in units, portable hardware dropped 24% in dollars and 22% in units, portable software increased 12% in dollars and 14% in units, portable accessories jumped 26% in dollars and 38% in units. It was suggested drop in portable hardware sales may have been impacted by impending arrival of Nintendo's Game Boy Advance on June 11 in N. America.

Movie Gallery (MG) has bought senior secured bank debt of rival Video Update for \$121 million from BNP Paribas. Debt purchase, at discount of more than 90%, will give Movie Gallery "input in the disposition" of Video Update stores in next few months, said MG Chmn.-CEO Joseph Malugen, whose chain has 1,036 stores. Video Update, which has been operating under bankruptcy protection since last fall, currently operates 350 stores, down from peak of 621, which included 586 company-owned and 35 franchised locations. Video Update had 494 stores in U.S., 127 in Canada including 60 in Alberta and 59 in British Columbia. It defaulted on interest payments last summer drawing into bankruptcy retailer that had expanded rapidly in acquiring 267-store Moovies chain for \$79 million in 1998.

Games LucasArts plans to show at E3 this week include *Star Wars Obi-Won* for Xbox and *Star Wars Racer Revenge* and *Monkey Island* for PlayStation 2.

PEGASUS TO CUT SUBSCRIBER COSTS: Prompted by rising expenses tied to gaining subscribers, Pegasus will implement plan aimed at slashing average monthly per subscriber acquisition cost to \$350 from current \$491 by year-end, CEO Marshall Pagon told analysts last week.

Pagon declined to release complete details of how Pegasus will achieve goal, but said company will "reorder" incentives paid to its dealers, focus more on leasing of product and increase use of direct sales. In implementing new strategy, Pagon conceded action will likely reduce number of net new subscribers by 50,000-100,000 to 150,000 for 2001 from previous estimate of 180,000-260,000.

Changes in dealer compensation won't be "blunt instrument" applied across board, but rather one that "drives sales to the programs that offer the greatest value for us and the best offer for the consumer," Pagon said. Pegasus has network of 4,500 dealers that sell DirecTV service in rural markets.

At same time, move will lower annual subscriber acquisition costs by \$125 million and boost earnings before interest, taxes, depreciation and amortization (EBITDA) by equal amount, he said. Pegasus' EBITDA will increase to \$75 million this year, \$200 million by year-end 2002 as result of changes, Pagon said. Subscriber acquisition cost is targeted to hit \$300-\$325 by 2nd quarter 2002, Pagon said. DirecTV's subscriber acquisition cost is \$535 (TVD April 23 p13), while EchoStar is at \$432 (TVD May 7 p18).

Shift in sales strategy was largely driven by spiraling costs of acquiring subscribers, which for Pegasus rose to \$491 each in recently completed first quarter from \$325 last year, Pagon said. It's also aimed at lowering monthly churn rate, which rose to 1.6% in first quarter from 1.2%. Churn has been especially high — more than 20% annually — among customers who have signed up in last 2 years, Pagon said.

Overall, DBS industry has spent about \$1.25 billion in last 2 years acquiring 1 million net new subscribers. As result, time needed to gain return on investment has increased to 5-6 years, roughly same as "life expectancy" of subscriber, Pagon said. Shorter period for getting return on investment prevailed 1994-1999, but it began to increase in 2000, he said.

"We're going to break ranks with the industry and rather than using increases in the subscriber acquisition costs to generate further growth in new subscribers, whose pay back period is approximately the same as their expected life, we intend to return to a business model focused on sustainable and economically compelling growth," Pagon said.

Some analysts, however, took issue with notion that return on investment was previously achieved in shorter period of time. "The average life of subscribers always has been 5 years and it never was 6-7 years and that could have been a distortion of the numbers that caused churn to look so low," said CE C.C. Unterberg Towbin analyst William Kidd said.

Pagon also maintained that "proximate cause" of "deterioration" of DBS business was conversion of Primestar customers to DirecTV, which occurred throughout 2000 after satellite service acquired former rival. Costs for Primestar were \$500 per conversion at time when average subscriber acquisition cost was in \$325-\$350 range. "The pay off was to convert a signifi-

cant number of customers and reflect significant growth, but the consequence was higher subscriber acquisition costs to grow to those levels," Pagon said. DirecTV has said it converted about 70% of Primestar's 1.6 million subscribers acquired in 1999 (TVD July 31 p18). About 250,000 Primestar customers were in Pegasus territories.

Overall, Pegasus reported first quarter net loss grew to \$89 million from \$56.3 million, while revenues jumped to \$213.5 million from \$103.9 million year ago. Average revenue per subscriber increased to \$48.48 from \$43.52. Revenues from premium services, which have been marketed since last year under agreement with DirecTV, were \$26 million, CFO Kasim Smith said. Sharp rise in monthly per subscriber acquisition costs during quarter were partly due to \$98 payment per subscriber being made to DirecTV for those acquired through "national key retailers," he said.

Pegasus added 110,000 gross subscribers during quarter, but after churn, new additions netted only 36,000, Kasim said. Part of churn — about 9,000 subscribers — was due to switch to single billing system that combined DirecTV's basic and premium channel services into one payment, Pagon said. Pegasus began switch to new billing system last fall affecting about 350,000 subscribers, he said.

Pegasus has gained slightly less than 1,000 subscribers since launching Express DirecPC service and while it isn't projecting any "meaningful" increase during current quarter, it plans to add 50,000 in 2nd half, Smith said. It plans to spend \$5-\$7 million on service in 2nd half, \$25-\$35 million for year, he said. It has distribution agreements with DSI as well as online retailers Tiger Direct and Value Electronics, Pagon said.

Sears, which has experimented with selling CE outside its dept. stores for years, will test concept that melds electronics with appliances in free-standing outlet. First store will open in Ind. in June and be followed by 2 outlets in Chicago area in Oct., CEO Alan Lacy told shareholders at annual meeting last week. Outlets will be 20,000 sq. ft., slightly larger than chain typically dedicates to categories and focus on products that may lack demand in full-size stores, Lacy said. Sears currently sells CE as part of Great Indoors format (TVD June 26 p17) and experimented with category as part of short-lived HomeLife "off-the-mall" format (TVD Oct 9/95 p13). HomeLife format was once targeted for 300 stores, but was scrapped after 2-store test (TVD Sept 16/96 p13).

Aiwa is targeting teens with compact music system whose design company described it as "positively playful, with soft curves, a perky pose and an antenna that looks like a stubby tail. An additional touch of whimsy is a pair of wedge-shaped translucent speakers that glow purple when the system is switched on." New XR-M313 (\$180) has top-loading CD player, AM/FM digital tuner, 5.5-w stereo amp, electronic controls. Joystick on top controls tuner and CD, remote control handles all system functions. Main console has footprint about size of telephone, silver and gunmetal gray cabinet with metallic blue highlights. Bookshelf speakers have gray grilles and translucent cabinets with purple lamps inside that illuminate when power is on.

American consumers saw first "Life Advanced" TV ad for Nintendo's Game Boy Advance last week when 60-sec. spot ran during *The Simpsons*.

HOLLYWOOD CHAIN POSTS PROFIT: Video rental chain Hollywood Entertainment kicked off year on promising note as Portland, Ore.-based company reported consolidated profit of \$3.53 million (7¢ per share) last week for its first quarter ended March 31. Result compared to loss of \$12.16 million (-26¢) in same period year ago.

Meanwhile, Hollywood reported revenue of \$342.25 million for quarter vs. \$321.02 million year ago, excluding its now-defunct Reel.com online business. Comparable store revenue for quarter was flat, but company said its rental revenue edged up 2%.

As for 2nd quarter, Hollywood said it "continues to expect comparable store revenue... to be between negative 4% and negative 5% due to the comparison to a positive 7% from the prior year's 2nd quarter," when there were such hit video releases as *American Beauty*, *The Green Mile*, *The Sixth Sense*, *Star Wars Episode I: The Phantom Menace*. On brighter note, Hollywood said it expected comparable store revenue for 3rd and 4th quarters "to turn positive, with increases of approximately 1% and 2%, respectively."

On videogame front, Hollywood CEO-Chmn. Mark Wattles told analysts during conference call that company's forecast for rest of year was conservative and "our projections right now are based upon just the continuation of the game business as it stands today." That, he said, was despite upcoming launches of GameCube and Xbox. Wattles said company can do more on Game Crazy segment of its business going forward, adding: "I think that the real opportunities for us [are] in the rental business for our entire chain."

Noting that GameCube and Xbox won't be shipping until latter part of year, Wattles said there is "no way" Hollywood will feel effect of next-generation game system sales in Q3. As for Q4, he said: "I think anytime you have a little energy within an industry, it's going to benefit you. But I certainly wouldn't be revising projections based upon [possible] big sales in Q4."

Wattles added that 2002 will be another matter, saying "there's some real upside" there. Based upon forecasts that have been made by manufacturers, he said "2002 should be a record-breaking year for sales of software, sales of hardware and rental of software, so we hope [those forecasts] prove to be true."

Videogames currently represent "around 8%" of Hollywood's revenue, Wattles said, noting that games have historically been in 10% range for company. He added: "I have no idea where it would go in 2002 [although] I hope that it increases significantly."

On DVD segment of Hollywood's business, Wattles said company has seen significant increase in rentals. Noting that DVD only represented under 10% of company's rental revenue in Q4 of last year, he said it's now in double digits and added: "I believe it will be in the neighborhood of 20% by the end of this year." Because of increased interest in DVD, Hollywood has expanded availability of hot DVD titles at its stores and Wattles said he believes company is likely not losing many customers to competitors at this point because particular DVD they want isn't in stock. In fact, he said he believed Hollywood is actually gaining new customers at this point — "particularly

from the smaller competitors" — as result of its improved DVD selection.

Hollywood opened 4 new stores and closed 6 locations in first quarter. Company had 1,816 stores in 47 states and Wash. as of March 1. Hollywood CFO-Exec. Vp David Martin said in same conference call that company has no plans to open additional stores during rest of this year, but — as company has said in past — has targeted an additional 37 stores for possible closure by year end. But Wattles said those stores targeted will close only if they don't reach profitability this year. Therefore, he said, it's possible that Hollywood may end up not closing any other stores this year.

Hollywood also noted it was working with its lenders on formal amendment to its revolving credit facility that company said would change its existing amortization schedule to match business plan it presented to lenders last month. To allow for additional time to complete negotiations, Hollywood's lenders agreed to extend previous principal deferral and covenant waiver until June 5, company said. Hollywood said it also made \$1 million amortization payment on May 5 as part of extension. Company added that although it "is targeting to have its amended credit facility in place by June 5... it may not be successful because the final agreement requires an affirmative vote by 100% of the approximately 20 lenders." Hollywood admitted: "Failure to reach a satisfactory agreement with its lenders could have a negative effect on the company's business and operations."

Commenting on company's talks with its lenders, Wattles said in conference call: "We believe we've gotten over some pretty major hurdles." But while Hollywood and lenders have agreed on amortization schedule, he said they have yet to agree on what fees and compensation to banks should be.

When asked by analyst if Hollywood has any plans to enter into any in-store partnerships with other companies along lines of Blockbuster and RadioShack, Wattles said there are "very meaningful opportunities in terms of partnering." But he added: "We don't feel any pressure to do that this year." Company's focus for rest of this year, he said, is increasing cash flow for its core business.

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Sony Music Entertainment (SME) signed nonexclusive licensing deal with Loudeye Technologies, Seattle, authorizing latter to deliver streamed sound samples of SME music through online retail Web sites. SME said it also authorized Loudeye (formerly Encoding.com) to stream thumbnail images of front-cover album artwork. Agreement covers music from SME's entire active U.S. catalog, including recordings from Columbia Records, Epic Records Group, Legacy, Sony Classical. Loudeye said that with Sony's agreement, it now had been granted streaming licenses for music samples from 4 of industry's 5 major music companies. Only one that hadn't signed deal with Loudeye was EMI.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥122 = \$1, except where noted.

SONICBLUE ADDS NEW DIVISION: Sonicblue, fresh from proposed acquisitions of ReplayTV and Sensory Science (SS), will create new division for companies with focus on developing video-based media servers and client products, company said in SEC filing.

Sonicblue, which is expected close SS acquisition in June, has 3 business divisions, but will restructure to accommodate new purchases, CEO Kenneth Potashner told analysts. Existing divisions include those marketing Rio MP3 players and HomeFree networking gear acquired when Sonicblue's predecessor S3 purchased Diamond Multimedia in 1999.

"If we just did nothing more than creating 2 new business units with ReplayTV and Sensory Science we could have 5 units and management structures and costs at a time when we need to concentrate on expense reduction," Potashner said. "So we're active in terms of redesigning the company for cost efficiency and leverage."

Plans for new corporate structure came as Sonicblue reported first quarter loss surged to \$335.8 million from \$67.5 million year ago as it recognized unrealized loss of \$406 million on decline in value of investment in United Microelectronics (UMC). Sonicblue sold 35 million shares of UMC stock during quarter, portion of which was used to provide \$13 million in funding for ReplayTV and SS, Potashner said. It retains 252.2 million shares of UMC stock. Revenue increased during quarter to \$50 million from \$44 million.

Sonicblue's interest in SS began in Jan. 2000 with discussions aimed at forging alliance and advanced to possible acquisition or investment by Oct., according to SEC filing. SS had retained Gerard Klauer Matisson (GKM) in June to aid in search for strategic partners. GKM contacted 65 companies, 40 of which "expressed interest in business combinations," SS said. Sonicblue and SS met between Dec.-Jan. to discuss combination and SS board approved sale on Jan. 30. Proposed acquisition expires Sept. 30 and SS is required to pay \$404,000 termination fee if deal collapses.

Under terms of sale, SS CEO Roger Hackett will receive 2.99 times his base salary and lump sum payment on completion of merger. Hackett was paid \$280,000 in fiscal 2000. Additionally, Sonicblue will forgive \$32,000 loan made to SS CFO Thomas Linnen, who will also get 6 months severance at base salary, which in fiscal 2000 was \$141,154.

As it released details of acquisition, SS said it will ship lower priced combo DVD player/4-head hi-fi VCR in June at \$349. Deck replaces DVR-5000, introduced last year at \$499, with features that include Dolby Digital and DTS outputs and new chassis with 10-bit DAC and 27 MHz digital filter. ReplayTV, meanwhile, has licensed PVR technology to Motorola for use in new digital set-top cable box due in Nov. ReplayTV forged alliance with Motorola last fall shortly before restructuring to focus on licensing of technology and away from hardware.

Among Sonicblue's other business, frontpath has shipped 200 units of information appliance as part of beta test targeting hospitality industry. Appliance, which will likely include SS's Extreme DiGital Entertainment (EDGE) multimedia platform (TVD Aug 21 p18), will be priced at more than \$1,000 and is forecast to generate \$50-\$100 million in revenue in fiscal 2001, Potashner said.

Sonicblue also is continuing development effort with Iomega on incorporating latter's Zip storage technology into product line and Dataplay, which is marketing digital media disc that has 500 MB. Sonicblue has 2.5% stake in Dataplay.

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As ReplayTV readies licensing strategy, rival TiVo is going to airwaves to fend off Microsoft's UltimateTV product. TiVo was expected to launch 30-sec. ad campaign this week on cable and satellite highlighting DirecTV/PVR combo product. Six-week campaign from Goodby, Silverstein & Partners will be bundled with infomercial and promotion offering free installation. DirecTV version of TiVo ad points viewers to infomercial that will run continuously on DirecTV channel. Campaign is scheduled to be revived in 4th quarter.

Nuby Interactive (NI) will be unveiling full line of new controllers and accessories designed for GameCube at E3 next week. GameCube products from NI will "coincide with the launch" of Nintendo's next-generation console, Nuby said. Line will include standard controllers, fully programmable controllers, wireless controllers. NI Senior Vp Ed Hames said "Nuby is committed to producing compatible, high quality products for new gaming platforms, such as the GameCube, as they are developed. Our goal is to offer products that not only expand the gamers' experience but improve it." Hauppauge, N.Y., company had already announced it would be spotlighting new line of Cobra-brand accessories for Game Boy Advance.

U.K. speaker maker KEF announced discovery that could reverse audio industry truism that big speaker will always play louder than little one. Belief is based on fact that large volume of air inside cabinet offers less motion resistance to driver so, like piston, cone pumps bass frequencies louder. Now, KEF said it found that putting loose-mesh bags of activated carbon inside small cabinet makes it seem 3X bigger. Porous surface of carbon granules sucks in air as speaker cone moves back to compress air in cabinet, then releases air when cone pumps forward, KEF said. First Acoustic Compliance Enhancement speakers go on sale later this year.

NYKO Technologies said it would spotlight variety of new accessories at E3. Among new products from company, best known for Worm Light for Game Boy handheld systems, are UFO Light for Game Boy Advance (GBA) that comes with interchangeable lighting head, officially licensed PlayStation 2 memory card, compact ZOOM Light for Game Boy Color, various *Jurassic Park III* tie-ins. Company said its accessory line for GBA also will include advanced versions of its Worm Light, Shock 'N' Rock, Power Link, ZOOM Light.

Rent-a-Center (RAC) gained court victory last week when federal court judge in Kansas City denied motion for class certification in racial discrimination suit filed against chain in May 1999. Suit, filed by Brian Murray and 7 other former employees, alleged discrimination in compensation, hiring, promotion and termination policies. RAC Chmn.-CEO Ernest Talley said court sided with chain in finding that case should "proceed on individual claims only, which believe are without merit."

SkyStream Networks said it completed successful field tests of delivering Web and streaming media content to PCs via portion of broadcast TV signal. Tests were done with NBC, Granite Bcstg. and Telocity, company said. Data were transmitted by satellite from NBC hq in N.Y. to KNSD San Diego and KNTV San Jose for rebroadcast in TV signal.

ACTIVISION BACKS GAMECUBE: Activision last week announced its first titles for GameCube: *Spider-Man: The Movie* and *Tony Hawk's Pro Skater*. Santa Monica, Cal., game-maker said it was "working closely with Nintendo of America on the development of these 2 initial titles."

Prior to making GameCube announcement, Activision reported increases in revenue for 4th quarter and fiscal year 2001, ended March 31. Game-maker posted profits for quarter and year vs. losses year ago.

Activision said revenue for quarter was record \$126.79 million vs. \$103.84 million year ago, allowing company to see \$875,000 (3¢ per diluted share) profit vs. \$52.88 million (-\$2.07) loss for same quarter year ago. Results were 2¢ more per share than what analysts had expected Activision to report, according to First Call consensus estimates.

For year, Activision earned \$20.51 million (75¢ per share) vs. \$34.09 million (-\$1.38) loss in prior year behind sales of \$620.18 million, compared to \$572.21 million in fiscal 2000. Company pointed out that comparisons included charges incurred in fiscal 2000 relating to Activision's restructuring plan.

In conference call with analysts last week, Activision CEO-Chmn. Robert Kotick said: "Fiscal 01 was a good year for us," noting that company's "strategies for the platform transition worked well." He added that company gained share in just about every territory it published in over past year.

During same conference call, Pres.-COO Ronald Doornink said Activision's game system business, including handhelds, increased 27% in fiscal 2001 over prior year while industry overall saw 3% decline. Meanwhile, Activision's Game Boy publishing dollars leaped 316% over prior year and its PC game business saw far more modest 9% increase, he said.

Top-selling games for company in past year included *Blade*, *Buzz Lightyear of Star Command*, *The Lion King*, *Simba's Mighty Adventure*, *Spider-Man*, *Star Trek Armada*, *Star Trek Voyager Elite Force*, *Tenchi: Birth of the Stealth Assassins*, *Tony Hawk's Pro Skater 2*, *Toy Story Racer*, *X-Men: Mutant Academy*.

Doornink said company planned to ship 46 new titles this year vs. 35 last year. Of 46 games, he said, 35% of company's revenue will come via titles for current game systems, compared to 25% from PC games and 40% for next-generation game systems. Breaking that down, he predicted PlayStation 2 (PS2) will represent 24% of company's revenue for this year, while Xbox will represent 3%, Game Boy Advance (GBA) 14%, PlayStation 20-21%, Nintendo 64 (N64) 4-5%, Dreamcast 1%, Game Boy Color (GBC) 9%, PC 24-25%. Of 20 next-generation system SKUs planned by Activision, 8 are for PS2, 1 for Xbox and 11 for GBA. But company noted that it currently has 20 games in various stages of production for PS2, 10 in development for GBA and 13 titles in production and/or development for Xbox.

But numbers were, of course, slightly off in light of GameCube announcement that came from Activision following morning.

Upcoming PS2 games include *Bloody Roar 3*, *Mat Hoffman's Pro BMX 2*, *Shaun Palmer's Pro Snowboarder*, *Spi-*

der-Man: The Movie, *Supercar Street Challenge*, *Tony Hawk's Pro Skater 3*. Company noted that its current *Tony Hawk* title represented 14% of its publishing revenue in 4th quarter.

Activision plans to ship 3 of its upcoming GBA titles for that system's June 11 N. American launch: *Bomberman Tournament*, *Pinobee: Wings of Adventure* and *Tony Hawk's Pro Skater 2*. Upcoming Xbox games include *Tony Hawk's Pro Skater 2X*, which Activision said will ship at that system's launch later this year.

Of 16 legacy game system titles planned for this year by Activision, 7 are for PlayStation, one for N64, 2 for Dreamcast, 6 for GBC. Remaining 10 games planned are for PC.

Activision said industry has experienced double-digit declines after strong Jan. and it expects market to continue to be slow for next 5-6 months before holiday season rolls around and compensates for that.

On PS2 front, Kotick said that, after initial shortages, "Sony's getting the hardware supply out there" now and titles for system are also starting to get stronger.

But Doornink said he expected N. American game market to be flat to down slightly overall in fiscal 2002. Activision expects games for next-generation systems to represent 35% of market for year ending March 31, 2002. Doornink said company based that forecast on installed base projections of 8-10 million for PS2, 2-3 million for Xbox, 2-3 million for GameCube, 4-5 million for GBA. Meanwhile, he said company expects current generation games to represent 40% of market — decline of almost 40% year over year. But he said he expects installed base of legacy game systems will likely increase another 10 million in next year for total base of 70 million. At same time, PC game growth should see low single-digit growth and account for 25% of total market, he added.

Looking further ahead, Kotick said combination of over 60 titles Activision plans to have on market in fiscal year 2003, combined with "large and growing installed base will contribute to record financial results next year with our revenues now estimated in excess of \$750 million and earnings of well above \$1 per share."

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Liquid Audio saw its revenue slide in its first quarter ended March 31 as company's loss widened. Redwood City, Cal.-based digital delivery software and service provider said revenue slipped to \$1.66 million from \$3 million same period year ago while its loss increased to \$11.27 million (-50¢ per share) from \$6.52 million (-30¢) year ago. Company recently said it was cutting work force 40% across all departments as part of corporate restructuring plan calling for company to focus on core competencies (TVD May 7 p21).

PhotoWorks said it was processing photos in DVD format. Seattle company said PhotoDVDs could be ordered from its Web site, www.photoworks.com. Service lets consumers transfer up to 200 images to DVD. Company charges \$24.95 for first 50 photos, 10¢ for each additional. PhotoWorks said PhotoDVD "normally ships within 7 to 10 business days," although "at peak times of the year, the turnaround time may be slightly longer."

Consumer Electronics Personals

Bob Eulau, ex-Hewlett-Packard, named Rambus CFO-senior vp, replacing **Gary Harmon** who plans to retire at close of current quarter... **Robert Lilleness**, ex-Trilogy Software, named Universal Electronics pres.-COO, replacing **Paul Arling**, who remains CEO... **Robert Perry** promoted to Mitsubishi vp from mktg. dir... **Rory Lindgren**, ex-Fleet Boston Financial, named Pegasus Communications' senior customer relationship management vp... **John Todd**, ex-Gateway, joins Sonicblue at CFO-COO... **Paul Russo**, Genesis Microchip founder, resigns from board, replaced by **Alex Lushtak**... **Mark Lunsford**, ex-Broadcom, named Tripath Technology worldwide sales vp... **John Banham** to retire as Kingfisher chmn... **Craig Suko**, ex-Electronic Arts, appointed PlanetWeb product development vp... **Mark Rajkowski** advances to Kodak vp-finance, replaced as controller by **Robert Rozek**, ex-PricewaterhouseCoopers.

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Codemasters will ship dedicated USB sampling hardware unit for *MTV Music Generator 2*, U.K.-based game maker's first title for PlayStation 2 (PS2). Company said USB Sampler will be available via mail-order offer that will be included in game's box, or online at www.codemasters.com, when title ships June 5. Codemasters' USB Sampler will cost \$15, while title itself will be \$39.99. Peripheral features USB connector that runs to input box into which users can plug either microphone for vocal samples or direct lead from output of almost any audio source, Codemasters said. Gamers — along with prospective composers, producers and remixers — will then be able to import their own unique audio samples, edit them and save them for use in any future recording. Codemasters said *Music Generator 2* will offer "CD-quality sampling at 44.1 KHz" and 23 sec. of sampling per session. After editing and saving sample, users can begin new 23-sec. sampling session, then repeat process over and over until available memory is full. Title is company's followup to original *MTV Music Generator*. PlayStation version sold for \$39.99, while PC version cost \$29.99. Codemasters Senior Mktg. Mgr. David Solari told us last week that "Sony was quite good about supporting us with" title. He noted that in Europe first *Music Generator* came out in 1999 and was known as *Music in the U.K.*, but that version never made it to U.S. market. It was followed in Europe by *Music 2000*, of which about 220,000 units sold through in U.K. alone, according to Codemasters spokesman. That version, said Solari, was one that made its way to U.S. market last year as *MTV Music Generator*. Spokesman said about 145,000 units of title sold through in U.S. to date. Solari said PS2 version of title will offer consumers better sound quality than was possible for PlayStation.

JAMDAT Mobile said "over 1.5 million sessions" of its flagship game title, *Gladiator*, have been logged since title's Oct. 2000 launch. L.A.-based mobile entertainment company said game has attracted more than 500,000 unique visitors to date, "representing more than 25% penetration of the aggregate active mobile Internet users reported by carriers currently distributing the game." In addition, game has generated more than 7 million min. of airtime, company claimed. JAMDAT CEO Mitch Lasky said: "*Gladiator* is the ultimate multiplayer combat game for the mobile Internet — it is simple to learn, yet has considerable depth and replay value. Every day over 40% of our game sessions are initiated by repeat customers. We've clearly demonstrated that the mobile phone is a valid platform for addictive game play, and that JAMDAT's middleware platform can scale to meet the growing demand for mobile entertainment."

Recoton, suffering sales decline across all product categories, reported first quarter loss widened to \$2.8 million from \$2.6 million year ago as revenues fell to \$137.7 million from \$145.4 million year earlier. Among hardest hit was Recoton's InterAct video games division which reported widening of negative earnings before interest and taxes (EBIT) to \$3.7 million from \$3.5 million year ago. Videogames revenues slid to \$33.7 million from \$36.8 million year ago and gross margin dipped to 31.3% from 33.4%. Recoton's overall inventory rose to \$164.5 million from \$161.8 million year earlier due largely to videogames accessories, Pres. Robert Borchardt said. Goal is to reduce inventory to \$150 million by year-end, company officials said. Downturn in videogames came as market transitions to next generation hardware with expected debut of Nintendo's GameCube and Microsoft's Xbox this fall. InterAct's declines also were tied to Sony's decision to market larger share of PlayStation 2 (PS2) accessories itself, InterAct Pres. Todd Hays said. Sony's dollar marketshare of accessories for PS2 increased to 60% during first quarter from 31.6% of PS1 year ago, he said. InterAct accounted for 41.3% of PS1 accessory sales in year earlier first quarter, but declined to 18.7% of PS2 products, Hays said. "Their [Sony's share] is large, but PS2 accessories sales haven't been stellar," Hays said. InterAct also suffered from weak market for videogames steering wheels and lack of memory cards for PS2. Sony denied InterAct's request for license to develop PS2 memory cards, instead going with GTR Group's Mad Katz, Hays said. InterAct then used reverse engineering to develop memory cards, but wasn't able to introduce 16 MB and 8 MB versions until this month, well after PS2's launch last fall. In signing licensing agreement with Microsoft for Xbox, InterAct gains advance knowledge of hardware and software releases as opposed to PS2 where company "was flying blind up until launch day" in terms of developing products, Hays said. PS2 accounted for 33% of InterAct's revenues in first quarter. InterAct will introduce version of its Game Shark for Xbox and retains "strong confidence" that system will ship by 4th quarter, Borchardt said. "Videogames have no where to go but up," Borchardt said. "We are anxiously awaiting the turnaround of this segment because that will help the turnaround of the company." Recoton also was hampered by soft audio market. Recoton Audio Corp. posted EBIT decline to \$1.9 million from \$2.8 million year ago as sales decreased to \$53 million from \$56.2 million year ago. Gross profit decreased to 31.6% from 32.4%. Recoton is seeking to jump-start audio business with planned shipments of MP3-ready car receivers and DVD players under Jensen brand and Acoustic Research digital cables. Accessories division reported slight drop in EBIT to \$5.7 million from \$5.8 million year ago as sales declined to \$51.1 million from \$52.5 million. Gross profit dipped to 42.7% from 44.8%.

Fobis Technologies is shipping Weemote 2, Miami, Fla., company's 2nd generation programmable parent-controlled TV remote. Company said Weemote 2 has new design based on customer feedback it received since debut of original Weemote at Toy Fair last year. Fobis Pres. John Stephen told us his company had shipped more than 70,000 Weemotes in last 9 months. Weemote 2, like its predecessor, allows parents to specify which channels they want their kids to watch. Fobis said new model's technology supported TVs as well as TV/VCR combination units, analog and digital cable set-top boxes, satellite receivers from DirecTV and EchoStar, PVRs including ones from Replay and TiVo, direct video connections from set-top box to TV. Remote allows parents to select up to 10 "safe" channels for their children.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

MAY 21, 2001

VOL. 41, NO. 21

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CABLE REREGULATION REARS HEAD: Tauzin, Frank say it's possible, if unlikely. Data bill and cable rates cited. (P. 4)

CABLE FORBEARANCE CONSIDERED: FCC looks at 'safe harbor' for new video technologies to spur innovation, Lathen says. (P. 5)

NETWORKS, AFFILIATES SPAR AGAIN ON OWNERSHIP CAP: Media lobbyists were active on Capitol Hill last week as members of Network Affiliated Stations Alliance (NASA) made rounds of congressional leaders seeking support in their fight with Big 4 TV networks to retain 35% TV station ownership cap. One of NASA's main goals is seeking bipartisan letter from several legislators (and perhaps bill on issue) to FCC Chmn. Powell telling Commission not to "disturb" — as one lobbyist put it — cap or increase it to 50% or higher, as sought by networks. Broadcasters were calling on many of same members of Congress also lobbied last week by cable industry in opposition to DTV must-carry (see separate story). Networks, meanwhile, continued to press for relaxed ownership limits.

NASA lobbyists told us they generally were encouraged by their reception on Hill, although we're told they didn't come away with any firm commitments from members. "They were very attentive and listened to our pitch," we were told. Part of NASA argument is that 35% cap is included in 1996 Telecom Act in compromise from earlier 25% cap imposed by FCC and 50% sought by networks. Although Commission is specifically authorized to increase cap, broadcasters said it shouldn't do so since cap was set by Congress.

Meanwhile, NBC is lobbying for compromise of its own that involves basing any cap on actual viewers (as measured by Nielsen) instead of on number of homes in station's coverage area, as now is case. Officials said it was unfair, with slipping network audience share, to assume they actually reached all homes. Based on Nielsen, NBC-owned stations only reach 1.7% of U.S. viewers at any given point in prime time, according to network figures. Highest among networks is CBS with 2.37%. Under compromise, networks should be allowed to own stations reaching 10-20% of viewers, instead of 35% of potential audience, said Robert Okun, NBC vp-Washington.

Allowing 10% of actual viewers would allow NBC, for example, to increase its station ownership fivefold, officials acknowledged, but Okun said that never would happen. He said network economics required profits from more local sta-

Consumer Electronics

CE TITANS ALIGNING behind major videogame platforms. At E3, Panasonic comes out for GameCube, Thomson for Xbox. (P. 9)

DIGITAL OUTPUT SOUGHT for multichannel DVD-Audio. Licensing is in works for copy protection to enable uncompresssed digital multichannel playback. (P. 12)

JVC COURTS TAIWANESE FOR D-ILA with Primax Electronics expected to deliver front projectors by midyear. (P. 13)

DVI CAMP WINS SUPPORT from chip suppliers as CE manufacturers rally around IEEE-1394. (P. 14)

NINTENDO IN NO HURRY to push online capabilities of GameCube. 'We don't think it's relevant right now,' senior executive says. (P. 15)

SEGA DEVELOPING GAMECUBE TITLES: At E3, it says it's not partial to any contending system. (P. 15)

tions to allow nets to keep spending as much on programming, but it wouldn't make economic sense to add large number of stations. Switching from potential audience to actual viewership is "how you get out of the box" of current deadlock, Okun said: "The only way to get something done is to change the terms of the debate."

However, NBC isn't getting much support from other networks. "Early on, we thought it was a good idea... but we aren't considering any compromises," CBS's Martin Franks told us. He said network was optimistic that U.S. Appeals Court, D.C., will rule in favor of Big 4 in their appeals of cap. Argument before court in that case is scheduled Sept. 7. While not commenting directly on NBC position, ABC official said network "has always been supportive of any effort to relax restrictions on broadcast ownership." Fox affiliates aren't members of NASA, but that network also is very much involved in seeking repeal of 35% cap. Of NBC's idea, Fox official told us: "That is just a piece of our argument, but the issue is much broader."

NBC remains hopeful station group owners will reconsider compromise based on actual viewership, saying political dynamics have changed in favor of loosening caps. Okun said, for example, that several station groups may be willing to accept change as part of package that includes loosening newspaper-broadcast cross-ownership restriction. FCC recently failed to open rulemaking on that issue (TVD May 14 p2). Courts also are considering loosening cap, and he said administration of President Bush and FCC Chmn. Powell is likely to be more receptive.

FCC still hasn't decided whether ex parte presentations will be permitted in NASA petition asking Commission to institute broad inquiry of network practices (TVD March 12 p1). "We've gotten a number of other pleadings in this case," Gen. Counsel Jane Mago said. She said she "anticipated" ruling in "very near future" as to whether parties would be permitted to make off-the-record presentations to commissioners and staff, "but as of the moment, we are treating [NASA petition] as a restricted proceeding." Also still to be decided by FCC is whether to seek additional comments on NASA filing. NASA has said it would be "a disservice... to America's television viewers" not to give public opportunity to comment on its petition.

COMMERCE COMMITTEE GRILLS POWELL, 3 FCC NOMINEES: FCC Chmn. Powell's views on easing broadcast ownership limits could mean "most radical concentration of media ownership in this country," Sen. Wyden (D-Ore.) said in Commerce Committee hearing May 17 on FCC nominees. Ownership, content and other mass media issues shared stage at hearing with purely telecom questions for Powell and nominees Kathleen Abernathy, former Bell company executive; Michael Copps, ex-asst. secy. of Commerce for trade development; Kevin Martin, ex-aide to FCC Comr. Furchtgott-Roth. Committee leaders said they tentatively planned to vote on confirmations May 24. Although he was seeking confirmation only for 2nd term, Powell faced most of questioning.

Powell said his public statements on ownership had committed to only what Congress required — to have biennial reviews of whether existing regulations, such as ownership rules, still were needed. FCC is obligated to review regulations and "I also believe it is healthy to do so," Powell said: "A good many of these rules date back to the 70s and some to the 40s. No one could rationally argue that the market hasn't changed. If a rule continues to serve a purpose, it should be maintained." Pressed by Wyden on whether deregulation could result in "one outfit owning nearly everything," Powell said "it troubles me" that result was being described "before we've done anything." He said if Wyden's "radical concentration" were threatened, he would hope antitrust enforcers would step in ahead of time.

Asked by Sen. Brownback (R-Kan.) what FCC could do about TV violence, Powell said that as father of 2 he sometimes was upset as he watched TV but then says to himself, "okay, hot shot, write the rule." It's extremely difficult issue, he said. Because of First Amendment limits, it has to be approached "at a higher level," he said. Powell said he was "uncomfortable" about FCC's acting on issue, which would reflect "value judgments" of only 5 people — FCC commissioners. It's better for Congress to do it so broader range of people "through their elected representatives" can express that value judgment.

Sen. Burns (R-Mont.), Telecom Subcommittee chmn., revealed that he, joined by Sen. Hollings (D-S.C.) and Sen. Kerry (D-Mass.), had asked General Accounting Office (GAO) May 16 to conduct "top-down review of all aspects of spectrum allocation policy." He said they asked GAO to determine whether "a more coordinated approach for addressing the needs of both federal and commercial stakeholders would be more efficient than the current patchwork system."

Based on their written disclosures, Abernathy appeared to be only new commissioner with potential conflicts of interest because of her ownership of telecom stock. She owns stock in Qwest, Verizon and Vodafone, mainly. She told committee in her written material that she would divest some of her holdings and in other cases would disqualify herself from any proceeding that might affect companies whose stock she retained.

CH. 52-59 DEFENDED: Any measures taken to clear incumbent broadcasters from analog Ch. 52-59 before changeover to DTV is complete "must be entirely voluntary," NAB told FCC in latest round of comments: "Any premature mandatory relocation of incumbent broadcasters would be contrary to statute and congressional intent." Also, NAB said, FCC proposal to re-assign stations on Ch. 52-59 probably would be premature "if, as may likely occur," Congress ordered postponement of auction of channels — now scheduled to start in Sept.

APTS said it "strongly" supported FCC proposal to allow broadcasters operating on Ch. 52-59 to remain on their analog allocations until DTV transition was completed, and called for full protection for incumbents from interference. APTS said that to ensure interference protection FCC should require new entrants to notify all co-channel and adjacent stations (as well as other stations with operations within broadcast contour of planned services) when new services were to commence. It also urged agency to establish 90-day test period from start of new services for broadcasters to gather sufficient data to assess any "real-world" interference problems. After 90 days, it said, new entrant should be required to obtain written clearance from incumbent that no interference had occurred or that degree of interference was acceptable. Notification requirement would allow incumbent broadcasters facing interference to "more easily and efficiently" identify source, APTS said, and test period would help resolve problems by giving time for engineers to consult on technical solutions.

Pappas Telecasting, which has 4 applications pending for new stations in Ch. 52-59, told FCC it was "imperative" that agency act now on "these long-standing applications." They were filed on or before Sept. 20, 1996, cut-off date, Pappas said, and at that time Commission "expressed its willingness to consider these new broadcast services and its belief that such services would not adversely impact" TV's pending shift to digital. Pappas, commenting on FCC proposal to auction Ch. 52-59 to nonbroadcast users (TVD March 19 p1), agreed it was "virtually certain" that Sept. auction of Ch. 60-69 would be postponed once again, which would "dramatically alter" FCC's premise in clearing 698-806 MHz of terrestrial TV stations in preparation for shift to DTV. There currently are 101 analog assignments on Ch. 52-59, plus 112 DTVs, and additional grants would have "a relatively low overall impact" on pending switch to digital transmissions — now scheduled for 2006, Pappas said: "The DTV transition is certain to slip well beyond 2006. Until then, the public should not be denied new television service."

Qwest Wireless told Commission that it shouldn't license new broadcast-type services "given the ongoing presence of incumbents. Mobile and fixed wireless services continue to strive to reduce their operating power requirements." Carrier told FCC that broadcast operations had viable alternatives "and authorizing such services on this spectrum risks burdening new mobile and fixed wireless services." Qwest said that if FCC decided to allow services other than fixed and mobile wireless in that band, new broadcast-type services should be subject to same technical and service rules, "thus precluding high-power broadcast operations in the spectrum."

CTIA told FCC it wouldn't be technically feasible for advanced wireless services to share spectrum with "full-power broadcast licensees." Rulemaking proposes retaining broadcasting allocation that could include what CTIA called full-power broadcast operations. CTIA said that in related auction for Ch. 60-69, agency had rejected possibility of sharing those frequencies between broadcast and advanced wireless ser-

vices. "The same conclusion is applicable to the lower 700 MHz band with equal or even greater force, given the large number of broadcast licensees on this band," CTIA said. "There are simply too many technical, operational and regulatory challenges associated with the sharing of spectrum by full-power broadcast and wireless licensees." Group said there was "home" for terrestrial broadcast TV services on Ch. 2-51.

FCC, meanwhile, refused to extend deadline for relocation comments until after auction of Ch. 60-69 — now scheduled in Sept. Delay had been sought by Paxson, which said auction of higher channels would provide "valuable experience." FCC Wireless Bureau and Office of Engineering & Technology said in joint order that delay wouldn't allow Commission to meet statutory auction deadlines.

AT&T urged FCC to drop its suspended conditions for approval of company's MediaOne purchase and consider company to be in compliance with agency's merger order. In comments filed with FCC, AT&T argued that Commission should jettison merger conditions because of recent decision by U.S. Appeals Court, D.C., striking down 30% cable ownership cap as unconstitutional. At very least, AT&T contended, Commission should continue suspending conditions and move quickly "to reconsider the cable ownership and attribution rules on remand," as court ordered: "This course of action is dictated by the D.C. Circuit's decision — and by its subsequent order staying the Viacom-CBS divestiture condition." AT&T asked FCC to dismiss petition filed by Consumers Union (CU) and other public interest groups that sought to force company to divest its 25.5% stake in Time Warner Entertainment (TWE), as required under suspended conditions. Move came as AT&T revealed in new SEC filing that it planned to allocate \$28.4 billion of its \$65 billion debt load to its cable unit, AT&T Broadband, as part of company's planned breakup into 4 divisions.

Reflecting its growing interest in U.S., Bertelsmann is opening its first Washington, D.C., office, to be headed beginning June 4 by Justin Lilley, currently News Corp. vp-govt. relations. Creation of Washington office is one of first major moves by former Justice Dept. antitrust head Joel Klein, who became head of Bertelsmann's U.S. operations Feb. 1. "Bertelsmann has clearly decided it wants to be a full-scale media player," Lilley told us, "and they obviously see a regulatory and legislative component to that." Lilley, whose main focus in past has been on mass media issues, said Washington office's initial focus would be on Internet-type issues, such as e-commerce and copyright, but it would be ready for "any future business plans." Bertelsmann has been widely speculated to be interested in U.S. broadcast, cable and motion picture businesses and is considered likely to become publicly owned in next few years. Klein, in announcing opening of office, said "our business is at an exciting juncture, with tremendous opportunities ahead." Lilley has been counsel to House Commerce Committee, was member of Bush-Cheney transition team, has been in private legal practice. He will report directly to Klein, after being 2nd ranking official in News Corp. Washington office.

If FCC decides to act on network affiliates' petition it should do so in context of rulemaking, Big 4 networks said in latest letter to FCC Chmn. Powell. Networks repeated claim that original Network Affiliated Stations Alliance (NASA) filing and latest letter (TVD May 7 p7, March 12 p1) were flawed and created "confusion." Networks also repeated that they had violated no FCC rules in their relations with affiliates.

CABLE NETS FIGHT DTV MUST-CARRY: Twenty-four cable network executives representing more than 70 channels fanned out over Capitol Hill May 16, lobbying against digital must-carry rules for cable. Meeting with 40 members of Congress, including most of House and Senate Commerce Committees, cable programmers sought to counter heavy lobbying and regulatory push by broadcasters for mandatory dual carriage of analog and digital broadcast signals during DTV transition. "We know our competitors in the marketplace have been lobbying very actively on the Hill," said A&E TV Networks Pres. Nick Davatzes, who chairs NCTA's satellite networks committee. "We haven't been spending enough time on the Hill."

Cable programmers, who weren't invited to testify at recent DTV must-carry hearings of House and Senate Commerce Committees, said they aimed to avoid repeat of analog must-carry rules imposed on industry by 1992 Cable Act. As result of those rules, such cable networks as C-SPAN, Lifetime and International Channel complained that they lost millions of subscribers as cable systems dumped them to make room for broadcast stations. Other cable networks saw their growth stalled because of tight channel capacity on most systems. "We went through must-carry once," AMC Networks Pres. Kate McEnroe said, warning of DTV must-carry's potential to hurt 30 to 40 digital cable channels already struggling for carriage.

Cable programmers stressed that they were seeking "level playing field" that didn't put their channels at disadvantage. They also emphasized "diversity" of their offerings and tens of billions of dollars that they had invested in new programming over last 15 years. "Broadcasters want dual must-carry to guarantee their success," Davatzes said. "We're prepared to compete in the open market and we want them to compete [too]."

Cable programmers also sought to counter broadcasters' claim that lack of dual carriage rules was hampering DTV transition. Calling DTV must-carry "not just unconstitutional, unfair and un-American but also unnecessary," C-SPAN Gen. Counsel Bruce Collins said transition "is moving at the pace it should, as decided by the marketplace." He said Congress "can't force" transition by passing new must-carry laws: "They can do all the face-saving they want. The market is not going to respond to that."

Although FCC tentatively concluded in Jan. that dual carriage requirements would infringe too much on cable operators' First Amendment rights, Commission still is weighing issue in further rulemaking. Cable programmers said they feared intensive lobbying by broadcasters would lead Congress to pressure agency for must-carry rules or to pass new rules on its own. "It's more of an offensive mode than a defensive mode," McEnroe said.

Group of cable network executives included senior officials of such major players as A&E, AMC, Comedy Central, Court TV, C-SPAN, Discovery Communications, E! Networks, HBO, Lifetime, Starz Encore, Weather Channel. But conspicuous by their absence were officials of most cable networks backed by AOL Time Warner, Disney, NBC and Viacom, all of which own broadcast networks as well. Of major broadcasters, only Fox had representative contingent, with 2 from Fox Family Channel.

Three more TV stations have begun DTV broadcasts, according to NAB: KWTX-TV Waco, WPXW-TV Washington, D.C., and WPBT Miami. NAB said 195 DTV stations now were on air, reaching 68.5% of U.S. households.

CABLE REREGULATION REARS HEAD: Reregulation of cable remains possibility if opponents of Bell company data deregulation bill block such legislation, House Commerce Committee spokesman Ken Johnson warned last week. Although Committee Chmn. Tauzin (R-La.) first intends to vigorously pursue deregulatory agenda, Johnson said, he "will consider reregulation of cable" if efforts to "jump-start" broadband are thwarted.

Meanwhile, bill to rein in rising cable rates was introduced May 15 by Rep. Frank (D-Mass.), who said it was needed to amend provision in Telecom Act that deregulated cable industry 2 years ago. Bill would repeal Sec. 301 of Act and restore FCC authority to act upon consumer complaints about cable service. "The FCC has lacked adequate authority over the cable monopolies, and consumers have paid the price," Frank said. "After 5 years of deregulation, we have learned that the problem was not too much FCC action, but too little."

NCTA said Frank bill was "step backward" and would interfere with cable system upgrades and further broadband deployment. "The 1996 Telecommunications Act spurred \$45 billion in private investment to upgrade cable systems, resulting in the offering of digital video, high-speed Internet access and cable telephony services to millions of consumers," NCTA said. "Cable customers have voted their approval by opting for more than 15 million units of these services since deregulation."

NCTA spokesman said any discussion of reregulating cable obviously concerned industry, but Assn. didn't expect imminent action in that area. He said group was confident Tauzin's goal was to "level the playing field" through deregulation and therefore maintain neutrality in high-speed market. With some exceptions, "this Congress has expressed a commitment toward deregulatory philosophies," he said.

Commerce Committee response followed news conference at which deregulation opponents called on ISPs and competitive carriers to prepare for long fight against pro-Bell legislation. Even if speculation proves true that data deregulation bill (HR-1542) recently introduced by Tauzin and ranking Democrat Dingell (Mich.) could stall in House and suffer potential Senate defeat, opponents must prepare for sustained effort against such legislation, American ISP Assn. Exec. Dir. Sue Ashdown said at pulver.com-sponsored event.

USTA described briefing as rehash of position backed by AT&T. "This really is more of the same," USTA spokesman said. "Same rants, but different organizations." He also said USTA wouldn't support congressional efforts to reregulate cable: "That's not the way to go."

SBC Chmn. Edward Whitacre made pitch for bill in National Press Club speech May 16, saying it would ease disparity in regulatory treatment between Bells and MSOs by cutting regulation of phone companies. With Tauzin-Dingell, Congress has opportunity "to remove the single greatest threat to competition facing America's telecommunications consumer, the cable stranglehold that is developing in the broadband marketplace," he said. Cable has "lion's share" of broadband market yet faces none of regulatory obligations placed on telecom industry, he said. He said MSOs could offer lower prices because regulation had raised SBC's costs.

Harris Corp. will provide 24 DTV transmitters to Media General TV stations under \$10 million contract, companies said.

FCC EXPLORES CABLE FORBEARANCE: FCC is seriously looking into idea of adopting period of regulatory forbearance or creating "safe harbor" for new, cable-related technologies. Departing Cable Bureau Chief Deborah Lathen told us her staff had done "some additional work" on proposal "at the chairman's request" after she floated concept at Commission's Feb. meeting. "We've been doing work on forbearance," she said in interview between clearing out her 3rd floor office at agency hq May 16.

Lathen, who marked her last day at agency May 18 after 3-year stint, declined to spell out many details of proposal drafted for FCC Chmn. Powell. But one possibility, she said, is that Commission could seek forbearance authority for cable services under Title VI of Telecom Act, similar to its existing forbearance powers under Title II for telecom services. "Title VI does not have a forbearance section like Title II," she said. "Maybe we should ask Congress for a similar provision for Title VI services."

Another option, Lathen said, is for FCC to urge Congress to create "general safe harbor" for new or advanced video technologies that "don't fit" into existing regulatory "boxes." Under that plan, Commission could refrain from regulating nascent services at least until market for them developed. She said that route could spur innovation and allow more consumers to sample new services. "The regulatory structure is one of stovepipes," she said. "But with convergence, that's not the way the world is moving."

Not surprisingly, Lathen said she opposed idea of FCC's imposing open access and interactive TV (ITV) mandates on MSOs. Despite Commission's current inquiries on both subjects, she sees no need to change federal policy and to regulate either emerging cable high-speed data market or ITV services. With several MSOs now testing multiple ISP access, she said she expected market to "take care" of open access issue. As for ITV, she said, "it is something worthy of watching but it's not necessary for action at this time."

Lathen also said she saw no need to reverse FCC's laissez-faire policy on DTV must-carry. She said "nothing's changed" since agency tentatively concluded in Jan. that mandatory dual carriage of analog and digital broadcast signals would infringe too much on cable operators' First Amendment rights. "The burden is on the broadcasters to say why they should get this extra space," she said.

Lathen said she did see need to retain some type of cable vertical ownership limit, despite recent ruling by U.S. Appeals Court, D.C., striking down current 30% cap as unconstitutional. She said Cable Bureau and agency's chief economist were drafting report on ownership rules for commissioners, which should lead to notice of proposed rulemaking this summer. "I think we need to have a cap," she said. "What the right number is, I don't know."

With possible lifting of cap, Lathen suggested that policymakers look at retaining program access rules, now scheduled to expire next year. Cable operators already have started lobbying for elimination of rules, arguing that they have fulfilled their purpose and have outlived their usefulness. But Lathen said program access rules might be even more necessary in consolidated market.

Lathen, who had "pleasant and cordial" lunch May 15 with successor Kenneth Ferree, said she knew nothing about idea to form much larger TV division by combining shrinking Cable Bureau with Mass Media Bureau and satellite unit of Interna-

tional Bureau. Calling Powell "a very methodical and logical person," she said any changes "wouldn't be done in a vacuum."

As for her own plans, Lathen said she aimed to return to private sector and work somewhere in communications industry, preferably in Washington, Cal. or Paris. But she said she really didn't know where she was heading yet. "This is sort of a blessing," she said, noting that she has been "working straight" for last 25 years. "I get to take a break and reflect."

Long-time FCC staffer Jane Mago was named agency's gen. counsel, FCC Chmn. Powell announced May 14. Mago, who joined Commission in 1978, had been acting gen. counsel since Jan. Before that she was deputy chief of Enforcement Bureau, senior legal adviser to then-Comr. Rachelle Chong and to Powell when he was commissioner. Other FCC appointments announced: (1) Martha Johnston, ex-assoc. dir. of Assn. of Trial Lawyers, as dir.-Office of Legislative & Intergovernmental Affairs. Johnston was dir. of congressional relations at Dept. of State and dir. of congressional liaison at U.S. Information Agency. (2) Dane Snowden, ex-vp, MissionFish.com, Internet auction engine that raises funding for nonprofit groups, as chief of Consumer Information Bureau. (3) John Rogovin, partner in O'Melveny & Myers since 1996, as deputy gen. counsel. (4) William Spencer, ex-Dept. of Justice, as deputy managing dir. (5) Linda Blair, chief of Mass Media Bureau's Audio Services Div., to assoc. chief of Enforcement Bureau. (6) Lisa Fowlkes, legal adviser to Enforcement Bureau chief, as asst. chief of bureau.

Although he likes cable programming, FCC Chmn. Powell subscribes to DBS. In interview on C-SPAN, Powell, when asked whether he subscribed to cable, said he had satellite dish. He declined to say whether he subscribed to DirecTV, EchoStar or C-band. But, in nod to cable networks, he called himself "big fan" of Learning Channel and Discovery Channel, saying he viewed them regularly with his 2 sons. Powell told C-SPAN that he owned VCR, mainly to watch movies rented at Blockbuster, but said he couldn't afford new personal video recorders promoted by Microsoft, ReplayTV, TiVo. He also denied rumors that he was eyeing run for U.S. Senate seat in Va.

FCC issued call for comments on project to reform agency (TVD March 5 p3), headed by Mary Beth Richards, ex-deputy managing dir. Richards didn't give deadline for comments but asked parties from industry, consumer groups and others to comment "over the next several weeks" on how to achieve 4 goals: (1) Develop "clear substantive policy vision." (2) Install management style that "builds on a strong team, produces a cohesive and efficient operation and leads to clear and timely decisions." (3) Develop "independent technical and economic expertise through recruitment, training and employee development." (4) Realign organizational structure "to conform to the realities of a dynamic and converging marketplace." Suggestions can be sent to Richards, Room 8-C750 at FCC hq.

FCC Chmn. Powell praised ability of Office of Engineering & Technology Deputy Chief Julius Knapp to "translate difficult and esoteric concepts into terms even a commissioner could understand." Knapp received Eugene Bowler Award, which honors public service commitments, at Personal Communications Industry Assn. (PCIA) Foundation dinner. Comrs. Tristani, Ness and Furchtgott-Roth also lauded Knapp. PCIA also announced formation of Amy Zoslov Memorial Scholarship Fund. Zoslov had been chief of Auction & Industry Analysis Div. from 1998 until her death from breast cancer last Aug. Scholarship fund has been established at her alma mater, Case Western Reserve U. School of Law.

CABLE TAKES AIM AT DISNEY, VIACOM: Cable operators, manufacturers and their allies took off their gloves in battle over govt.'s interactive TV (ITV) policy, pounding away at Disney, Gemstar-TV Guide, Viacom and consumer electronics manufacturers for pursuing ITV regulation of cable industry. In reply comments on FCC's ITV inquiry, AT&T, Comcast, Motorola, NCTA and Scientific-Atlanta accused regulatory proponents of hypocrisy and said they sought to replace fair marketplace competition with unfair govt. rules. In particular, they attacked Disney and Viacom, broadcasters whose many cable networks are members of NCTA.

In most pointed example, Comcast took shots at Disney and Viacom for pushing nondiscrimination mandates. Calling that submission "particularly troubling," Comcast said both companies, blessed with huge content holdings, needed no help from FCC to reach favorable carriage agreements with cable operators. "As pleaders for additional government-bestowed advantages, neither is deserving," MSO said, adding that Disney was "especially ill-suited" to seek such advantages.

Comcast also accused Disney of flip-flopping on ITV regulation, supporting "tightly focused" nondiscrimination mandates only for AOL Time Warner during that company's merger review but now seeking broad provisions that would cover all of cable. "Astonishingly, Disney provides no explanation for this about-face," Comcast said. "The only apparent explanation is that Disney's desire for government-conferred regulatory leverage in commercial negotiations outweighs considerations of principle or consistency."

Cable interests said proposed nondiscrimination mandates would deter ITV investment, innovation and service deployment. They said regulatory proponents couldn't cite any evidence of actual ITV discrimination or other market misconduct by cable operators. Cable also repeated arguments that ITV market was too young, undeveloped and fragile to warrant govt. intervention. They said ITV restrictions would violate First Amendment rights of cable operators and would exceed FCC's limited statutory authority.

Public interest groups countered that cable operators were hiding behind First Amendment to avoid opening their systems to rival ITV service providers. In joint reply, Center for Media Education, Consumer Federation of America and Consumers Union said neutral, nondiscrimination requirement "will serve, rather than frustrate, the First Amendment" by fostering "the twin compelling interests" of competition and diversity.

CEA, consumer groups, Gemstar-TV Guide and Paxson challenged cable's argument that federal law severely limited FCC's power over ITV. They said agency already could act under Communications Act's provisions on cable set-top boxes and other navigational devices.

Regulatory proponents said cable operators already had shown propensity for discriminating against outside content and service providers. They cited moves by AOL Time Warner to strip Gemstar-TV Guide's electronic program guide (EPG) from its cable systems, as well as claims by Cablevision Systems and NCTA that MSOs must have complete control over subscriber selection of ITV content and applications and right to strip ITV triggers of other services.

Regulatory proponents questioned why cable operators were so adamantly opposed to competitive safeguards if they had no intention of hampering other ITV services. They said only DBS and program access rules had led to cable competition and deployment of new services.

STRIKE THREAT FADING: Widespread expectations that actors and/or script writers would strike TV networks and movie makers (TVD April 7 p7) have faded as American Federation of TV & Radio Artists (AFTRA) and Screen Actors Guild (SAG) began negotiations toward new contract last week. Optimism surged following agreement on new pact earlier this month by Writers Guild of America (WGA) and Alliance of Motion Picture & TV Producers to replace 3-year contract that expired May 1.

Speaking before "impending news blackout" was imposed, SAG and AFTRA negotiators said: "We believe there is a deal to be made without a strike" before current contract expires June 30. They said WGA agreement was "a building block, not a cookie cutter... We will use the WGA deal where it neatly fits or otherwise makes sense, but we must depart from the details in order to meet the unique needs of actors." Talent negotiators said that while in past actors had made as many as 100 separate proposals, in current talks they "will bring a much smaller, pared-down package of proposals to the table... concentrating on gains for middle-income on-camera principals" — which fits "vast majority" of AFTRA and SAG members who make less than \$70,000 annually. Another issue actors are expected to put on table will be slowdown in overseas productions by studios to save money.

Alliance didn't respond officially to actors' statement, but individually TV networks and movie makers agreed that deal now was most likely before current contract expired. TV networks had made plans to rely heavily on news and reality programs if strike occurred and had rushed production of most series programs as hedge.

Despite economic downturn and shaky market, venture capitalists (VCs) still are looking to fund companies, especially those that focus on networking and broadband areas, speakers told Bear Stearns-sponsored VC panel in San Francisco last week. "We're very excited about broadband access to consumers," said Edward Colby of VC firm Viventures. Broadband subscribers — those with DSL connections of 128 kbps or above — spend 10 times as much time online as nonbroadband subscribers, he said. "That's getting the attention of content providers, but there needs to be a lot of initiative to solve fundamental problems with content delivery," Colby said. There are many prospects for companies that can work out setbacks within network as well, he said. Bob Williams of Bay Partners said now was best time to be VC: "Expectations are much more rational. There's a focus on building a business and at the end of the day that's what it's about."

In light of sweeping 9th U.S. Appeals Court, San Francisco, ruling that municipalities had "very limited and proscribed" role in regulating telecom services, Portland, Ore., is abandoning issue of imposing franchise fees for cable modem services, city official said. Court had invalidated telecom ordinances of Auburn and more than dozen other Wash. cities on ground that federal law allowed "control over rights-of-way itself, not control over companies with facilities on rights-of-way."

Patton Boggs is largest lobbying firm in Washington, according to American Lawyer Media's *Influence* online and print publication. Study said Patton Boggs generated \$46.1 million revenue in 2000, followed by Verner, Liipfert, Bernhard, McPherson & Hand at \$40.2 million, Akin, Gump, Strauss, Hauer & Feld at \$34.9 million, Hogan & Hartson at \$15.5 million.

HILL GRILLS MURIS: Several members of Senate Commerce Committee questioned Timothy Muris, nominee for FTC chmn., last week on his writings that suggested some merits in monopolies. Still, Senate Commerce Committee Chmn. McCain (R-Ariz.) said Muris's nomination had broad support in committee, predicted nomination would be marked up this week and said he would push for floor vote before Memorial Day recess. Muris, who had published many scholarly pieces, including controversial one titled "The FTC and the Law of Monopolization" in the *Antitrust Law Journal* last year, defended himself and his writings, but Sen. Dorgan (D-N.D.) said: "I have some heartburn with some of the statements he's made on monopolies."

Muris had argued there can be some consumer benefits in consolidated provision of services, providing there was at least some competition in market. He was at FTC first as asst. to dir. of Office of Policy Planning & Evaluation 1974-1976, as consultant in 1977, as dir. of Bureau of Consumer Protection 1981-1983, followed by dir. of Bureau of Competition 1983-1985. He said: "It's clear under the law that it's hard to bring a monopolization case" at FTC. As for his writings, he said he was most concerned with Dept. of Justice under Clinton Administration that began "a very large increase" in antitrust investigations "aimed at sending a signal [to industries] that was inappropriate." He assured committee members that he "would have no hesitation to bring a good [monopolization] case" as FTC chmn.

Senate Commerce Committee ranking Democrat Hollings (S.C.) said "your writings suggest monopolies are good things." Sen. Wyden (D-Ore.) said some of Muris's writings suggested more support for companies than for consumers, odd position for head of FTC, which he said "is one of the most important places in government for the consumer." Dorgan said "we need a Federal Trade Commission and a chairman to be very aggressive on these issues."

Muris agreed FTC played critical role in protecting public, but said "consumers are best served by a freely functioning market, as opposed to extensive government regulation. The market needs governing rules, however, and the antitrust and consumer protection laws that the Federal Trade Commission enforces provide such rules. On occasion, performance of the market can be improved through government regulation, and in evaluating such occasions, the benefits and costs of the regulation should be considered carefully."

Muris, prof. at George Mason U. School of Law, Fairfax, Va., in recent years, has consulted with Disney, Intel and United Cable TV, among others. While he didn't itemize the size of his donations, Muris said that in recent years he had given at least \$500 to the campaigns of Sen. Gramm (R-Tex.), Rep. Kolbe (R-Ariz.), President Bush. Muris said his investments were mostly in "widely diversified" mutual funds and listed no individual stock holdings. He was an economic adviser to Bush's campaign and served as policy coordinator for the Bush-Cheney transition team.

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Symposium on DTV Application Software Environment will be sponsored June 19-20 in Gaithersburg, Md., by Advanced TV Systems Committee and National Institute for Standards & Technology — www.dase2001.nist.gov.

Michael McCabe, pres.-CEO of Canadian Assn. of Bcstrs. (CAB) for 13 years, resigns effective Nov. 9. He said he decided "to hand over the reins to someone new." The executive committee of CAB board is establishing group to conduct search for new pres.-CEO over summer, Assn. said.

UPTON MAY TWEAK BILL: Legislation that would increase FCC enforcement authority might be tweaked to reflect concerns that proposed changes might not be enough to deter violators of telecom law, House Telecom Subcommittee Chmn. Upton (R-Mich.) told hearing on HR-1765. "We need to give [FCC] Chmn. Powell and his colleagues more ammo so that they can enforce the law," he said. Upton bill would increase fines FCC could levy on violators to \$1 million per violation, with \$10 million cap, from current \$120,000 limit. It also would extend statute of limitations on enforcement action to 2 years from one. Commerce Committee ranking Democrat Dingell (Mich.) said he supported bill, but recommended transferring fines paid by violators directly into universal service fund.

Subcommittee ranking Democrat Markey (Mass.) said he shared FCC Chmn. Powell's concern that current level of fines was merely cost of doing business. He said FCC, without adequate enforcement bureau staff, would be ill-prepared to respond to alleged violations. "We can have all the fines and penalties in the world but it would do little good if we don't have the personnel to investigate the disputes," he said.

Markey reiterated his opposition to data deregulation bill (HR-1542) recently introduced by Dingell and House Commerce Committee Chm. Tauzin. Tauzin-Dingell "decriminalizes" many of FCC's rule violations and therefore would negate Upton's enforcement bill, particularly if it were attached to HR-1542 on House floor. "That's the first time I heard a deregulation bill described as decriminalization bill," Tauzin told Markey. He described Markey's and others' opposition as "thinly veiled attempt to undermine the broadband bill."

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AOL Time Warner asked FCC for "expedited treatment" of company's claim that cable operators had right to block electronic program guides (EPGs) from other service providers. In new campaign against Gemstar-TV Guide International, which has complained about MSO's stripping Gemstar's EPG from its cable systems in favor of its own EPG, AOL Time Warner quietly filed petition for declaratory ruling with Commission May 9. Even though program-related material has right to cable carriage on vertical blanking interval of broadcast signal, MSO said, EPGs with broad programming, advertising and promotional information don't qualify as program related. AOL Time Warner also argued that mandatory carriage of EPGs would violate First Amendment rights of cable operators. Gemstar-TV Guide, which had filed complaint against MSO's stripping practices last year, abruptly dropped that complaint last month when it seemed clear that agency would rule against it. But AOL Time Warner, which restored Gemstar's EPG to its systems at least temporarily, wants Commission to rule on issue anyway to stave off future objections.

Morality in Media urged Senate Commerce Committee to press FCC nominees on their positions on broadcast indecency law enforcement. In full-page *Washington Times* ad, group said FCC's present enforcement record on issue "is a disgrace" and asked that committee members determine whether nominees Michael Powell, Kathleen Abernathy, Kevin Martin and Michael Copps would uphold broadcast decency standards. "If the FCC is to play a vital role in protecting the public interest, the commissioners who head it must themselves believe that the Commission has such a role to play," it said.

Motient-Rare merger will make Leon Black's Apollo management Investment Group largest shareholder in XM satellite radio, satellite analyst William Kidd said. Motient signed definitive merger agreement to acquire 100% of Rare Medium Group in transaction that's expected to close in 3rd quarter.

Personals

Jonathan Wald, exec. producer, *NBC Nightly News*, to exec. producer, *Today*, replacing **Jeff Zucker**, now pres.-NBC Entertainment... **Patrick McNamee**, ex-GE Transportation Systems, named senior vp-chief information officer, NBC Information Technology, chief quality officer and leader of NBC's eBusiness initiatives... **Thomas Jones**, chmn.-CEO, Citigroup global investment management and private banking group, elected to Fox Entertainment Group board... **Karl Meyer** promoted to senior vp-integrated mktg., Radio Unica Communications Group... **Bob Salazar** advanced to vp-network image, Lifetime Entertainment Services... **Dave Checketts** resigns as pres.-CEO, Cablevision System's Madison Sq. Garden... **Perry Schneider** promoted to pres., HBO Enterprises, replacing **Charles Schreger**, resigning... **Andrea Greenberg** advanced to pres., Rainbow Sports Networks... Changes at Discovery Networks International: **Neville Meijers**, ex-CEO, M-Web/MIH, named managing dir., Asia; **Tom Keaveny**, vp-affiliate sales and mktg., Europe, moves to senior vp-sales and revenue, Asia.

Michael Collette, ex-MediaTech Strategies, appointed senior vp-mktg. and business development, OpenTV... **Richard Johnson**, ex-EchoStar, joins iSurfTV technical advisory board... Elected to Broadband Content Delivery Forum board: **Will Biedron**, Stroigen Systems, chmn.; **Nabil Akroot**, Fantastic Corp., European vice chmn.; **Greg Crosby**, Sprint, N. American vice chmn.; **Marie Hattar**, Nortel Networks, treas.; named officers: **Michael Condry**, Intel; **Dave Ginsburg**, Allegro Networks; **Bruce Leichtman**, Vividron; **Joe Mosher**, Innovatia... **Mike Tsinberg**, ex-Toshiba, founds Key Digital Systems HDTV manufacturing company... Changes at kpe, digital partner for media and entertainment companies: **Win Peniston**, ex-Pittard Sullivan, becomes vp, new TV Div.; **Aaron King**, ex-Pittard Sullivan, and **Julie Klappas**, kpe, appointed creative dirs.; **Jeff Baumgardner** moves from parent kpe to become producer in new division... **Joseph Zerucha**, ex-pres.-NSN Network Services, Clear Channel, appointed COO, Tachyon.

William Kennard, ex-FCC chmn., elected to *N.Y. Times* board... Consultant **Kathleen Wallman**, ex-White House and ex-FCC, joins Krasnow Institute for Advanced Study board... **Kathy Brown**, ex-FCC chief of staff, named partner, Wilmer, Cutler & Pickering... New at Arnold & Porter: **Michael Songer**, Georgetown U., as partner; **Robert Worrall**, ex-Brobeck, Phleger & Harrison, of counsel... Changes at European Bcstg. Union: **Stefan Kürten**, controller of sports rights for ZDF German TV station, named dir.-operations, replacing **Henri Pérez**, retiring; **Raina Konstantinova**, Radio Bulgaria, named dir.-radio, succeeding **Thomas Alexanderson**, retiring... Changes at Warren Communications News: **Edie Herman** promoted to assoc. managing editor, *Communications Daily*; **Patrick Ross**, ex-CNET, returns as assoc. managing editor and Capitol Hill reporter, *Warren's Washington Internet Daily*, replacing **Sasha Samberg-Champion**, leaving for law school.

Obituary

E. Brandt Gustavson, 65, pres. of National Religious Bcstrs. (NRB) since 1990, died May 14 of cancer of liver and pancreas less than 2 months after disease was diagnosed. He spent his entire career in Christian broadcasting, including 3 years as NRB chmn. and 22 years on its board. Before joining NRB, Gustavson was exec. vp-COO for Trans Word Radio 1986-1990 and before that was pres. of Moody Bible Institute for 12 years. He was founder of Moody Bcstg. Network and managed Moody's WCRF(FM) Cleveland and KAIM-AM-FM Honolulu. Wife, son, daughter survive.

WARREN COMMUNICATIONS NEWS Television & Media Intelligence www.warren-news.com

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497 1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

This Newsletter is available electronically via Predicasts, Nexis, Dow Jones Interactive and Infonautics and also may be received via email.

Warren Communications News, Inc. is publisher of Audio Week, Cable & Station Coverage Atlas, Communications Daily, FCC Report, Local Competition Report, Long Distance Competition Report, Mobile Communications Report, Multimedia Wire, Public Broadcasting Report, Satellite Week, State Telephone Regulation Report, Telco Business Report, Television & Cable Action Update, Television and Cable Factbook, Television Digest with Consumer Electronics, Warren's Cable Regulation Monitor, Washington Telecom Newswire, Daily Document Service, and other special publications.

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DBS industry and terrestrial start-up Northpoint-Broadwave continued dispute over impact of Mitre report in comments filed with FCC and in sessions with trade media. DirecTV Vp-Govt. Affairs Merrill Spiegel told us FCC "should proceed to overturn the finding" that spectrum sharing between DBS and terrestrial systems was "theoretically possible." Northpoint renewed call for license so it could begin offering service as soon as possible. Final comments in FCC proceeding are due May 23. New Commissioners will have to be briefed on issue before vote can be taken, industry lawyer said, and "the spin cycle will begin all over again."

Consumer Electronics

A Section of *Television Digest* with *Consumer Electronics*

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending May 4 and year to date:

	APR. 28 - MAY 4	2000 WEEK	% CHANGE	APR. 21- APR. 27	18 WEEKS 2001	18 WEEKS 2000	% CHANGE
TOTAL COLOR TV	298,010	283,540	+ 5.1	593,811	8,288,178	8,907,515	- 7.1
DIRECT-VIEW**	286,818	275,290	+ 4.2	570,371	7,964,724	8,510,561	- 6.4
TV ONLY#....	228,070	226,401	+ 0.7	472,510	6,656,013	7,086,781	- 6.1
TV/VCR COMBO.	58,748	48,889	+ 20.2	97,861	1,308,711	1,423,780	- 8.1
PROJECTION...	11,192*	8,250	+ 35.7	23,440	323,454	396,954	- 18.5
TOTAL VCR**....	366,355	266,762	+ 37.3	534,775	6,145,052	8,052,236	- 2.4
HOME DECKS...	307,607	217,873	+ 41.2	436,914	4,836,341	6,628,456	- 27.0
CAMCORDERS.....	114,193	65,819	+ 73.5	189,383	1,725,215*	1,656,149	+ 4.2
DVD PLAYERS....	140,413*	38,933	+260.7	340,700*	3,107,142*	1,631,750	+ 90.4

Direct-view TV 5-week moving average#: 2001-286,905; 2000-387,863 (down 26.0%).

Projection TV 5-week moving average: 2001-14,315; 2000-18,560 (down 22.9%).

VCR deck 5-week moving average: 2001-247,795; 2000-406,231 (down 39.0%).

TV/VCR 5-week moving average: 2001-63,496; 2000-92,384 (down 31.3%).

Camcorder 5-week moving average: 2001-104,188; 2000-106,642 (down 2.3%).

DVD player 5-week moving average: 2001-154,353*; 2000-89,625 (up 72.2%).

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

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

CE TITANS LINING UP BEHIND VIDEOGAME PLATFORMS: Battle among global CE titans is shaping up in videogame space now that Panasonic and Thomson have thrown their weight behind rival videogame platforms — each of which also will butt up against Sony's established PlayStation 2 when they arrive in early Nov. Further revelations of AV companies' ambitions in videogaming came at Electronic Entertainment Expo (E3) in L.A. last week.

As we have reported, Panasonic parent Matsushita will strengthen its 2-year-old technical and logistical support for Nintendo's GameCube console by marketing own-brand hybrid that plays 8-cm GameCube discs as well as standard 12 cm DVD movie titles. In other camp, RCA parent Thomson will provide accessories that enable DVD-Video viewing from Xbox, while subsidiary Technicolor will replicate Xbox discs and distribute Xbox software, hardware and peripherals for Microsoft. Thomson already is supplying key components to equity holder Microsoft, as we have reported.

Prototype of Panasonic combi player was unveiled at E3 last week. Silver 8" cube carries Panasonic and Nintendo GameCube logos, has conventional DVD tray and slot for 2 SD Memory cards. Matsushita developed GameCube's optical drives for Nintendo and, in first hint of initial GameCube quantities, company next month is expected to begin producing drives at rate of 600,000 monthly. Panasonic also will be replicator for GameCube's 8 cm DVD-like discs, pressing 1.5 million monthly beginning in June. Nintendo at E3 wouldn't divulge hardware or software quantities or pricing, but set U.S. launch date of Nov. 5.

Panasonic's hybrid will ship in Japan first, soon after Nintendo's Sept. 14 introduction there, Matsushita spokesman told us. Plans for N. American debut are less clear, with Matsushita Managing Dir. Fumio Otsubo indicating shipments wouldn't come until Matsushita's next fiscal year, which begins April 1.

Panasonic wouldn't divulge pricing on its combi player, but background paper for what company calls "X-21 Project" said Nintendo and Panasonic were working on broader platform "focused on the design and eventual marketing of 'digital network home appliances'". Project includes use of "bridge media" such as SD Memory Card jointly developed by Matsushita, SanDisk, Toshiba. They would enable software and data distribution services, including through "ePF" (E-Platform) being established for DTV datacasting in Japan by Hitachi, Panasonic and Toshiba. Panasonic backgrounder said it was working with Nintendo on copy protection and digital rights management for new services.

Thomson's support will figure heavily in Nov. 8 Xbox debut in N. America and, later, globally. RCA parent, world's largest maker of optical disc pickups, said it had expanded production to supply DVD-ROM drives for Microsoft.

Equally important is aftermarket help. Despite denials to us as recently as last Wed., Thomson on May 17 announced it would supply key accessory that would facilitate DVD-Video movie playback from Xbox. Company will provide optional "Xbox DVD Playback Kit" that includes remote control and plug-in module to execute commands from zapper. Although Xbox has internal circuitry to play DVD-Video, Microsoft has said it will market console primarily for videogaming and that Xbox controllers wouldn't be optimal for DVD-Video playback functions. Thomson, despite earlier denials, also said last week that it was developing broad line of Xbox accessories, including wireless controllers, for sale next year.

On software side, Microsoft and Thomson-owned Technicolor announced multiyear contract for Technicolor to replicate and distribute Xbox titles for Microsoft and 3rd party developers. Technicolor, world's largest audio and video software manufacturer, has expanded capacity lately for 250 million DVDs yearly. It will handle Xbox replication and distribution for Microsoft and 3rd party titles in N. America, 3rd parties only in Europe. Technicolor will warehouse and distribute Xbox hardware, software and peripherals for Microsoft in Canada, Mexico, U.S.

Matsushita and Thomson have eyed game space for some time — perhaps with envious glance toward Sony's rise to preeminent position in field once dominated by specialty companies Atari, Nintendo, Sega. Matsushita had big stake in 3DO and kept developing technology acquired from that company after 3DO quit hardware business. Thomson first expressed ambitions in videogaming in press briefing at May 1999 dealer meeting in Las Vegas, where top executives conceded company was late to market but said DVD format opened "2nd window" of opportunity for tech-savvy companies with clear business plan.

Although Sony so far is one-and-only in its own PS2 camp, it said last year it would consider licensing others to build and sell console hardware. But no announcements to that effect were in offing at last week's E3. Jack Tretton, senior vp-Sony Computer Entertainment, told us "there may be plans going forward" to license PS2 technology to other companies for hardware "but I'm not aware of any developments." Sony already licenses others for PS2 aftermarket accessories, but has yet to give specifics or terms for console licensing.

Besides unveiling of Panasonic hybrid DVD component for GameCube, biggest news at E3 was Microsoft's long-awaited revelation that it would deliver 600,000-800,000 of its Xbox consoles for platform's Nov. 8 N. American bow and expected to ship 1-1.5 million by Christmas. Microsoft confirmed widely expected \$299 suggested retail sticker for Xbox and announced slate of exclusive software licenses, including one with Warner Bros. for 3 games based on Steven Spielberg's upcoming movie *A.I.*

Some 15-20 software titles will be available at system's debut, said Robbie Bach, Microsoft's chief Xbox officer. He didn't reveal how many games would be out by year-end, but said 80 exclusive titles were in works, 40 of them from 3rd party developers. Also not revealed was software pricing and Microsoft didn't take reporters' questions at packed news conference, where Chmn. Bill Gates was no-show but Sega Pres.-COO Peter Moore pledged his company's support with line of broadband games for Xbox.

At pre-E3 event, Microsoft demonstrated exclusive Xbox games such as its self-developed *Halo* and *Oddworld: Munch's Oddysee*, Tecmo's *Dead or Alive 3*, Infogrames' *NASCAR Heat* and *Mad Dash* from Eidos Interactive. "Xbox is going to change videogames the way MTV changed music," Bach said, emphasizing Microsoft's commitment to broadband online gaming. "Your games are never going to be the same."

In news conference, Microsoft announced strengthened relationships with Capcom and Sega. Capcom confirmed it would develop 3 Xbox games, 2 of them exclusives — *Dino Crisis 3* and *Brain-Box* — each tentatively titled by producer Shinji Mikami. Popular *Onimusha* will be optimized for Xbox and produced by Keiji Inafune, Capcom said. Sega an-

nounced it was creating Xbox versions of its best-selling *Sega Sports 2K2* games, as well as *Crazy Taxi*, *Next* and *House of the Dead 3*. Games will ship to coincide with arrival of hardware. Sega also committed to design its *Sega Sports 2K3* lineup for Xbox broadband online game service, scheduled to begin in first half of 2002, and exploit Ethernet connection and hard disc built into Xbox console.

Microsoft said 27 game companies would design for console's high-speed broadband capabilities built into every Xbox video game system. Besides Sega, roster includes Acclaim, Activision, Artdink, Atlus, Bandai, Capcom, Codemasters, Crave Entertainment, Electronic Arts, Eidos, Fox Interactive, Gathering of Developers, Infogrames, Interplay, Konami, LucasArts, Midway Games, Namco, Rage Software, Rockstar Games, Sierra On-Line, Taito, Take-Two Interactive, TDK Systems, THQ and Ubisoft. Microsoft showed its Xbox Communicator headset that will enable online gamers to speak to one another while playing, but didn't reveal price or delivery date.

Perhaps Microsoft's most intriguing Xbox announcements related to Hollywood star power pledging exclusive support for platform. Microsoft and Warner Bros. will develop and publish Xbox games based on Steven Spielberg's movie *A.I.* that hits movie theaters June 29. Microsoft will publish 3 *A.I.* games, which it said are considered to be interactive sequels to movie. Two are set for release when Xbox ships in fall.

Meanwhile, Microsoft and Universal Interactive Services said they would develop exclusive Xbox game under martial arts icon Bruce Lee license. *Bruce Lee: Quest of the Dragon*, developed by Ronin Entertainment, is described as cinematic, fast-paced action game that lets gamers play as legendary martial arts master in his latest feature film.

Although Microsoft didn't allow opportunities for questions at news conference, source close to exclusive Xbox manufacturer Flextronics told us assembly contract potentially was worth \$1 billion a year to that company beginning in 2002. Source told us pilot production already had begun in Hungary and Mexico and that volume manufacturing was scheduled for Sept., but declined to disclose initial quantities.

Microsoft seemed positively voluble at E3 with Xbox details compared with paucity of information from Nintendo on GameCube console. Nintendo announced that its "dedicated gameplay system" would arrive in N. America Nov. 5 with library of 5 first party GameCube titles. Two more will ship in time for holidays, and although 3rd party titles are expected early in rollout, details were scant at E3 compared with those of other next-generation platforms. Nintendo wouldn't divulge pricing for console or software, although it said it would do so by May 24.

GameCube titles unveiled at E3 included: *Luigi's Mansion*, featuring Mario's younger brother chasing ghosts in a haunted house; *Super Smash Bros. Melee*, with popular Nintendo characters; *Pikmin*, action-strategy simulation by developer Shigeru Miyamoto, as well more than dozen exclusive titles. Nintendo said it had another 15 exclusive titles under development and that early 3rd party titles would come from LucasArts, Electronic Arts, others.

In hardware, GameCube will offer variety of controller options, Nintendo said. Wireless controller, called Wavebird, allows RF connections up to 30 ft. away. And in future games, Game Boy Advance handheld itself will be used as what Nintendo called "a discrete controller" for GameCube.

Meanwhile, Sony used its E3 news briefing to say that it didn't plan to sit idly by while Microsoft and Nintendo launched their new-generation consoles. In 2-hour presentation almost mind-numbing in its detail, SCEA showed more than dozen top PlayStation 2 (PS2) games and outlined partnerships with AOL, Cisco, Macromedia and RealNetworks and Cisco as part of its online strategy to position PS2 as entertainment key to Internet-connected living room. Confidently, Sony Computer Entertainment America (SCEA) Pres.-COO Kaz Hirai said: "We agree with analysts who said that the only battle this year will be over who is number 2."

SCEA Senior Mktg. Vp Andrew House said his company would spend staggering \$250 million this year marketing PlayStation hardware and software. While Xbox and GameCube combined will have several dozen titles at best, House said PS2 would release 200 new PS2 titles from April through Dec., increasing total to 280 by year-end.

Hirai also gave public its first glimpse of PS2 modem and hard drive. System's 40 GB hard drive fits into expansion slot on back of console and will be released in Nov. at price that's yet to be determined. While stressing that most of SCEA's online plans were for 2002 and beyond, Hirai also showed new hybrid modem to be released in fall at \$39.95. Modem supports both narrowband 56 kbps and 10/100 Base-TX Ethernet broadband online connection. Hirai also gave a list of online playable games available in fall that included *Tribes*, *Tony Hawk Pro Skater 3* and first party releases *Twisted Metal Online*, *Frequency*, *SOCOM: U.S. Navy Seals*.

DIGITAL OUTPUT SOUGHT FOR MULTICHANNEL DVD-AUDIO: Licensing terms are among roadblocks to more titles and multichannel digital output for DVD-Audio format, CE and music industry executives conceded at news briefing during recent Home Entertainment 2001 show in N.Y.C. But work to resolve issues is proceeding at quick pace, disc authoring times are faster and format should see more than 100 music titles this half, they said.

Current count stands at 57 titles — 29 from Warner Music and rest from independents such as 5.1 Entertainment Group. BMG is supporter, and label said it hoped to release first titles this year. Company has been working on projects with its artists, said Bill Allen, dir.-new media technologies. When first slate of titles will be announced, he couldn't say: "We're negotiating now for licensing, and for me to answer that would be a very bad poker player."

At session sponsored by DVD Entertainment Group, executives wouldn't discuss nature of licensing hitches for software. Besides Allen, Warner Music Senior VP-Technology Jordan Rost was participant, but not representatives of major labels EMI, Sony, Universal.

Jordan said time needed for multichannel authoring was improving but engineers still were in learning curve. "It's a creative effort," he said, "and not about pushing a button on a computer." Proportion of new multichannel productions is increasing compared with remixes from catalog titles, he said. As for new multichannel releases, Jordan said that "this summer we'll be moving closer to day-and-date with CD."

Executives candidly addressed question on lack of digital output for DVD-Audio's multichannel content. Currently, high-bandwidth, uncompressed multichannel sound with DVD-Audio's Meridian Lossless Packing (MLP) can be reproduced only through 6-channel analog outputs on players. When DVD-Audio signal is routed to amp or receiver through digital coaxial or optical connections, only PCM stereo or compressed Dolby Digital surround is available.

Lack of copy protection and technical shortcomings IEC-958 connector used today are reasons why multichannel digital output isn't possible, executives said. Allen, who worked on international steering committee to develop DVD-Audio standards, said bandwidth of IEC-958 or so-called SPDIF (Sony/Philips Digital Interface) was limited to maximum 1.53 Mbps data-transfer rate of 2-channel, 48 kHz/16 bit signal — and so couldn't handle faster data rate of uncompressed, higher resolution multichannel signals. Issue is same for Sony/Philips Super Audio CD format, which also lacks digital multichannel output.

Instead, IEEE-1394 connection is needed, and that's standard for multichannel output already approved by DVD-Audio Steering Committee of DVD Forum, Allen and Rost said. Committee also has selected DVD-Audio copy protection developed by 4C Group (IBM, Intel, Panasonic, Toshiba), they said. What remains to be done is to complete licensing terms for 4C, "and we're working real hard on that," Allen said.

Copyright obstacles aren't same as with DTV or DVD-Video because DVD-Audio already uses Verance watermark, Rost said: "We are committed to giving the consumer digital output." In noting pleasure of retailers with DVD-Audio sales to date, Rost made aside on issue of illegal copying and Internet file sharing: "This is very much a brick-and-mortar product, with files too big to be downloaded."

SDMI has thrown in towel for time being in attempt to find Phase II screening technology for protection of digital music. Secure Digital Music Initiative (SDMI) had been evaluating Phase II proposals without success, and has folded shop for summer. At May 18 conclusion of meeting in Amsterdam last week, group said "it was determined that there is currently no consensus for adoption of any combination of the proposed technologies." At our deadline, it couldn't be learned what role if any SDMI's "Hacking Challenge" played in that decision, including flap over abortive publication of methods used to defeat SDMI protections by so-called Princeton Group. Decision doesn't affect Phase I watermark by Verance that's already in use for portable music devices. SDMI said it hadn't quit: Ad hoc working groups will continue through summer, participants will reconvene in Sept. to assess situation. "Selecting an appropriate technology for screening involves finding a balance between the interests of consumers, right holders, manufacturers and software producers — a most challenging task," said Paul Jessop, chief technology officer for International Federation of the Phonographic Industries.

Sony Computer Entertainment (SCE) will be shipping kit to run Linux operating system on PlayStation 2 (PS2) consoles at ¥25,000, Japanese news report said. Report said subsidiary would sell 1,000 kits online and they would include connection equipment, keyboard, network-compatible hard-disc drive unit, software. Separate report said SCE had subcontracted production of its original PlayStation console to manufacturer in China's Guangdong Province. It said monthly output would start at one million, but SCE was looking to boost that to 1.5 million before holiday season. Report said SCE also was considering whether to move production of its PS2 console to China. Sony Computer Entertainment America spokeswoman didn't return call for comment. Meanwhile, another report from Asia said Sony had contracted with Delta Electronics to provide PS2 power supplies, starting with 600,000 units next month and possibly increasing to 1.4 million units per month by year-end.

Clarification: *MTV Music Generator 2* — first title for PlayStation 2 from U.K.-based game maker Codemasters — will cost \$49.99 when it ships June 5, spokesman told us last week.

JVC COURTS TAIWANESE FOR D-ILA: JVC is courting Taiwanese front projector and optical engine suppliers to create D-ILA alliance, sources said.

Taiwan's Primax Electronics showcased front projector with 1,024x768 resolution and 1,800 lumens at CeBit show and is expected to start monthly shipments of 3,000 projectors and optical engines by midyear, sources said. Prokia and Wellsome Technology also are interested in JVC's D-ILA lenses.

JVC's D-ILA efforts to date have been hampered by high price. Three-lens 0.9" set is priced now in \$900-\$1,000 range. But company recently has indicated that it soon will offer 0.7" lens set at 30-50% less. It also is studying expanding capacity, with plans expected to finalized by year-end.

Company also has battled to boost yield, including that for 1.22" chip used in single-panel 61W rear-projection set now marketed in U.S., Professional Products Business Development Dir. Thomas Stites said. In long term, JVC is likely to move rear-projection sets to 0.5" or 0.7" lens in 3-panel configuration, he said. "The [1.22"] chip was fine, but the mating of the holographic filter and the chip has been difficult," Stites said. "We have gotten it to work, but the yields have been low and it's expensive to make."

JVC Color TV Gen. Mgr. Michael Holmes said company had no immediate plans to switch from 1.22", but in long term might look to smaller panel sizes. Larger chip has resolution of 1,280x1,024. JVC had planned to ship 61W last Aug. (TVD May 22/00 p19), but postponed delivery (TVD Sept 18 p15) as it focused on 50W for Japan market. It shipped 61W in U.S. earlier this year.

Meanwhile, Acer Communications & Multimedia (ACM), hampered by delay in product rollout, said it shipped only 6,000 DLP-based front projectors in first quarter. However, it said it had received large orders for DLP unit with 640x480 resolution and 1,000 lumens and expects to increase production to 10,000-15,000 units in 2nd quarter. ACM shipped 32,000 DLP projectors in 2000 and has forecast nearly doubling that to 60,000 this year.

Dupont Displays has invested \$27.6 million to acquire 8% of Ritek Display as part of agreement under which companies will build automated polymer organic light-emitting diode (poly-OLED) production line in Taiwan. Line, which will start production in 3rd quarter 2002, will have monthly capacity of 35,000 370x470 mm polymer substrates. DuPont, whose subsidiary Uniax is developing poly-OLED technology, will purchase 80% of its requirements from Ritek, Ritek Pres.-CEO Wang Ding Chang said. New line will produce mono and multicolor passive matrix displays and DuPont is seeking additional partner for full-color active matrix versions, DuPont Gen. Mgr. Stephen Gallo said. Ritek, which licensed OLED technology from Eastman Kodak, has been running mono- and multicolor 1-2" displays across 3 lines since last fall (TVD Dec 25 p19). Current monthly capacity is 25,000 units with 400x400 mm substrate. Ritek is planning to add full-color OLED line by 2nd half with monthly capacity of 50,000 units. It thus far has gained orders for game console displays in "several tens of thousands" of units and is seeking contracts for handheld PC and cellular phone displays, Chang said. Ritek forecast OLED display sales of \$39.6 million this year and \$100.5 million and 10% profit margin in 2002. When OLED line achieves 60% yield with 100% capacity, gross margins will be 20%, Gen. Mgr. Chang Yih said.

Palm warned that fiscal 4th quarter loss would more than double earlier forecasts and that revenue would be 50% below projection. Company now forecasts loss of \$170-\$190 million for quarter ending May 31 vs. earlier \$80-\$85 million. Sales are expected to be \$140-\$160 million, down from earlier \$300-\$315 million. Downturn in earnings came as Palm suffered from slowing U.S. economy as well as botched product transition that has left it saddled with inventory. It has responded by cutting prices, including VIIx to \$99 after \$100 rebate, down from \$299. In addition to excess inventory, Palm has suffered from slower-than-expected production and availability of new m500 and m505 handheld PCs, CEO Carl Yankowski said. Palm canceled proposed merger with Extended Systems citing poor economic conditions. Acquisition, which was valued at \$264 million in stock when announced in March, is valued now at \$100 million following drop in Palm's share price. Palm's stock, already down 75% so far this year, plunged another 21% to \$5.54 on May 17 after it lowered forecasts. It closed Fri. down \$2 at \$5.05 after hitting low of \$4.71... **Handspring** signed agreement with distributor Hartco to market its Visor handheld PCs in Canada. Handspring already sells Visor through several chains there including Future Shop and Business Depot. Handspring also suffered from Palm's struggles as stock closed Fri. down \$1.69 at \$8.69 after hitting low of \$8.50... **Research in Motion (RIM)** will embark on licensing program for technology behind its Blackberry pager after being awarded patent last week by U.S. Patent and Trademark Office covering its process for directing messages from single e-mail address between server or PC and wireless device. Patent will have broad implications for handheld market where many companies are providing wireless access to e-mail. RIM will seek to license technology to "reputable and quality" companies, Co-CEO James Balsillie said. Among current licensees is Compaq. In first step in enforcing patent, RIM filed patent infringement suit in U.S. Dist. Court, Wilmington, Del., against wireless messaging device maker Glenayre Electronics, alleging that it was trying to copy Blackberry technology. Glenayre spokeswoman declined comment.

Zenith Electronics, having completed sale of manufacturing facilities and operating with lower overhead costs, reported first-quarter net loss narrowed to \$6.5 million from \$20.8 million year earlier despite sharp drop in revenue to \$64.7 million from \$117.6 million. Revenue year earlier included that generated by former Network Systems Div. that was sold to Motorola for \$14.9 million in Aug. Selling, general and administrative expenses fell to \$15.7 million from \$21.5 million. Despite ending quarter with negative working capital of \$12.9 million, vs. \$7 million year ago, Zenith's \$60 million credit agreement with Citicorp, backed by parent LG Electronics (LGE), will be "sufficient" to cover debt service and capital expenses for year, company said in SEC filing. In making transition to digital products from analog, Zenith conceded that sales were likely to be "significantly lower" this year than in 2000. "The additional revenue generated by sales of digital products to new customers will not offset the loss of revenue from the phase-out of a majority of the company's current products and customers," Zenith said. Zenith earlier this year said it would shift focus to digital products, including HDTVs and plasma displays, and at same time trim dealer roster (TVD April 9 p13). Zenith's gross margin improved to 7.1% from 4% as it eliminated some analog products. It paid \$31.7 million to LGE for products including TVs, VCRs and TV/VCRs in quarter, down from \$76.3 million year ago, while sales to parent and affiliates declined to \$500,000 from \$900,000. LGE paid Zenith \$1.7 million for technical services and provided \$2.7 million for ad costs. Zenith sales to LGE affiliates in Canada and Mexico decreased to \$200,000 and \$300,000 from \$400,000 and \$500,000, respectively, year ago.

DVI CAMP WINS SUPPORT: Backers of digital visual interface (DVI) are gaining backing of important chip suppliers even as major CE manufacturers rally behind IEEE-1394 DTV interface and 5C copy protection standards (TVD May 14 p1).

While Silicon Image had long been proponent of DVI interface with its PanelLink A/V, it since has been joined by rival Genesis Microchip and is likely to get added competition with DVI receivers from Pixelworks and Sage.

"1394 has been around for 10 years and nothing has happened," said GM Pres.-CEO Amnon Fisher, whose company is being sued by SI for infringement of its DVI patents (TVD April 30 p16). "The DVI IC is simpler in that it allows for the connection of the PC to the TV without any added cost."

While determining exact of cost of adding DVI to monitor vs. 1394 isn't an exact science, industry officials said former could be half as expensive to implement. Despite cost difference, adoption of DVI has been slow in its major area of support — PCs monitors. Some 6-8% of PC monitors currently have DVI interface, figure that will rise to 12-15% by year-end and 20% in 2002, Silicon Image CFO Daniel Atler told CIBC World Markets investors conference last week.

In CE, Mitsubishi and Sony have committed to introducing HDTVs with 1394 and 5C copy protection, but several companies are playing both sides, including Samsung and JVC, which have shown DVI for set-top HD decoder and rear-projection TV applications, respectively. JVC and Samsung also were among companies that signed CEA letter to FCC Chmn. Powell earlier this month saying that majority of CE companies planned to install 1394 interface in their products and had endorsed Digital Transmission Content Protection (DTCP), also known as 5C. Other notable signers were Thomson and Zenith, which previously had pushed smart card-based Extended Conditional Access (XCA) as alternative to 5C.

"We are conducting research with both because I don't think these are competitive standards," Samsung DTV Strategy Group Dir. Frank Romeo said. "To me, they serve different applications since DVI is strictly a monitor interface and 1394 is more at the device level. In the copy protection is where the issues are."

Indeed, while Sony Pictures and Warner Bros. have signed memorandum of understanding with 5C group, Disney, MGM, Paramount, 20th Century Fox and Universal have balked at licensing terms. While Fox is said to be wavering in its opposition, Disney and Universal have been strong in their support of High-Bandwidth Digital Copy Protection (HDCP), which was developed by 5C member Intel for DVI.

"Most of the people that are part of the 5C group also have an interest in DVI and I think they are trying to balance their approach," Atler said. "With the addition of Sage and Pixelworks [to DVI camp] you are going to start to see mass market adoption, which is part of what we wanted to see happen with DVI."

At same time, CEA's Video Div. Board and its 1394 Interface Strategy Working Group are finalizing terms and logos that will allow consumers to match products' description or graphics to ensure that they are designed to work together, Mitsubishi Mktg. Vp Robert Perry said. Base definition is expected to apply to products that

use DTCP to secure encoded content over IEEE 1394 connection. Final decision on terms and logos is expected in July.

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Chip Notes: Alter defended SI's decision to sue GM, saying there "are others who have implemented DVI with infringing patents. If there is no other reasonable way [to implement DVI], the DVI standard is pretty clear that you can violate our patent, but that doesn't mean that you can copy somebody else's work." SI remains on schedule to deliver transmitter/receiver product late this year that allows for transmission of digital audio and video over DVI interface, Atler said. Transmitter and receiver are expected to be priced at \$11 and \$5 in volume... Pixelworks will deliver Jolt display processor with integrated Web browser in volume next year, Pres. Allen Alley said in declining to disclose software supplier. Samples are expected in 2nd half. IC will be priced at high-end — about \$50 in volume — and will be designed for information appliances, Alley said. Specs of new chip haven't been released, but it uses same Toshiba-built processor that powers Sony PlayStation 2 and operates at same speed, he said. Toshiba's EmotionEngine as originally configured had 400 MIPS Risc processor and internal 128-bit buses. Toshiba will build Jolt product using 0.18-micron fabrication process. Sage will offer chip combining its display processor with its Faroudja Div.'s deinterlacing, decoding and video enhancement in 2002, missing original target of first half (TVD Nov 13 p15), CFO Simon Westbrook said. Sage also will continue to market Faroudja's high-end line of standalone products including line doublers, but will move focus to FLI2200 single-chip motion adaptive deinterlacer that shipped earlier this year. Chip, which has shipped 50,000 units, has gained 17 design wins including progressive scan DVD players from Kenwood and Nintaus, Westbrook said. "We don't see a lot of growth there [in standalone product] and it's not a high-volume product," he said. "We will continue support for a period of time, but it will likely diminish over the next several years."... Tripath will ship 4-channel digital power amplifiers for autosound aftermarket (TVD April 16 p20) products by mid-2002 at \$16-\$20 in volume quantities, Corp. Business Development Vp Andreas Melder said. Tripath is working on development of chip that's likely to deliver 4x50 w with car audio supplier that he declined to identify. Tripath's customers in past have included Alpine and Blaupunkt. It also is developing version of chip for automakers that will be built by STMicroelectronics and be available in late 2002, Melder said.

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Sony will source DVD players from China this year in deal announced last week with Taiwan-based Ya Hsin Industrial. Company will build 400,000 DVD players for Sony at its Dongguan factory in Guangdong Province, China. Ya Hsin said order was worth NT \$1.3 billion (about \$39.4 million). Cost to Sony therefore is \$98.50 per player. Ya Hsin said it would ship 35,000 players to Sony next month. Yukio Aonuma, pres. of Sony EMCS, said order would increase gradually to one million players next year as Ya Hsin ramped up production to 100,000 monthly. He said that depending on outcome, Sony might outsource other products to Ya Hsin. Sony already has announced it will manufacture PSone videogame consoles in China, and is considering PlayStation 2 production there as well. Ya Hsin originally was PCB maker that took over manufacturing operations of Sony Video Taiwan that Sony closed last year. Companies have been cooperating closely, with Sony providing training and components. After successful trials, Ya Hsin opened factory on Chinese mainland. Chmn. Huang Heng-jun said current DVD order put Sony among company's top 3 clients and would account for 15% of its revenue.

ONLINE GAMECUBE DETAILS SCANT: Respective senior spokesmen for PlayStation 2 and Xbox each used E3 keynote panel discussion to champion online gaming capabilities of their systems. But Nintendo of America (NOA) Exec. Vp-Sales and Mktg. Peter Main offered different take.

Main said that while GameCube had capability for online gaming and broadband connectivity was built in, NOA was "not trying to cram that down anybody's throat — developers or game players — until product is there and ready to go." He added: "We don't think it's relevant right now, today." In terms of building online network for GameCube, Main said Nintendo has had experience with that in past with cellular phones. But he said: "We'll bring that into our product when we see a compelling game idea that really makes sense to gamers and definitely makes... sense to our shareholders."

Main said online gaming "is seductive" as medium. But Nintendo, he said, still is looking for best way to provide consumers with online experience. "We don't know what that idea is," he said. He said that if online gaming didn't provide consumers with "a better way [for consumers] to spend [their] leisure time... then it's just another neat idea that goes in that same ash can of all these other dot-com [examples over] the last few years — great technology, lovely idea, no fulfillment."

As at Nintendo news conference day earlier, Main underlined that what was most important for Nintendo was creation of innovative games that would entertain consumers. He told packed keynote session audience that companies needed to make "fewer titles better [and] cover the genres better." He added: "We don't need 25 of everything. Nobody does." Main said that between Nintendo 64 and PlayStation, "there were about 1,500 titles published for this country combined and about 72 or 74% sold through less than 300,000 pieces." He said that with next-generation systems, "it's probably about [350,000] to 400,000 pieces [that need to be sold] to break even." If industry changes on that front, "the development community will be a lot stronger as a result of that." His comments inspired heavy applause from attendees.

When Main and his fellow panelists Sony Computer Entertainment America COO Kaz Hirai and Microsoft Games Senior Vp-Chief Xbox Officer Robert Bach were asked what it would take for avid PC gamers to switch over to next-generation console systems, Main said that would happen if there were enough compelling content on consoles. Hirai said: "We're talking about 2 separate markets." But he said there were certain types of content that could be able to shift PC gamers to consoles. However, Bach said: "I don't even think that's the objective — that certainly is not [Microsoft's] objective. We think the markets are very, very different.... different audiences, different needs." Many PC games "just don't translate to the living room environment," he said. Microsoft, he said, therefore will "continue to invest" in PC game arena, along with Xbox.

Throughout panel discussion, Hirai pointed out that certain Microsoft console strategies sounded a lot like Sony's. For example, when Bach said Xbox game mix was likely to be about 70% 3rd party and 30% first party, Hirai chimed in with smile: "Follow our lead. Follow our lead."

Third party game makers continue to release small number of games for Sega's Dreamcast despite fact that system no longer is being manufactured. Latest title to ship for system is version of Activision's *Spider-Man* at \$39.99.

SEGA DEVELOPING 10 GAMECUBE TITLES: Besides committing at E3 to contributing 3rd party titles for PlayStation 2 and Xbox, Sega said its studios were developing 10 games for GameCube.

Announcement came as little surprise as Sega had said it planned to support all platforms when it announced earlier this year that it would stop manufacturing Dreamcast to concentrate on being a 3rd party game maker. With GameCube statement, Sega now has announced plans for thirty 3rd party console titles. That number also includes 3 Game Boy Advance titles (*Chu Chu Rocket*, a *Sonic the Hedgehog* title, *Advanced Columns*), 7 PlayStation 2 (PS2) titles and 10 for Xbox announced at Tokyo Game Show (TGS).

Ten titles for GameCube include 2 from its Tokyo-based Amusement Vision (AV) studio and one from its famous Sonic Team (ST), also based in Tokyo. AV titles are *Super Monkey Ball* (working title, shipping in fall), recently launched for arcade, and *Virtua Striker 3 Ver. 2002* (working title), originally arcade soccer game, that will follow in spring 2002. It wasn't clear whether those dates referred only to Japanese debuts. From ST will be version of *Phantasy Star Online*, date yet to be determined. Details on remaining 7 GameCube games now in development weren't available at our deadline.

Sega Mktg. & Communications Vp Charles Bellfield said company "doesn't want to be dependent" on any one platform and "will embrace the opportunities they all give us." He said 3rd party game "library will continue to grow," although he declined to provide hints on any other upcoming titles. Although Sega has yet to announce any plans for titles that will be exclusive on any one platform, Bellfield said: "Anything is possible."

PixTech will deliver sample quantities of 7W field emission display (FED) for in-car entertainment and GPS applications by next spring, with volume production that fall, CEO Dieter Metzger said. First prototype of 7W, which has 480x240 resolution, 500 lumens, 100:1 contrast and 5-10 milliseconds response time, will be delivered to automaker Audi in June, he said. Becker Radio is handling installation of display in Audi vehicle priced in \$100,000 range, Metzger said. PixTech is marketing 5.2" mono FED with 320x240 resolution and 120-340 candelas. Production at Unipac plant in Taiwan is running about 1,000 units per quarter with goal of boosting that to 5,000 by 4th quarter, about half original target. Slowdown in manufacturing has been related to "leakage" in displays and need to boost life to 5,000-10,000 hours from 1,000, he said. Average price for displays in small volumes has been \$350-\$400, but will drop to \$240 in mass quantities, Metzger said. PixTech has delivered small number of mono 5.2" display to Zoll, which is testing product in lab for use in portable medical devices, he said. As it develops smaller displays, PixTech also has delivered six 12.1" FEDs under \$4 million Defense Advanced Research Project Agency (DARPA) program. Larger display has 480x240 resolution and 100:1 contrast, but needs to boost brightness to 250 lumens from current 120-140 to meet DARPA specs, Metzger said.

PlayStation 2 (PS2) 3D action-adventure role-playing game (RPG) *Dark Cloud* will ship May 29, Sony Computer Entertainment America (SCEA) said. Teen-rated title features new gameplay mechanic called "Georama" that SCEA said allows players to create, build and customize interactive 3D world and immediately roam through newly constructed environments in real time.

LCD PRICES SEEN STABILIZING: LCD monitor pricing is expected to stabilize and may even see slight increase in coming months, ending free fall that has seen 15" model dip below \$500, industry officials said.

Acer Display Technology (ADT) Chmn. K.Y. Lee held out possibility last week that first round of price increases might occur with shipments in June. Increases are needed to cover costs of 14.1" and 15" panels and minimum of 20% might be needed, ADT Pres. H.B. Chen said.

Joining groundswell is Chunghwa Picture Tubes, which said it had stopped lowering prices, and Chi Mei Optoelectronics which plans to raise prices on 14.1" display. However, Chunghwa also said it would start volume output on 2nd LCD production line this month with capacity to process 60,000 680x880 mm substrates per month. New line will be used to produce 14.1" panels for notebooks and 17-18" wide viewing angle models for monitors. It will take some pressure off existing line, which is nearing capacity and built 175,000-180,000 panels for shipment this month.

Sales of flat-panel displays (FPDs) are forecast to rise to 14 million units this year from 6 million year ago and current worldwide capacity could accommodate 17 million, said Allen Alley, CEO, Pixelworks, which markets display processors and controllers.

Sharp rise in demand and increased capacity has led market pricing downward in recent months in U.S. After Taiwanese manufacturers made break for sub-\$500 pricing on 15" monitor, Samsung tacked \$50 rebate onto its model to drop effective price to \$499 (TVD April 2 p17). It was quickly followed by Viewsonic and Dell, which buys its LCD monitors from Samsung. Genesis Microchip Pres.-CEO Amnon Fisher said there was room to move 15" price to \$349-\$399 range in 2nd half, provided module cost dropped to \$190 from \$220. Latter is down from \$450 last fall, he said. Industry views 15" monitor as barometer for industry since accounts for about 85% of sales with 17" representing rest. Larger 17" pricing also has fallen below \$1,000 for first time.

"We think we are close to the floor and that the market will stabilize," Fisher said at CIBC World Markets investors conference in N.Y.C. last week.

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Amid blitzkreig of new LCD manufacturing capacity, one of industry's oldest alliances — IBM and Toshiba's Display Technologies — appears to be breaking up. Joint venture, which manufactured LCDs for monitors, notebook PCs and other applications in Hyogo Prefecture, Japan, decided to halt production after downturn in profit on fierce competition from S. Korean and Taiwanese manufacturers and lower prices, sources said. Companies are expected to maintain factory, but operate separate production lines. Toshiba will focus on smaller low-temperature poly-silicon LCDs for handheld PCs and e-books, while IBM pursues larger sizes for work station applications. Alliance dated to 1980s when IBM Yamato Lab in Japan and Toshiba and IBM Research Div. in Yorktown Heights, N.Y., developed 14" color prototype for PC applications (TVD March 27/89 p12). It displayed up to 16 colors, had 20:1 contrast, with 396,000 pixels (720x550)... **Nam Tai Electronics**, which produces LCDs for handheld PCs, cellular phones and other products, said was ramping up production on new line that would increase capacity 74% at factory by Sept... **Hitachi** said it would start production in July of 2" LCDs for mobile phones at plant in Mobera, Chiba Prefecture, Japan.

LG, SAMSUNG PLASMA BATTLE: Longtime rivals LG Electronics and Samsung will square off again in technology battle as they ramp up production of plasma display panels (PDP) this summer.

Samsung will start volume production of 42W (\$6,999) in June, with 50W in Sept., Professional Products Mktg. Mgr. Andrew Fliss said. Other sizes including 37W and 63W will be available in first half 2002, he said. LG, meanwhile, expects to start production of 40" (\$8,995) in June, while 60W goes on line in Aug. LG's production target for PDP is 150,000 units for 2001, growing to 1.5 million by 2005. Similar figures for Samsung weren't available.

In bringing products to market, Samsung has set up Professional Products Group with separate profit-and-loss statement and eventually will have 50 employees, Fliss said. It has hired Resource Promotions to provide sales reps for product. LG will split marketing and sales responsibilities for PDPs between network of distributors that will include Active Light and Electrograph, Product Mktg. Mgr. Bennett Norrell said. Zenith will target CE dealers, he said.

Specs for displays are similar. LG's 40" has 640x480 resolution, 330 candelas and 500:1 contrast with filter, 850 and 700:1 without it. Larger 60W features 1280x720 resolution, 180 candelas and 250:1 (400 lumens and 500:1 without filter). Samsung's 42W will have 852x480 resolution and 600:1 contrast, while 50W moves to 1,366x768 and 500:1.

Companies also are focusing on reducing PDP's power consumption. LG has said it will boost light-emitting efficiency to reduce by 20-30% power required by 40", which typically runs at 320-340 w. Samsung has said it plans to bring 42W to 280-320 w, down from current 350 w.

In establishing PDP business, Samsung has combined efforts of module maker Samsung SDI, assembler Samsung Electronics, components vendor Samsung Electro-mechanics and Samsung-Corning.

Samsung SDI has set 2005 revenue target of \$1.15 billion, while LG's is \$1.2 billion, Korean press reported. Samsung will invest 800 billion won in technology by 2005 and LG \$1 billion.

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What was lost is now found. Samsung has recovered prototype 63W PDP, Fliss said. It was reported stolen from business center at Las Vegas Hilton shortly before start of National Assn. of Broadcasters (NAB) in Las Vegas in April. Details weren't available at our deadline... Reports are again surfacing that LG is in discussions aimed at possibly selling plasma business to LG.Philips joint venture that was formed in 1999 to focus on LCDs. LG officials weren't available for comment.

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DVD+RW Alliance confirmed officially it would offer write-once recording for its DVD platform and its proprietary disc, as we have reported. Announcement came at conference with software vendors in San Francisco last week. Write-once format will be called DVD+R. By our Fri. deadline, Alliance hadn't responded to questions how DVD+R differed from write-once DVD-R blank used by DVD-RW and DVD-RAM recorders or whether it was playback-compatible with those DVD Forum-standardized formats.

MORE ONLINE GAMES COMING: Massively multiplayer games *PlanetSide* and *Sovereign* head slate of new titles from Sony Online Entertainment (SOE) as company seeks to expand online gaming community worldwide.

Sony described *PlanetSide* as "the world's first massively multiplayer first-person action title." Online gaming division of Sony Pictures Digital Entertainment said thousands of gamers could play title simultaneously.

SOE Pres. Kelly Flock told us that *PlanetSide* was "being developed under the leadership" of programmer John Ratcliff. He said company set up studio in St. Louis where about 30 developers were working on title "and it's coming along real well," adding: "We're very happy with the progress on that one."

SOE described *Sovereign* as "the first-ever massively multiplayer real-time strategy game." It said title challenged players to build and manage their own empire from construction of cities and armies to nuclear weapons.

PlanetSide and *Sovereign* are scheduled to ship next year. SOE also is developing *Star Wars Galaxies*, which LucasArts will publish. SOE spokeswoman said that game also would ship in 2002, but further details were unavailable at our deadline.

SOE said *Jeop! TV*, based on TV game show *Jeopardy*, would be available to online gamers across U.S. in winter. Company said it also planned to ship *EverQuest: The Shadows of Luclin* — 3rd expansion pack for popular *EverQuest* — in winter.

On *EverQuest* front, Flock told us SOE had been "getting amazing numbers." He said: "I think we're at 377,000 paying subscribers. We're still getting a net gain every week, which is amazing for a game that's now been out there over 2 years. Actually, [we're] getting very close to 90,000 [players] simultaneously. We've peaked at 89,700 simultaneous players. We very rarely fall below 30,000 — even in the dead of night... It's amazing [that] at our peak time we're close to [90,000], but we never fall that far down. It's so consistent." Flock said, "our players are still [playing] 20 hours a week on average."

As SOE expands its own internally developed online games, it's eyeing PlayStation 2 capabilities in future. But Flock told us: "We haven't made any specific announcements about things we're doing with PlayStation 2 online because it's a little premature. We're sort of waiting to follow the lead of Sony Computer Entertainment America [SCEA] as they get closer to their [online] strategy. But we firmly believe that connected consoles are going to be a big part of our strategy in the next few years and we are in early stages of development with some titles. We're just not ready to announce them right now. We're pretty excited because we think that's going to help broaden the base from what is really a glorified hobbyist niche market to more mainstream [players]."

Flock said that if SCEA hit its targets, "and it's like PlayStation 1 and they get 25 to 30 million of them in North America and we get 20% of those [consumers] connected to the Internet playing online games, we think a lot of people's eyes are going to open up at the compelling nature of this type of entertainment because it's so much different than the games they're used to in the console marketplace."

Although Flock said SOE so far had concentrated on N. American market, it was looking to expand its presence overseas. He said: "I think about 80% of our audience [now] is coming from the U.S. and Canada. [But] we have big plans for [the] international [market] this year to start expanding that base."

Flock said: "As we start deploying internationally and as we continue to get various versions out there in the U.S. market, we think the 377,000 subscribers we have now [for *EverQuest*] is going to continue to grow over the course of this year." Although he said SOE was "hesitant to throw out numbers and be wrong," he predicted that company would "hit [400,000 subscribers] by the end of the summer."

To expand international base, he said SOE would "be deploying native servers in the major European territories. I think we're starting with the U.K... By the end of the year, we should have localized versions at least in Germany and France [as well] and maybe some of the other major markets. But we haven't locked everything in on exactly how we're going to be doing this. So we really haven't made any announcements on it. But we definitely plan on going global this year."

Flock conceded that *EverQuest*'s biggest online competition so far, *Ultima Online* from Electronic Arts, had been able to reach probably twice as big internationally as SOE. He said "well under 20%" of *EverQuest* players were outside N. America, but "I think a lot of that has to do with the fact that we don't have international servers and local language versions" — yet. He said: "I think we'll have [the] U.K. [servers up] by the end of summer and the other major territories by the end of the year."

"We're [also] looking seriously at the Korean market and Japan and some others," Flock said.

Disney movie *Pearl Harbor* is attracting some unusual attention in advance of its May 25 theatrical opening and May 21 world premiere aboard aircraft carrier *U.S.S. John C. Stennis* in Hawaii. Film opens in June 1 in U.K., where it already is getting some good-humored nose-tweaking. DD Video, U.K. distributor of well-regarded History Channel documentary *Pearl Harbor — The True Story*, posed following question about upcoming \$135 million blockbuster from Disney's Touchstone Pictures: "How true will the film be? Well, if recent American offerings like *U-571* and *The Patriot* are anything to go by, history is likely to be ignored.... Maybe the Americans will win this time around." *The Patriot* and submarine movie *U-571* offended some in U.K., as former put British troops in bad light during U.S. War of Independence and latter had U.S. Navy capturing Nazi code machine in World War II when in fact British did. Meanwhile, online gambling site is taking bets on box-office performance of *Pearl Harbor*. Antigua-based bookmaker Intertops.com is giving 5-to-6 odds that Disney movie will top record \$92.73 million opening weekend draw of *The Lost World: Jurassic Park*. Bookie offers same odds in under/over betting on film's \$285 million domestic gross.

Kid Witness News program sponsored by Panasonic now reaches 200 primarily inner-city schools nationwide, company announced at 11th annual awards ceremony last week. Panasonic supplies video production equipment to help students develop creative, communications and technical skills in TV news. Some 60,000 children have participated since 1989.

WEB MUSIC REGULATION DEBATED: Although some pundits predict legislation is inevitable, lawmakers and stakeholders continued to disagree on need for congressional fix for Internet music issues at last week's hearing by House Judiciary Subcommittee on the Courts, the Internet & Intellectual Property.

"Convenience of access to entertainment" appears to be particularly weak reason to abridge copyright rights, said Subcommittee ranking Democrat Berman (Cal.). He said complaints by record labels and online music companies that their services are being held back by impossibility of obtaining licenses from multitude of copyright owners don't justify sweeping legislation, Berman said. Parties involved have "strong pecuniary interest" in solving these problems themselves.

However, Rep. Hyde (R-Ill.) said voluntary agreement wasn't necessary to give recording companies and downline services permissions they needed to make songs available online: The Digital Performance Right in Sound Recordings Act already clarifies that compulsory licenses apply to digital world.

Internet presents one of "most profound paradoxes" of this century, Judiciary Committee ranking Democrat John Conyers (Mich.) said. Copyright owners have moved from being victims of piracy to actively searching for ways to distribute their works as broadly as possible. Despite that, he said, Congress is hearing that music isn't online because licenses for underlying compositions aren't readily available from publishers. Conyers is "concerned," he said, with proposals for compulsory licenses because songwriters and music publishers still are lowest paid group in food chain.

On other hand, said Rep. Boucher (D-Va.), 2 basic questions remain: (1) Whether customers will be able to download single tracks on their hard drive for fee. (2) Whether companies that both own content and distribute it will favor their distribution business by refusing to license their content to competitors on nondiscriminatory basis. Congress should approve compulsory license, he said, and should enact temporary "safe harbor" for mechanical compulsory licenses until new version is in place.

Witnesses also split on whether Congress should have role in promoting Internet music that consumers crave. Legal framework already is in place to protect copyrighted music, Vivendi Universal Vice Chmn. Edgar Bronfman said. However, he said, getting technology right to provide legitimate online music "has been harder than we expected." So far, he said, systems aren't consumer-friendly or easy to use, there's no mechanism for identifying which songs are downloaded or streamed so artists can be paid, and security for copyrighted material is problem.

There's no need for congressional "interference in the free marketplace," said songwriter Lyle Lovett, representing ASCAP. ASCAP never turns down request for license to perform its music on Internet, he said, and it's licensing growing number of Web sites each year. "Compulsory licenses should be repugnant to those who believe in free market and sanctity of private property, including intellectual property," Lovett said.

Record labels don't need more legislation to get on Internet, said Mike Stoller, speaking for National Music Publishers' Assn. It's ironic, said Stoller — who with partner Jerry Lieber wrote such songs as *Hound Dog* and *Jailhouse Rock* — that Internet music companies and record labels' business is based entirely on work of songwriters. While they have "stauchly fought against government regulation in their own industry," he said, "they now want Congress to intercede on their behalf to get the use of our songs cheaply." If Congress isn't going to regulate labels and online music services, he said, then it shouldn't regulate "the least powerful group, the songwriters."

MP3.com Pres. Robin Richards repeated his call for Copyright Office rulemaking to clarify law on mechanical compulsory licenses to copy and distribute copyrighted songs, saying current model was "badly out of date." Marketplace and statutory licensing plans developed in predigital era simply can't handle demands of new music environment, he said. Moreover, Richards said, Congress "must begin process of clarifying consumer rights and rationalizing varying payment obligations" now imposed on different services.

Debut of MusicNet — new company formed by AOL Time Warner, Bertelsmann, EMI and RealNetworks — proves that "technology is there, the content is being assembled and the subscription business model is being proven every day," RealNetworks Chmn. Rob Glaser said. What's missing, he said, is resolution of music publishing issues that are "most significant potential impediment" to offering kinds of services consumers want. Music publishing rights "are one of the most tangled areas of our copyright system," sometimes implicating as many as 8 rights to clear single song to be placed on computer and delivered to consumer for downloading or streaming. Songwriters will benefit greatly from simplified licensing regime, he said. Congress should eliminate barriers to new methods of digital distribution, such as Web radio, that don't exist for traditional media, he said.

Legislation is likely "within 30 days" from week-ago congressional hearing on online music to address controversial issue of what copyrights are involved in streamed music, Digital Media Assn. (DiMA) Exec. Dir. Jonathan Potter predicted at Digital Media Wire panel discussion before hearing.

It matters whether reproduction or performance rights — or both — are implicated in digital music, Register of Copyrights Marybeth Peters said, because those rights are administered by 2 separate organizations battling for survival — labels and publishers. That is "big, unresolved issue" that will be dealt with in Copyright Office's upcoming report to Congress on anticircumvention provisions of Digital Millennium Copyright Act, she said. However, although issue will provoke "a lot of discussion" this year, Peters said, she doesn't see it resulting in legislation soon.

Copyright law's royalty requirements are tangled, MP3.com lobbyist Billy Pitts told us. He said 6 months after settling copyright suits with major labels and publishers, company still wasn't fully up to speed because copyright law was murky on what royalties were due to whom for interactive digital music. As it is, music publishers now are paid 3 times, Pitts said — for server copy of song to be made, for performance of song and for individual cache buffer copies. Record labels are owed royalties for copies made and for per-play copies. All of those licenses must be negotiated separately except those for public performance, he said.

In face of uncertainty over royalty obligations and continuing infringement suits, Pitts told us that MP3.com said "get real." He said he had "disdain" for "online ambulance-chasing" by copyright lawyers. Artists, he said, should "come down here and get involved in this process." MP3.com is "not against proper payments to artists," he said, but it's necessary to strike right balance and decide what payments should be made under compulsory licenses and where. That's where Congress can help, he said.

Digital music-movie marketplace still will be "mess" in 5 years, Potter said on panel, but it will have moved forward. Question will be not "if you pay [copyright royalties], but how," he said. There would be many new models for digital music, he said, but lawsuits will go on because boundaries are being tested. MPAA Senior Vp-Govt. Relations Fritz Attaway said there would be a "thriving marketplace" online for motion pictures and everything else, but it might take longer than 5 years to provide infrastructure.

INTERPLAY LOSS EXPANDS: Interplay Entertainment blamed continuing shortage of PlayStation 2 (PS2) hardware and slow PC market for drop in revenue and deeper loss in first quarter ended March 31.

Irvine, Cal., game maker posted revenue of \$17.31 million, down from \$18.14 million in same period year ago. Loss expanded to \$8.42 million from \$5.50 million. Operating loss for quarter widened to \$7.65 million from \$4.49 million and gross margin profit fell to 39.4% from 47.2%, Interplay said.

In conference call with analysts, Interplay CEO-Chmn. Brian Fargo said revenue in quarter was only slightly less than year ago despite fact that company shipped only 3 titles in quarter compared with 11 year ago.

Fargo said one of 3 titles was for PS2 and 2 for PC: "In fact, our Q1 sell-through ranking at retail in North America improved 42%, to 6th place this year from 8th place in the same period last year, according to NPD Intelect. We have successfully implemented a more focused approach of publishing a lower number of high-quality titles that sell through well to the consumers, and we believe that our financial performance should improve in the 2nd half of the year, especially as we release additional console titles, with the momentum building in the console market, and the expectations that activity will increase in the PC business."

In same conference call, Interplay COO-CFO Manuel Marrero gave breakdown of revenue by platform in first quarter: 71% from PC, 21% console and 8% OEM, royalties and licensing. At least 35% of business in quarter came from back catalog titles. Marrero said that on geographic basis, N. America accounted for 67% of total revenue, international 25% and OEM, royalty and licensing 8%.

Interplay recently revealed in its annual 10K filing terms of exclusive supplemental agreement specifically relating to company publishing game *The Matrix*, based on film of same name, for Xbox (TVD May 7 p15). Game maker also has announced plans for 4 other Xbox titles: *Galleon*, *Giants*, *Hunter*, *Sacrifice*.

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RIAA's Internet Enforcement team spotted and removed increasing number of online music pirate sites last year, organization said in its 2000 antipiracy report. Number of commercial sites in U.S. generating Digital Millennium Copyright Act notices jumped more than 400% over 1999, RIAA said. Number of notices sent to link sites aiding downloading of copyrighted files also rose, it said, as did number of illegal online auctions removed from Web (increase of 853% over 1999). Meanwhile, seizure of counterfeit and pirate CD-Rs of prerecorded music soared last year, RIAA said. Nearly 1.67 million bogus CD-R copies were confiscated, up 79% from 1999.

'Get It Right' ad campaign was begun in N.Y. metro market by Cablevision's Wiz CE retail subsidiary. Humorous ads feature Wiz sales associates — called "Wiz Kids" by company — working to please their coach (swimmer Summer Sanders, who won 2 gold medals in 1992 Olympics) and drill sergeant by telling them how well they know digital technology and customer service. Wiz Merchandising & Mktg. Exec. Vp Tasso Koken said: "This campaign will continue throughout the year illustrating how we help customers solve their home and lifestyle needs."

As Sega exits videogame console business, it's about to enter film exhibition business via its stake in GameWorks. Latter announced it would open "new complex offering multiple entertainment options and emphasis on guest service." GameWorks, which is run jointly by subsidiaries of Sega Enterprises and Universal Studios, said it signed deal for first location in its new concept to open in Oklahoma City. Company said it "will be an anchor tenant in the Bricktown Entertainment Center" there and yet-to-be-officially-named "GameWorks Cinema" complex was "slated to begin construction this fall for a targeted late 2002 opening." GameWorks said it was "developing a new benchmark for out-of-home entertainment that combines the elements of a full service restaurant, several unique bars, top flight interactive games, a customized bowling alley and state-of-the-art multiplex theater complex all under one roof." Explaining company's decision to enter film exhibition arena, GameWorks Pres.-CEO Ron Benson said: "The exhibition industry has been slow to change and adapt to the needs and demands of today's entertainment consumer. GameWorks is uniquely positioned to deliver a total entertainment experience for consumers. Our proven skills in combining superior guest service and successful food and beverage offerings with a variety of entertainment options makes the extension of GameWorks into movie exhibition a natural fit." Company apparently plans to expand concept to additional locations as well, saying "GameWorks has a flexible approach to the way in which the concept will be launched. Options include adding multiplex cinemas to GameWorks venues, retrofitting existing multiplexes with excess screens, new buildouts for developers who want to add value to planned theaters in their project and possible joint ventures with national and regional exhibitors."

ARUSH Entertainment gave details last week on its new piracy-protected digital PC delivery system, GameCapsule. Scottsdale, Ariz.-based episodic videogame Web publisher described system as "an advanced packaged solution that lets companies deliver and sell games online." ARUSH said: "The GameCapsule, combined with original content, transforms portals, entertainment sites and online retailers into providers of premium, paid content and streamlines each phase of the online buying cycle-marketing, trial and purchase in a secure environment." Company said patent-pending system "acts as a digital 'wrapper' for Web videogames, offering simplified downloads and installs to consumers and giving them detailed game information, updates and the opportunity to purchase other titles with the click of a button." Users, ARUSH said, "download a game from the Web and can then play it at any time, whether they are connected to the Internet or not." Commenting on his company's plan last week, Pres.-CEO James Perkins said: "With declining advertising revenues at most Internet companies, the industry is shifting from free to fee-based services. But offering original content people are willing to pay for usually requires significant investment of time and resources. With the GameCapsule, portals and Web sites can instantly offer premium content to their customers without breaking the bank." Companies "are able to private label the GameCapsule on their own sites," ARUSH said: "This enables them to offer and to charge consumers for high-quality content and create a new revenue stream while continuing to promote their own brand."

Sound-enhancement software program for prerecorded audio was introduced by L.A.-based Magix Entertainment (www.magix.com). Company said its Audio Cleaning Lab (\$50) used PC to perform signal processing that restored sound quality of analog LPs and cassettes, digital CDs and MP3 files before transfer to blank CDs in PC. Lab eliminates hiss and crackle from LPs, can level out stereo volume and clean gaps between tracks, Magix said. Program also can add variety of special effects and guide user through all processes, including final burn to CD.

MOVIE GALLERY BUYS DEBT: Movie Gallery (MG) has purchased senior secured bank debt of Video Update for \$121 million from BNP Paribas with goal of adding rival's stores to its chain, CFO Steven Roy said.

Video Update, which has been operating 350 stores under bankruptcy protection since last fall, hasn't filed reorganization plan, and final disposition of case isn't expected for at least 4-6 months. But MG Chmn. Joseph Malugen said debt purchase at more than 90% discount would give chain "input" into Video Update's fate in coming months.

MG is "interested in all" Video Update locations and has dispatched staff to review stores and negotiate with landlords, Roy said. Majority of stores have less than 5 years remaining on leases and are slightly larger at 5,000 sq. ft. than standard 4,000-sq.-ft. MG outlet, he said.

Also to be determined will be fate of existing Video Update management and whether MG will provide chain with financing pending filing of reorganization plan, Roy said. Video Update, which has slimmed down to 350 stores from 626 at peak, also was to be seeking investor that would provide funding to take company private.

Among more intriguing aspects of deal for MG are Video Update's 127 stores in Canada, including 60 in Alberta and 59 in British Columbia. MG has no locations in Canada. MG also could strengthen its position in Video Update's home state of Minn., where latter has company-owned (56) and franchised (8) stores. MG has no outlets in Minn. Video Update also has 35 franchisees, program that MG doesn't operate. MG has about 80 licensees among its 1,036 stores that have rights to use chain's name, but don't have franchise agreement, Roy said.

While Video Update's financial struggles peaked last summer when it failed to make principal and interest payments on loan, root cause may be tied to its rapid expansion after buying 267-store Moovies chain for \$79 million in 1998. It later closed more than 60 Moovies stores as it battled to right itself.

KB Toys has bought additional assets of defunct e-tailer eToys for \$3.35 million including intellectual property assets and services as part of auction process in bankruptcy proceedings. Deal follows its \$5.4 million bid in April for substantial portion of eToys inventory that will be offered to KBkids.com. Assets purchased last week included eToys trade names, logos, URLs and trademarks. EToys, which filed for bankruptcy protection in March, also has agreed to contact its former customers with information about how they can continue online shopping through KBkids.com. Latter, which is based in Denver, went through its own restructuring year ago that included layoffs (TVD May 22 p16) and dropping of planned IPO (TVD July 3 p20).

InterAct Accessories will ship Raider Advanced FX in July at \$29.99. Recoton's videogame accessory division described it as "world's first vibration feedback joystick for PC." InterAct also said it would ship 3 battery packs for Game Boy Advance in time for June 11 debut of Nintendo's next-generation handheld game system in N. America same day. Three new packs are: PowerPak, offering 15 hours of power at \$14.99; PowerPak EX, with 5 extra hours of power at \$19.99; Power Rumble FX, 18 hours of power along with built-in rumble function and dual speakers at \$24.99. All 3 come in purple and transparent iceberg blue, company said.

Contract manufacturers were at odds last week over whether industrywide malaise triggered by economic slowdown in U.S. would ease by summer or continue into fall. SCI Systems CFO Eugene Sapp, whose company bought 2 former Sony plants in Japan earlier this year, told investors at CIBC World Markets conference in N.Y.C. that "we have reason to believe that going into summer that the numbers could be up." SCI is forecast to post earnings of 27¢ per share in 4th quarter, down 1¢ from previous quarter. Earlier SCI had projected earnings of 26-29¢ on sales of \$1.9-\$2 billion in reporting plans to cut 15% of its work force. But Flextronics CFO Robert Dykes said market wasn't likely stabilize before fall. Flextronics, which operates more than dozen factories, including one in Mexico where it assembles Palm Pilots and eventually Microsoft's Xbox, has been operating at 70% of capacity in recent months, down from 100% in some cases last fall, he said. "In the short term we're gun shy and skittish, but in the long term we're bullish," Dykes said. "The visibility won't get any better until the fall." As evidence of potential for outsourcing, Dykes said top-tier contract manufacturers such as Flextronics, SCI and Solelectron accounted for only about 13% of worldwide production, figure that could double by 2004, he said. "We probably have 10 years left of high-growth opportunities" before contract manufacturers achieve maximum penetration of 70-72%, Dykes said. Major target for Flextronics has been Motorola's cellular phone business, and Dykes conceded that negotiations to win manufacturing agreement had been "going slower than we anticipated." Motorola last week that it would lay off 600 workers at Chihuahua, Mexico, plant because of sharp slowdown in world demand for mobile phones. While Flextronics has had discussions with Epson and Toshiba, it's 2-3 years away "from securing any major outsourcing agreement" with Japanese manufacturer, he said. "A lot of the things that they want to outsource aren't the more desirable stuff," Dykes said. As for Palm, which has been saddled with inventory for most of first half, "certainly the volumes have fallen along with those of our other customers," he said.

ATI Technologies expects to receive royalty payments from Nintendo starting with its fiscal first quarter in Sept., Senior Mktg. Vp-Gen. Mgr. Richard Bergman said. ATI, which designed graphics and I/O chip for GameCube, will receive royalties on hardware as well as software sales, he said. Software royalty will apply only to titles that Nintendo develops internally and not to 3rd party games, Bergman said in declining to disclose extent of expected payments. GameCube is scheduled to ship in Japan in Sept. and in U.S. in Nov. Flipper graphics processor churns out 6-12 million polygons per sec. in operating at 202.5 MHz and contains 3 MB of on-chip RAM. Latter is divided into 16 mb of frame and z-buffer memory and 8 mb for textures. Frame and z-buffer are capable of 9.6 GB per sec. of bandwidth. Texture buffer has even faster bandwidth at 12.8 GB per sec. About half of chip's 51 million transistors are for RAM.

Seeking level playing field among radio stations, Warner Music Group has invented system that distributes new songs but doesn't permit disc jockeys to play them until embedded signal control unlocks content. Patent application (WO 01/115428 A1) by inventors George Lydecker and Alan McPherson describes distribution system for time-stamped content that's unlocked only when receiver gets go-ahead from control signal embedded in radio or TV broadcast channel. Patent said content also could be encrypted, with decryption key sent in broadcast control signal.

Home Entertainment 2001 show in N.Y.C. attracted 12,387 visitors and some 200 exhibitors in May 11-13 run at Hilton Hotel, show management said.

E-BOOK SUIT DEBATED: Contract law, not copyright law, is at center of book publisher Random House's suit against e-book publisher RosettaBooks, legal experts said. Others said that if Random House prevailed in courts, it could stifle infant e-book industry owing to its huge share of print-book market.

Random House is suing RosettaBooks after latter published 8 books by William Styron, Kurt Vonnegut and Robert Parker in electronic format. Authors had print publishing contracts with Random House. Contracts, signed in 1960s, 1970s and 1980s, made no mention of e-books, said Authors Guild, which filed amicus brief supporting RosettaBooks in case in U.S. Dist. Court, N.Y. Several other major book publishers are supporting Random House.

While court argument May 8 focused on definition of e-book, American U. law prof. Peter Jaszi said case could be decided on basis of contract law. "There's fairly extensive judicial literature on the question of how to deal with new uses that arise that weren't necessarily literally anticipated," he said.

Case is similar to scores of others that arose after theatrical motion pictures were transferred to video, Jaszi said. Those cases ended in mixed results, with some going each way, he said. However, in each case, results were specific to facts of case, Jaszi said. "One thing that's important is to look at a publishing contract as a whole," he said. "How does this contract as a whole slice up different kinds of uses and multiple provisions?"

Yet case isn't similar to *N.Y. Times v. Tasini*, which on surface appears to have similarities, said Kay Murray, Authors Guild gen. counsel. In that case, argued before U.S. Supreme Court March 28, representatives of freelance writers and journalists sued major publishers who profited from reprints of their work. Difference, Murray said, is that freelance writers usually don't have contracts, and court, which hasn't yet ruled in case, is examining how Sec. 201C of Copyright Act is applied to reprints of "collected works" such as newspapers and magazines. Nearly all book writers have contracts, she said, which should make contract law interpretation part of ruling.

In mid-1990s, writers' contracts changed as book industry began envisioning future of electronic publishing, Murray said. Most contracts give book publisher e-book rights as well, she said, although some writers can negotiate different terms for e-books, including some where writers retain their e-book rights and others where e-book contracts have more limited time durations than printed books.

Murray said that in theory she would like to see writers give e-book publishing rights to print publishers. However, she said, there's worry that Random House (subsidiary of Bertelsmann) controlled too much of publishing market and would stifle development of e-book.

Random House, which controls 33-40% of commercial book publishing market, isn't exploiting e-book format, Murray said. Internal Random House documents show publisher is planning to release only 5% of its back catalog in e-book format, she said. "It's moving at a snail's pace," Murray said. "The problem with this case is that if Bertelsmann wins, the whole e-book market could be in danger." Random House didn't return phone calls for comment.

Ability to print e-book to paper also could be factor in case, Murray said. She said that in argument earlier this month, Judge Sydney Stein asked whether e-book could be printed. Attorney for Random House said "yes," if done one page at time. But RosettaBooks attorneys said Microsoft and Adobe software licensing agreements forbade users from printing e-book pages, Murray said.

Starband will shift emphasis to wholesale business from retail in U.S. and Latin America as it struggles to right itself and raise funding. Starband, which has signed 22,000 paying subscribers in U.S. since debut last fall, has signed agreement with Star One to offer service in Brazil later this year. Under agreement, Starband will supply equipment to Embratel and SES Astra, but won't incur subscriber acquisition costs, model it hopes to replicate in U.S., said Yoel Gat, CEO of Gilat Satellite Networks, 35% owner of company. Starband sells product through EchoStar, NRTC dealers and Microsoft's store-within-store format at RadioShack. Starband generated \$25 million in revenue for Gilat in first quarter, but also accounted for \$70 million of its outstanding receivables, Gat said. Starband has been hampered by glitches in service, including cross-polarization issue that caused EchoStar to halt sales for time before resuming them in late April. Key test for Starband will be introduction of model 360 satellite receiver that's in beta test at "a few hundred" sites and is scheduled to make commercial bow in June, Gat said. Receiver will be version of very small aperture terminal (VSAT) model, but priced below \$1,000, he said. Starband is forecasting shipping 100,000 units of model 360 for year, down from earlier projection of 200,000-250,000, due largely to slowdown in planned start, Gat said. Overall, Gilat posted \$58.6 million net loss in first quarter vs. \$6.5 million profit year ago in taking \$28 million restructuring charge to cut 500 jobs. It also took charge to increase bad debt reserve by \$20 million. Revenue rose 17% to \$100.3 million. Starband, which canceled planned IPO earlier this year, had struggled to line up financing, but recently secured \$90 million loan from consortium of Israeli banks, Gat said.

Hitachi will invest \$29 million to open projection TV tube plant in Shenzhen, China, by mid-2002. Shenzhen Hitachi Displays, which will have capacity for 1.3 million units by fiscal 2004 and 370 employees, primarily will produce 7" tubes for projection TVs sold in China and other Asian markets. Factory, which will have capitalization of \$16 million, will supplement production at plant in Greenville, S.C., that currently exports small number of 7" tubes to China, sources said. Hitachi is expanding Greenville plant for projection tubes, with first phase expected to be completed by June (TVD Sept 11 p12). Expansion will increase projection tube capacity to 1.3 million units by 2005, company said. Hitachi builds 7" and 9" projection as well as larger direct-view tubes at Greenville factory.

Toys "R" Us said its Children's Fund raised more than \$6.5 million at company's annual "An Evening for Special Children" benefit gala at Marriott Marquis Hotel in N.Y.C.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥124 = \$1, except where noted.

Future Shop (FS), crediting strong sales of digital products, reported 4th-quarter net income rose to \$6.4 million from \$4.5 million year ago. Sales increased 16% to \$468 million from \$405 million on 16% gain in same-store sales. Improved earnings came despite FS's taking \$688,000 charge to cover closing of 5 Computer City (CC) stores (TVD Feb 26 p14) that it acquired from CompUSA in 1998 (TVD Oct 28/98 p13). Cost of closing CC was "higher than anticipated" at \$6.3 million, but was offset by \$5.6 million breakup fee chain received as result of failed bid for Chapters bookstore chain earlier this year, Exec. Vp-CFO Gary Patterson said. Selling, general and administrative expenses were 22% of sales, up from 21.6%, due largely to \$2.5 million in costs of new Aeroplan Loyalty Program and futureshop.ca e-commerce business. Loyalty program, begun in Feb. in conjunction with Air Canada, offers consumers frequent flyer miles with purchase of \$50 or more of products from FS. Futureshop.ca posted revenues of \$25 million in fiscal year ended April 7 as FS bought out stakes of limited partners to gain sole ownership of site. Futureshop.ca is forecast to turn profit this year on \$60 million revenue, Patterson said. Overall, home office products represented 45% of FS's \$1.9 billion in annual sales, followed by A/V (30%); Communications (8%); appliances (5.5%); music (5.5%), others, including warranties (5.5%), Patterson said. While big-screen TV sales have been strong, high-definition (HD) models haven't been factor in Canada largely because of lack of broadcast signal, Patterson said. DVD players gained distribution and low-end prices have been in \$200 range vs. \$99 in U.S. FS will open 9 new stores in FY 2002 and relocate 11 others. Among new features are listening stations in 10 stores that allow consumers to sample CDs using bar code system.

Gracenote will provide embedded version of CDDB database. When consumer plays CD, system automatically will recognize disc and display "metadata" such as artist, song and album on front-panel display of Pioneer product. For new CDs that aren't yet entered in database, consumers will be able to dial up to CDDB server using mobile phone, which then feeds metadata into unit. Gracenote Pres. David Hyman hailed agreement as "a monumental leap for music fans around the world. Online listeners have come to expect this service on their PCs, and now people will have it in their cars and homes." Pioneer said it expected to ship first Gracenote-capable products in 3rd quarter.

Hollywood writers have June 4 deadline to vote on contract that for first time would award residual payments for DVD and Internet productions. Under agreement for 3-year-contract reached May 4 by Writers Guild of America (WGA) and Alliance of Motion Picture & TV Producers, writers will receive mandatory \$5,000 payment per movie in exchange for right to include screenplay as part of DVD. Payment for DVD is expected to cost \$1 million over span of contract. Writers also won 3% increase in minimum pay for screenplays and teleplays, 1.2% residual payment for video-on-demand of movies produced since July 1971, 1.2% residual for content distributed on Internet, unspecified payment for original Internet content repurposed for TV or movies.

SRS Labs received 5th U.S. patent for aspects of Circle Surround, its proprietary multichannel enabling technology, Santa Ana, Cal., company said. It said it also had patents pending throughout Asia and Europe for Circle Surround. SRS said technology was solution for delivering multichannel audio from stereo or encoded content over Web, home theater systems, videogame consoles. It said technology "provides the ability to easily encode both the 'movie' content and real-time portion of PC and console games in 5.1 surround sound."

Consumer Electronics Personals

Scott Ramirez advanced to vp-mktg., Toshiba America Consumer Products... **Jeffrey Handis**, ex-Panasonic, named national sales mgr., newly formed Samsung Professional Products Group; **Andrew Fliss**, ex-Audio Visual Associates, joins as mktg. mgr... **Gilbert Amelio**, ex-Apple and National Semiconductor, joins Sienna Ventures as senior partner... **Bradley Siciliano** advanced to JVC Americas asst. gen. counsel... **Michael Strange**, ex-Samsung Opto-Electronics and onetime Onkyo, named Niles Audio dir. of mktg.; **Everis Engstrom**, ex-Beckman Coulter Corp., vp-engineering... **Shira Goodman**, ex-StaplesDirect.com, appointed Staples exec. vp-mktg... **Patrick Hanlin**, LiveBridge pres.-CEO, elected to Egghead.com board... **Robert Glick**, Dots Inc. chmn.-CEO, joins to Rainbow Rentals board... **Richard Hernandez**, pres. of McKesson HBOC's Corp. Solutions Group, named to RadioShack board... **Gregory Bestick**, ex-Ogden Park Ventures, appointed Learning Co. pres.

OfficeMax, suffering from downturn in office products spending, said first-quarter net loss surged to \$16.5 million from \$2.08 million as sales slid to \$1.1 billion from \$1.3 billion. Same-store sales declined 5%, linked to \$70 million less in revenue from PCs and closing of 46 stores including those in Phoenix and Columbus, O. markets. OfficeMax also signed agreement with Hewlett-Packard (HP) to create store-within-a-store format featuring configure-to-order PCs by fall, replacing short-lived program with Gateway (TVD Feb 28/00 p17). HP, which had been OfficeMax supplier before Gateway deal, will train store staff with goal of going chainwide by year-end. HP kiosk and assorted PC peripherals will fill 400-sq.-ft. space previously occupied by Gateway, which had installed its full-size format in 450 OfficeMax locations. Gateway is to shut down operations in OfficeMax by July, Chmn.-CEO Michael Feuer said. Major difference between Gateway and HP agreements is that under latter, OfficeMax will receive fee on sale of PCs and retain "all sales and margins" on peripheral products bundled with them. Previously, Gateway leased space in store. OfficeMax also signed pact to sell Earthlink's cable, DSL and dial-up Internet access service through its stores starting in fall. Earthlink service will be merchandised in kiosks alongside HP display, Feuer said. In another move, OfficeMax is revamping handheld PC and digital camera displays in moving them to front of store. At stores where new merchandising strategy has been deployed, sales of products have risen 8-9%, Feuer said.

Universal Display said first-quarter loss grew to \$3.7 million from \$2 million as R&D expenses nearly doubled to \$3.2 million. Revenue from govt. contracts increased to \$200,242 from \$5,909 year earlier. Largest portion of revenue was \$133,176 recognized as part of \$1.5 million, 18-month federal Defense Advanced Research Project Agency (DARPA) contract. R&D costs included \$1 million for Ewing, N.J., development facility and noncash charge of \$766,018 for warrants and options issued to Scientific Advisory Board members... **EMagin** said first-quarter loss shrank to \$9.7 million from \$15.6 million as revenue increased to \$2 million from \$600,000 year earlier. Revenue largely benefited from increase in federal programs involving eMagin's organic light emitting diode (OLED) technology. R&D costs rose to \$3.6 million from \$3.3 million due largely to addition of equipment at eMagin's Fishkill, N.Y., manufacturing facility. EMagin, which recently released developer's kit for 0.61" OLED (TVD April 30 p23), said it would continue development of prototype and demonstration units this year, with mass production next year.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

MAY 28, 2001

VOL. 41, NO. 22

SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

JEFFORDS PARTY SWITCH could halt move to TV deregulation. Hollings likely to replace McCain as Senate Commerce chief. FCC nominees confirmed. (P. 1)

POWELL DEFENDS STANCE on competition and regulation in interview. FCC merger oversight to change. (P. 2)

NEW DTV MUST-CARRY FIGHT as cable and broadcast groups duel over FCC's power. NAB, MSTV, ALTV, NCTA file. (P. 3)

SBC SELLS CABLE systems to overbuilder WOW. Price for 310,000 subscribers is under \$800 million. (P. 4)

SUPREME COURT BACKS BROADCASTER on free speech in cellular intercept case. Rehnquist dissent says speech is hurt by decision. (P. 4)

STEWART SAYS TV MUST ADAPT to converging world, focus on local content. New revenue model said to be needed. (P. 5)

JEFFORDS SWITCH TO HAVE BIG IMPACT ON TV, FCC: Changeover of control of Senate following party switch of Sen. Jeffords (Ind.-Vt.) left many broadcast issues up in air last week. Senate Commerce Committee vote on FCC nominees Kathleen Abernathy, Michael Copps and Kevin Martin, as well as Chmn. Michael Powell to another 5-year term and new FTC Chmn. Timothy Muris, was delayed temporarily while parties caucused on changeover to Democratic control, but committee voted 17-0 later May 24 to confirm them, and full Senate confirmed them on voice vote May 25. Swearing-in plans hadn't been announced by our deadline, but first meeting at which Powell could be joined by 3 new commissioners would be June 20 (rare Wed. meeting).

Meanwhile, likely ascent of Sen. Hollings (D-S.C.) to chairmanship of Senate Commerce Committee once Democrats take control of chamber could lead to big changes in communications policy for broadcasters, cable operators and others, industry officials said. Hollings, ranking Commerce Committee Democrat, almost certainly would assume committee leadership from Sen. McCain (R-Ariz.), but Hollings aide said it wasn't known when leadership transition would occur. Among other things, opponents of campaign finance reform and other issues affecting broadcasters expect rougher times.

Sources said Senate switch would hamper lobbying efforts to lift both 35% network ownership cap and newspaper-broadcast cross-ownership restrictions in Congress. They said Hollings, unlike McCain, "would certainly not be inclined" to relax cross-ownership rules and "would presumably not be for relaxing" 35% ownership cap either. "Hollings is certainly less inclined to favor deregulation than McCain," broadcasting source said. "He's not even close to being called a deregulator." Source said Hollings frequently had cited mistakes of airline deregulation, which he has charged left Charleston in his home state with poor airline service.

Consumer Electronics

ZENITH PARTS WAYS WITH SEARS in new digital products strategy that will feature Circuit City as lone national account. (P. 9)

NINTENDO SETS \$199.95 PRICE for GameCube, citing desire to reach mass market. Games for next-generation console will cost \$49.95. (P. 11)

TIVO RECEIVES PATENT for key aspects of PVR technology that could have implications for Microsoft's UltimateTV. (P. 13)

THOMSON TO SHUT SCRANTON PLANT by Aug. as it moves 27" TV tube production to Marion, Ind., plant and eventually Mexico. (P. 15)

HITACHI DROPS HDTV COMBO that united HD decoder with DirecTV receiver, will focus solely on HD-ready models. (P. 16)

ULTIMATE ADDS PLAYSTATION as CE chain takes first stab at videogames in test at Phoenix-area stores. (P. 17)

Tribune Washington Vp Shaun Sheehan said that if Hollings became Commerce Committee chmn., "clearly he is highly skeptical of increased media concentration" so "the bar for relaxation of [35% station ownership cap] just got a little bit higher." Tribune owns 23 TV stations covering 30.5% of U.S. TV homes, but it hasn't taken position on TV networks' drive to have cap repealed.

TV sources said Hollings tended to be "less antagonistic to broadcasters" than McCain, who voted against 1996 Telecom Act and often has derided free award of digital spectrum to broadcasters as national "giveaway." But they said Hollings, who supported both Telecom Act and 1992 Cable Act, probably would be as tough on violent and other objectionable TV programming as McCain. While McCain has focused on pushing TV industry to adopt stricter, more detailed rating system for violent and sexual programming, Hollings has pushed for "safe harbor" that would steer objectionable shows away from prime time. McCain hasn't supported safe harbor bill, saying he sees First Amendment problems with it.

NAB chief lobbyist James May said "we don't anticipate that the change in Senate leadership will have any dramatic impact on broadcasters or our issues." However, "if I were a Bell Operating Company, I would roll up the rug" if Hollings became Commerce chmn., broadcast executive said. Hollings can be expected to be much tougher than McCain on programming content, he said, but he also would be "more understanding" of broadcasters' position on DTV transition. On Judiciary Committee, Sen. Leahy (D-Vt.) as chmn. would be much easier to work with than current Chmn. Hatch (R-Utah), broadcaster said.

Cable industry sources predicted Hollings' ascension to committee chairman would be death knell for bill (HR-1542) by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (Mich.) that would deregulate Bell high-speed data services. While many observers already consider bill's chances of passing Senate to be poor, Hollings is viewed as more hostile to telecom deregulation than McCain. "McCain had no enthusiasm and Hollings is opposed," said one source. "That's RIP for that bill."

Hollings is in unique position of serving as both ranking minority member of Senate Appropriations Subcommittee on Commerce, Justice, State and Judiciary and ranking minority member of full Commerce Committee. Once Democrats take control, how his leadership positions on those appropriations vs. authorization panels would be balanced would be interesting, industry source said. One possibility was that Hollings would take Appropriations Subcommittee chairmanship and Commerce Committee chairmanship, or he would end up chairing both full Commerce Committee and its Communications Subcommittee, source said. Otherwise, Communications Subcommittee could be chaired by Sens. Kerry (D-Mass.) or Rockefeller (D-W. Va.). Congressional observers predicted Sen. Inouye (D-Hawaii), subcommittee ranking minority member, wouldn't seek its chairmanship.

Although political implications of such leadership change are significant, "real-world market impact in the communications sector would be modest," Legg Mason report said. Hollings would reduce chance of Senate passage of Tauzin-Dingell "in anything resembling its current form, from low to almost nil," it said. "Meanwhile, there is no legislation that Hollings wants that he is likely to push through both houses because of the power of the gavel." Hollings also would become "leading critic of the Republican-led FCC in the press," but that probably wouldn't stop FCC Chmn. Powell's deregulatory agenda, it said. Legg Mason also said leadership shift would give Sen. Daschle (D-S.D.), who would become majority leader, more sway on eventual replacement for FCC Comr. Tristani, who holds one of 2 Democratic seats on Commission. Daschle has been proponent of ex-NTIA head Greg Rohde for that job.

POWELL DEFENDS STANCE ON TELECOM COMPETITION: It's "too simplistic" to question whether FCC Chmn. Powell supports competition just because he also advocates deregulation where appropriate, he said in interview with our affiliate, *Communications Daily*. "Of course we favor competition," he said. "The policy of the entire country is to favor competition." What has been misunderstood is more "subtle" question of when intervention is right and when it isn't, he said. Powell said he didn't believe in jumping too quickly into new regulations or keeping old ones that no longer were necessary. Telecom Act requires FCC to review regulations periodically and determine whether they still are appropriate, so this isn't new concept, he said: "There are appropriate places for regulation, but they should be carefully scrutinized and one should be hesitant to interfere with those operations without clear and demonstrable reasons for doing so."

Powell questioned "passion play" mentality of industry lobbyists, describing issues in terms of "good and evil" rather than seeking middle ground. He said he was glad he tended to be "ruthlessly judicial" because otherwise he would get caught up in that "vortex." Repeating his dislike of placing broad issue-oriented conditions on mergers, he said loading conditions onto merger approval was easy way out: "You'd never have to block a merger... You just start

working on enough conditions that you can sell that it's okay. You never have to have the courage to say this [merger] is harmful."

On FCC oversight of mergers, Powell emphasized his focus on antitrust: "If I find harm as a consequence of the combination, I don't have any problem with a condition that attempts to mitigate that identified harm." But he said he had "problem" when conditions didn't mitigate specific harm.

On changes needed to make spectrum policy more market-based, Powell stressed role of technology and ways that FCC could move toward more flexible rules. Importance of shifting from existing system of permanently licensing spectrum to rules based more on trading rights was raised at confirmation hearing for FCC nominees last week by Sen. Wyden (D-Ore.). Powell said at hearing that "driver's license" concept for spectrum could mean market decided on optimal use for particular band and Commission's role was more of telling what not to do in terms of technical conditions. One challenge connected with not giving such flexibility to market players is that FCC becomes forum for such debates, Powell said. Under system in which govt. strictly assigns spectrum for protected uses, "because you don't allow the flexibilities of the market to readjust the use, then you almost have a stronger responsibility to make sure you kind of re-farm it," he said, saying that such model wasn't necessarily best one over time.

On his recent request for more FCC enforcement power, Powell said: "Our recognition that more enforcement is necessary ironically stems from competitive companies themselves asking for it... I don't know what it takes to deter, but I think we're raising the cost of cheating. And I think that can only help."

NEW FIGHT OVER DTV MUST-CARRY: In latest skirmish of long-running DTV must-carry battle, broadcasting and cable interests fought over FCC's authority to impose dual-carriage rules on cable operators during nation's digital transition. Trade groups representing both industries filed fresh set of comments at Commission May 25, challenging each other's earlier arguments for and against DTV must-carry requirements (TVD April 30 p4). Commenters pitted First Amendment rights of cable operators against broadcasters' claims to mandatory cable carriage, seeking to convince agency to revise its Jan. ruling that tentatively concluded against dual carriage but left open possibility of changing its mind.

Responding to earlier arguments by broadcasters, NCTA said Sec. 614 of Communications Act spelled out that carriage obligations were strictly limited to "those broadcast signals 'which have been changed' to a new broadcast standard." NCTA argued that "this language can and should be read to mean that a broadcaster's digital signal is entitled to carriage when it no longer transmits its analog signal." In other words, it said, digital carriage is required "not when the broadcaster is in the midst of changing its signal from analog to digital but only after the signal 'has been changed.'"

NCTA disputed broadcasters' claims that cable operators should have to carry all of station's digital video programming streams, not just its primary video signal. Group said interpreting "primary video" to mean all video streams would violate "plain meaning of the word" and "the statutory purpose of the Act." It also contended that "requiring carriage of multiple video streams of a digital broadcaster would be constitutionally dubious at best," just as dual-carriage rules "would raise serious First Amendment concerns." NCTA dismissed broadcasters' contentions that greater regulatory safeguards were needed against material degradation of DTV signals.

NAB, MSTV and ALTV said Commission could require MSOs to carry program-related material in digital signals because Sec. 614 gave agency power to "adapt the cable carriage rules to the digital environment." If agency "could not require digital carriage of program-related material, then cable opera-

tors would be free to refuse carriage of closed-captioning information, V-chip program ratings data and Nielsen Source Identification Codes," groups said. "That certainly was not the intent of Congress when it directed the Commission to adopt rules that would assure cable carriage for digital signals."

NAB, MSTV and ALTV also argued against NCTA's earlier contention that new DTV-only stations were not entitled to mandatory carriage in analog format. They said FCC was "well within its authority" to require cable operators to carry such stations in either analog or digital form and dismissed cable arguments of First Amendment violations. "There is no more burden to a cable operator asked to carry a new station's digital signal in analog format than there is to carry a new station's analog signal," groups said. They said: "Limiting a digital-only station to digital cable carriage at this stage of the transition would effectively eliminate its audience and kill the station."

In separate FCC announcements, Comr. Tristani said 2 of her advisers would leave her office in June, to be replaced by former advisers, and Comr. Furchtgott-Roth said he would join American Enterprise Institute when he left Commission. Tristani said Senior Legal Adviser William (Jay) Friedman, who is responsible for cable and mass media issues, would leave June 8 to be senior fellow at Duke Law School's Intellectual Property, Public Interest and Public Domain Program. Legal Adviser Sarah Whitesell, responsible for common carrier issues, will move June 21 to Cable Bureau as assoc. bureau chief responsible for broadband issues. Paul Gallant, who was Tristani's common carrier adviser 1997-1999, will be legal adviser for cable and mass media. Gallant since has worked for Qwest and BroadBand Office, where he was senior counsel. Deena Shetler, who was Tristani's common carrier adviser Aug. 2000-Feb. 2001, will return to that post. Adam Krinsky, adviser for international and wireless issues, will become senior legal adviser. Furchtgott-Roth, who plans to leave agency as soon as replacement is on board, said he would write book on telecom policy as AEI visiting fellow. Tristani, whose term hasn't expired, is expected to leave by end of year, although she hasn't made any announcement.

SBC SHEDS CABLE OVERBUILDS: SBC Communications plans to sell its Americast cable systems in Midwest to overbuilder WideOpenWest (WOW), which wants to construct broadband networks in western states. Americast cable overbuilds, which SBC inherited when it bought Ameritech, have 310,000 subscribers in Chicago, Cleveland, Columbus and Detroit and pass 2 million homes in 115 franchise areas. Terms weren't disclosed but industry analysts believe WOW paid fire-sale price of no more than \$2,500 per subscriber for systems, which comes out to below \$775 million. Companies said transaction, which is subject to approval by local cable franchising authorities, would take several months to complete.

If sale is consummated, it will take SBC out of wireline video business, leaving it to focus solely on selling DirecTV's DBS service to its phone customers. In Jan., Conn. Dept. of Public Utility Control granted SBC permission to shut down its 30,000-subscriber overbuild system in Conn., which Bell had taken over when it bought Southern New England Telecommunications Corp. SBC had been seeking to sell Midwest video systems for nearly 2 years, reportedly turning down nearly \$4,000 per sub from leading overbuilder RCN Corp. early last year because it wanted more money. But SBC had been rebuffed by MSOs and overbuilders alike, largely because systems were purely analog video networks and were being marketed as total package. SBC spokesman declined to say whether there were any other bidders.

As result of deal, WOW suddenly will become 12th largest cable operator in U.S., surpassing such other major overbuilders as RCN. WOW, one of several new broadband service providers that aim to offer bundles of video, high-speed data and other services over broadband lines, recently turned on limited service in its first market, Denver, where it now passes almost 1,000 homes and has signed up 200 customers. It also has picked up local franchises to overbuild incumbent cable operators in Dallas-Ft. Worth, St. Louis and Tucson areas.

Having run through at least half of its initial \$53.5 million in capital, WOW recently had scaled back its ambitious plans to build fiber-rich systems simultaneously in Dallas-Ft. Worth, St. Louis and Tucson markets. But WOW Pres. Mark Haverkate said his company raised more capital from its 2 original investors, Oak Hill Capital Partners and ABRY Broadcast Partners, to buy Americast systems. WOW also sold undisclosed stake to MKMB Corp., Chicago-based minority owned firm that will provide it with marketing and other operational services.

Despite reports that SBC had neglected its cable operations, Haverkate said WOW sought Americast systems because they "are in excellent condition" and have "an excellent customer service track record and very high satisfaction ratings." Although SBC systems offer only analog video now, he said, they were 750 MHz networks that could be upgraded easily for digital video and high-speed data. "The plant doesn't have to be upgraded at all," he told us. "I think they're better cable networks than anything I've seen."

Haverkate said he planned to take over systems in Oct.-Nov. and quickly add digital and data services. With Americast now serving 20%-25% of 1.4-1.5 million homes that actually can receive service, he said he was "not expecting to do significantly better than that" in terms of penetration rate. But he said he was looking to boost total universe to full 2 million homes in franchise areas through further buildouts. He also is aiming to increase system revenue 50% to \$60-\$70 per subscriber by offering new services.

SUPREME COURT BACKS BROADCASTER: First Amendment protects broadcasters who disclose illegally obtained content from cellular wiretaps as long as content involves "matter of public concern," U.S. Supreme Court ruled in 6-3 decision. Majority said "it would be quite remarkable to hold that speech by a law-abiding possessor of information can be suppressed in order to deter conduct by a non-law-abiding third party." However, minority, in opinion written by Chief Justice William Rehnquist, said putting limits on innocent disseminator of information was as justifiable as laws prohibiting dissemination of child pornography.

RTNDA Pres. Barbara Cochran said she was "satisfied" with decision: "To punish journalists for the publication of lawfully obtained, newsworthy information would contravene the First Amendment."

Talk show host Frederick Vopper had broadcast tapes of illegal wiretap of cellular call by 2 teacher union officials in Pa. Actual wiretapper never was disclosed, and majority said media were protected from legal action by First Amendment since they didn't make actual wiretap. It said case involved "conflict between interests of the highest order" — First Amendment and right to privacy. But opinion written by Justice John Stevens said content "would have been newsworthy" if conversation had occurred in public arena. There's "no basis for assuming that imposing sanctions upon [media] will deter the unidentified scanner from continuing to engage in surreptitious interceptions," Stevens said.

Majority decision "diminishes, rather than enhances, the purposes of the First Amendment," Rehnquist said in dissent that was joined by Justices Antonin Scalia and Clarence Thomas. Rehnquist said decision would "chill the speech of millions of Americans who rely upon electronic technology to communicate each day." Congress and most states have concluded that deterring disclosure of illegal intercepts will deter intercepts themselves, he said.

More limited approval was suggested in concurring opinion by Justices Stephen Breyer and Sandra O'Connor, who said this was special case because "the speakers' legitimate privacy expectations are unusually low and the public interest in defeating those expectations is unusually high... I would not extend [this] holding beyond these present circumstances."

Congressional Budget Office (CBO) released fiscal 2002 federal budget analysis including estimated increase in proceeds from White House proposals that would delay upcoming auctions. CBO estimated that 2-year delay in start of upper and lower channel auctions for 700 MHz band would increase proceeds by \$1.8 billion over 5 years. Bush Administration budget blueprint had estimated earlier that delaying Ch. 60-69 auction to 2004 from 2001 and Ch. 52-59 to 2006 from 2002 would provide \$2.6 billion offset for FY 2002, including legislation to promote clearing analog broadcast incumbents from bands. CBO didn't estimate 2nd part of auction proposal that would reduce "encumbrances on some of those frequencies so they can be used for new services faster than expected under current law." CBO said it couldn't pinpoint budgetary impact of that proposal "because the President's budget does not provide any details about the new policy." Third proposal to collect \$200 million annually by implementing lease fee on spectrum used by analog broadcasters could bring in \$1.6 billion over 2002-2011, CBO said.

STEWART SAYS TV MUST ADAPT: Because of convergence, broadcasters must develop new revenue model, probably based on their talent as content providers, FCC Mass Media Bureau Chief Roy Stewart said at Media Institute lunch May 24. He said convergence "may finally become a reality," but "the new business rules have yet to be written." Stewart was asked about problems convergence would cause for regulators, but he mentioned only potential restructuring of FCC.

"Broadcasting will survive convergence, but it's not going to be easy," Stewart said. Asked about current estimate that 84% of U.S. households received TV via cable or DBS and what would happen if figure approached 100%, Stewart said: "I'm not saying that broadcasting always has to be there. But if they aren't, someone else will have to fill the localism that is the traditional role of broadcasters." Consumers don't care how content arrives, Stewart said, but broadcasters have content that viewers want: "They have less to fear from convergence than some might think." He said local content was real strength.

Uncertainty about consumer reaction to convergence has "had a ripple effect at the FCC," Stewart said, blurring regulatory lines, with cross-bureau working groups "now the rule instead of the exception." Without addressing rumored merger of Mass Media Bureau with cable and DBS units, Stewart said creation of Enforcement and Consumer Information Bureaus may be model to follow.

Stewart expressed concern about adult-oriented content on TV and radio, but said he believed it should be handled largely through self-regulation rather than by FCC action because of concerns about govt.'s involvement in content issues. That prompted query from FCC Comr. Tristani, sitting in audience, who said law banning indecency still existed and suggested Congress should toughen it.



FCC Chmn. Powell told lawmakers that nation's DTV transition was moving along steadily despite many complaints that it was behind schedule. In recent 16-page letter responding to Hill queries, Powell said he believed that "the digital transition is going better than many give it credit for, although things are clearly not moving as quickly as some had hoped." He said he remained "optimistic" about ability of cable and consumer electronics industries to "work out the remaining interoperability issues" on DTV-cable compatibility. "However," he said, "I am prepared, if necessary, to help facilitate resolution of remaining issues." Powell said copy protection issue could hold up DTV transition because of content providers' concerns about easy reproduction of unprotected digital content. He said FCC would continue to monitor copyright negotiations, but he argued that agency lacked much power to act. "Copy protection and licensing are almost entirely outside the Commission's control," he said. Powell said he was "encouraged" that cable operators were discussing digital carriage deals with public TV broadcasters that would cover stations' planned multicast video streams for "educational services and other worthwhile noncommercial programming."

FCC Comr. Ness became longest serving female commissioner last week, celebrating 7th anniversary May 23, ex-staff member said. Previous recordholder was Frieda Hennock, who left Commission in June 1955, one week short of 7 years. Men have had more longevity, with Robert Lee serving nearly 28 years before he left in 1981, Rosel Hyde, 23-1/2 years when he left in 1969, James Quello 23-1/2 years.

New international technical standards for offering IP telephony and other new services over high-speed cable lines were announced by Society for Cable Telecom Engineers (SCTE) and European Telecom Standards Institute (ETSI). In conference call with reporters and analysts May 23, officials of SCTE, ETSI, CableLabs and other entities said new "IP Cablecom" specifications would enable cable operators in U.S. and Europe to deliver such advanced digital packet services as voice, electronic games and other interactive applications on worldwide basis. They said new international specifications, based on PacketCable technical standards recently developed by CableLabs and largely endorsed by ITU, should speed development of IP telephony and other new cable services, remove barriers to manufacturing equipment and encourage cable operators to roll out new services more quickly. "The goal here is to develop an ITU specification that would apply worldwide," said CableLabs Pres. Richard Green, who also chairs ITU study group on issue. "This provides a core specification which can be adapted for interfaces in different regions, including interfaces to the public switched network."

Each of Big 4 TV networks disputed charges by Multiethnic Coalition that they were failing to follow through on commitments to use more minorities in front of and behind cameras. Under pressure from Coalition — and most particularly NAACP, which wasn't party to report issued May 24 at news conference in L.A. — networks signed separate deals beginning 18 months ago with NBC. Coalition gave its highest grade, C, to NBC; Fox C-; CBS D; ABC D-. Coalition officials said further steps against networks were planned that could include legal action or program boycotts starting in fall. ABC said Coalition "misrepresented" its record, which for upcoming season will include 57% more Hispanics and 47% more blacks as program regulars. CBS said it had nearly doubled use of minorities in last 2 years; NBC said all of its new fall shows included minorities, and Fox said it had made "significant strides" in hiring minorities. NAACP earlier had threatened its own boycott in fall and said it would issue statement at its July convention.

AT&T said it would issue more than 80 million shares of its common stock to Comcast and 75 million to Cox to settle its Excite@Home "put" agreement with its fellow MSOs and keep them as equity partners in Excite@Home. Under revised agreement with Comcast and Cox, AT&T said, it will give them additional shares to keep them as Excite@Home investors and receive tax deduction worth estimated \$1.2 billion. While Cox and Comcast now will have higher tax bills, they will receive enough shares to cover their additional costs. Separately, AT&T said it continued to discuss with Excite@Home proposed restructuring of their backbone fiber agreement and joint initiative to maintain and improve current network performance levels, but companies haven't been able to reach agreement.

FCC Mass Media Bureau approved \$1.1 billion sale of 13 USA Bcstg. TV stations to Univision, including continued satellite exemption in N.Y. market. Deal also includes transfer of USA's interest in 4 other stations to Univision. Univision, which already owns 12 stations, plans to convert new outlets to Spanish-language programming. Bureau said Univision was qualified licensee and continued satellite exemption was justified because of long history in satellites and unlikelihood that station could be operated as standalone. It dismissed petition to deny by Urban Bcstg., saying FCC wasn't proper forum for resolution of contractual disputes. Univision outbid Disney, Tribune and others for stations (TVD Dec 11 p5).

DIGITAL SWITCH BIG CONCERN IN PA.: TV industry's upcoming switch to digital transmissions was by far dominant subject at regulatory session at Pa. Assn. of Bcstrs. convention last week as more than 2 dozen TV station executives expressed their frustration to FCC Mass Media Bureau Chief Roy Stewart. Following brief presentations on variety of issues by Stewart and NAB Exec. Vp. Henry Baumann, rest of session was devoted entirely to uncertainties surrounding switch to digital. Typical comments by broadcasters: "There's total confusion in the marketplace;" it constitutes "a major hurdle to get to from where we are;" "too much money to spend for too little improvement."

There was much talk about upcoming deadlines for TV stations to switch and to turn off their analog channels, and Stewart gave no assurance those deadlines would be extended. His advice: "Get to the new commissioners before the other industry [cable] does... They have a learning curve." Three new commissioners, Stewart said, offer broadcasters "the opportunity to rethink and retool" for future. He said public didn't care about "who owns the platform" providing programming into homes: "I don't think there's a lot of people in that building [FCC hq] that think providing localism to a community can only be achieved through over-the-air television."

Keynoter NAB Pres. Edward Fritts told Pa. broadcasters that campaign finance reform bill that has passed Senate "really and truly has nothing to do with reforming the system." Instead, he said, it's "lopsided in favor of politicians." Fritts said House probably would pass different version and when bill goes to conference, broadcasters would have "great opportunities" to influence changes to make legislation more palatable to industry. He said broadcasting had "a terrific record to be proud of" in public service and localism and broadcasters should stress that fact in attempts to influence Congress. In lobbying efforts in Washington, he said, "make yourselves known... Be persistent." Broadcasting, he said, denotes more in terms of dollar value than top 100 foundations combined, and that fact should be stressed in Washington efforts.

New Bush Administration has resulted in most open White House in years, in part because President doesn't make it practice of attacking his opponents as other Presidents have done, Fritts said. On industry regulation, under FCC Chmn. Powell "you'll see a lighter regulatory front in general," Fritts said. He said large number of TV stations, 195 at last count, transmitting in digital hadn't had impact desired because "consumers aren't tuning in... Consumer acceptance is the true gauge" of when DTV will be a success. But, he said, overall "the very future of broadcasting rests" on success of DTV and it'll never be successful if tuners aren't built into all TV sets.



U.S. Supreme Court ruled that Wharf Holdings violated federal securities law when it reneged on its oral pledge to grant stock option in its Hong Kong cable system to United International Holdings in 1992. In unanimous decision, Supreme Court said Wharf executives offered United option to acquire 10% of cable system's stock in return for various services but never intended to carry out that promise. In original case, jury awarded \$67 million in compensatory damages and \$58.5 million in punitive damages to United, Colo.-based cable operator that helped Wharf bid for Hong Kong system and raise \$66 million in financing for it.

Alcatel is acquiring remaining 48% stake in Alcatel Space currently held by Thales for \$698.6 million. Deal will give Alcatel 100% control of satellite communications company.

Northpoint picked up support for licensing of terrestrial broadband service from AT&T and bipartisan group of Senate leaders, including Burns (R-Mont.), Stevens (R-Alaska), Kerry (D-Mass.) and Inouye (D-Hawaii). AT&T said it agreed with FCC conclusion that DBS-terrestrial sharing could occur without causing harmful interference to consumers by "employing noncomplex mitigation techniques." AT&T said EchoStar and DirecTV "reflectively dismiss many of mitigation measures" proposed in Mitre Report as "impracticable or unworkable," but said positions weren't supported by report. However, AT&T called on FCC to conduct auction and open licensing process to multiple parties. Meanwhile, senators sent letter urging FCC Chmn. Powell to "move expeditiously" to decide on Northpoint license applications so broadband services could be delivered to rural and remote areas. "The FCC shouldn't delay further its action" on Northpoint licenses, it said. "Northpoint would promote another equally important congressional goal by making high-speed access available to many Americans who today have no such access to the Internet." Northpoint also shouldn't be forced to enter auction because it made first filing with FCC for terrestrial service using DBS spectrum, letter said. Satellite Bcstg. & Communications Assn. immediately responded to AT&T by saying it wasn't "surprised" nation's largest cable company would "support introducing interference" in DBS band. SBCA said DBS industry was gaining on cable services and "success is a threat" to AT&T and other cable operators.

General Accounting Office (GAO) confirmed in report that there wasn't yet enough collected research to establish link between radiofrequency (RF) emissions from cellphones and adverse health effects. But report, requested by Sen. Lieberman (D-Conn.) and Rep. Markey (D-Mass.), also said lack of research results meant health effects couldn't necessarily be ruled out. GAO outlined series of recommendations, ranging from how Food & Drug Administration (FDA) and FCC could make more safety information available to consumers to how FCC could revamp its specific absorption rate testing guidance. Markey, ranking Democrat on House Telecom Subcommittee, also stressed need for changes in cooperative R&D agreement between FDA and CTIA to ensure that trade group follows FDA recommendations on specific research proposals. "In no way should the FDA's independent medical judgment be compromised," he said at news conference.

FCC issued 2 rulings on pole attachment rates May 25, adjusting its accounting formula for calculating rates in certain cases and rejecting large rate increase for cable operators proposed by Alabama Power. In first item, Commission issued new reconsideration order to clarify formula for calculating maximum pole attachment rates when net pole investment shrinks to zero or negative because of accumulated depreciation costs. Order also attempts to clarify way that entities are counted for allocating costs of unusable telecom space and affirms that there is no unusable capacity in conduits. In 2nd item, FCC affirmed earlier Cable Bureau order that held Alabama Power's proposed annual pole attachment rate of \$38.81 per pole to be "unreasonable." Full Commission backed Cable Bureau's ruling that utility should roll back Alabama Cable's rate to old \$7.47 per pole fee, pending negotiated agreement on new rate.

Liberty Media Group Chmn. John Malone plans to sell 700,000 common shares of AT&T, company said in new SEC filing. Malone, who also is leaving AT&T's board in preparation for Liberty's pending spinoff from its parent company, owned 26.4 million shares of AT&T as of Jan. 1. Shares to be sold had market value of \$15.1 million as of May 15.

JUMPTV.COM SEEKS TARIFF: Canadian Webcaster JumpTV.com applied for tariff allowing it to retransmit broadcast TV signals over Internet under Canada's Copyright Act. Tariff would give JumpTV.com right to retransmit over-air TV signals via Internet in same way cable companies pay for right to retransmit TV signals to their customers.

Arguing that Canadian law was "technology neutral," CEO Farrel Miller said same tariff laws must be applied, regardless of technology used: "We stand ready to pay any applicable royalty tariff." Canada's Copyright Act says companies with "comparable" operations to cable TV may retransmit live signal "in its entirety" if its operations are "lawful under the Broadcasting Act." JumpTV.com said "as there is no express exclusion of the Internet... and as the Internet uses telecommunications networks... including those of cable companies who already qualify as retransmitters," company believes it's retransmitter for purposes of Copyright Act. JumpTV.com already is streaming TV but promises to be delivering major network programming "soon" from U.S. to visitors from Canada.

Despite participation by NAB in upcoming hearings (TVD May 7 p3), JumpTV.com said it planned to keep its arguments solely on Canadian issue. Company said its delivery was legal, with appropriate royalty fees, under Canadian copyright laws and border blocking technology would successfully limit viewership to Canadians. CEO Miller said blocking technology was developed internally using filters that pinpoint geographical regions from Cal.-based Quova. Filing said Canada's current retransmission regime was result of "negotiated agreement between Canada and the U.S. in the Free Trade Agreement." Referring to predecessor iCraveTV, largely shut down by U.S. courts year ago, JumpTV.com said that case didn't prove Internet retransmission was illegal in Canada but simply that legality was as yet untested.

After lengthy search, MSTV selected early front-runner David Donovan as its new pres., replacing Margita White, who retires in June. Donovan, currently vp-legal & legislative affairs for ALTV, is former aide to ex-FCC Chmn. James Quello and ex-staffer in Mass Media Bureau. MSTV Chmn. Gary Chapman cited Donovan's experience with broadcast and govt. issues as factors in his being selected. Robert Branson, vp-chief legal counsel of Post-Newsweek Stations and ex-FCC, will become ALTV vp-gen. counsel, succeeding Donovan.

New book focuses on life of Comcast co-founder Daniel Aaron, cable pioneer who fled Germany with his family to escape Holocaust as young boy and helped start new industry in U.S. Titled *Take the Measure of the Man*, book chronicles Aaron's youth struggles, World War II experiences, college days and efforts to build Comcast into cable power. Aaron, former NCTA chmn. and now retired, plans to donate portions of book proceeds to his foundation battling Parkinson's Disease, which he has had for several years.

FCC proposal to change way some E-rate projects are funded because of anticipated shortfall had lukewarm reception from contractors and schools and libraries in comments filed May 23. They complained that proposal would change rules in mid-stream and could create administrative problems for schools and libraries. They also strongly opposed Commission's idea of applying new rules to current funding year, for which applications already have been submitted. Unrelated 2nd revision in program, to give schools and libraries more time to complete E-rate funded nonrecurring projects, appeared to be only thing they liked.

NCTA struck back at Circuit City and RadioShack, charging that major consumer electronics retailers were trying to "use the regulatory process to force cable operators to increase retailers' profit margins" on cable set-top box sales. In May 16 letter to FCC Comr. Ness revealed in recent ex parte filing, NCTA disputed joint argument by Circuit City and RadioShack urging that Commission require MSOs to subsidize retailers' sale of competitive digital cable boxes. Calling it "both unnecessary and inappropriate as a matter of law and sound public policy for the Commission to interject itself into private commercial arrangements in this manner," NCTA argued that Sec. 629 of Communications Act and agency's rules "clearly do not give retailers any entitlement or expectation to receive a share of a cable operator's service or equipment revenues in return for the retailers' provision of navigation devices to consumers." Cable group said Congress allowed cable operators to use equipment averaging costs to subsidize digital boxes for their own subscribers to ease burden of cable rate regulation on operators. It said Circuit City-RadioShack proposal "would impose highly intrusive, tariff-like regulatory obligations" that would far exceed anything authorized by Congress. NCTA also expressed strong doubt about "how the proposal could be practically implemented" by all concerned. "At the very least," group said, "it would be an administrative nightmare for the Commission to attempt to write, LFAs [local franchising authorities] to enforce and operators to implement a new cost aggregation mechanism designed to take into account retail sales of navigation devices and apply them to the equipment averaging cost pool."

About 17% (31 of 177) of PTV licensees are capable of broadcasting DTV signal, CPB Pres. Robert Coonrod said. Testifying at House Labor-HHS Subcommittee hearing on CPB appropriations, he said that didn't mean that licensees had fully functioning digital public broadcasting stations. Stations had only crossed first threshold — transmission of digital signal. Seeking \$395 million in CPB advance funding for FY 2004, Coonrod thanked Congress for "specially reaffirming" CPB advance appropriations in recent joint budget resolution. In keeping with Administration's policy of limiting advance funding to "programmatic reasons," President Bush's budget made no provision for forward funding for CPB. On average, more than 1,000 public radio and TV stations raise 88% of their funds from sources other than CPB, Coonrod said, and advance federal funding is used by stations to leverage contributions from state and local sources. "CPB believes its advance appropriation fits the Administration's proposed exception for programmatic purposes well," he said. Appearing generally sympathetic to public broadcasting's funding needs, Committee Chmn. Regula (R-O.), however, expressed concern that not enough was being done to disseminate health-related news. He urged public broadcasters to provide more coverage of developments at institutions such as National Institutes of Health and Centers for Disease Control and Prevention.

TiVo reported slightly smaller loss than expected by Wall St. in its first quarter ended April 30 and said it received patent covering "many of the key inventions" for its personal video recording (PVR) equipment and software. TiVo said its quarterly net loss more than doubled to \$50.2 million from \$23.4 million in year-ago period. It said revenue grew to \$3.2 million from \$499,000 year earlier as it added 35,000 new subscribers to its PVR service to reach 189,000. It said it now had more than 200,000 customers. Separately, TiVo said U.S. Patent & Trademark Office awarded it patent for such core PVR features as time-shifting programs, processing and synchronizing various multimedia streams in TV signal and storage format that supports pausing, fast-forwarding, rewinding, instant replays and slow motion.

Personals

Stephen Doerr, ex-NBC-owned KXAS-TV Ft. Worth-Dallas, named NBC TV Stations senior vp-news, programming & creative development... **Adrienne Cleere**, ex-pres., Cleere Strategic Alliances, appointed vp-strategic partnerships, PBS... **David Lebow**, ex-AMFM, named regional vp, Emmis Radio... Changes at Tandberg TV: **Al Nuñez** promoted to dir.-sales; **Lisa Hobbs** advanced to dir.-mktg... **Charles Stanford** promoted to exec. vp-gen. counsel, Crown Media Holdings... **Don Ohlmeyer**, ex-NBC pres., elected to i3Mobile board... **Kenneth O'Keefe** retiring as pres.-COO, Clear Channel Radio; **CEO Randy Michaels** adds duties on interim basis.

Jill Wintringham, ex-American Public Tower Assn., named dir.-professional development, CTAM... Elected to board, Cable Telecom Assn. of Md., Del. & D.C.: **Earle Jones**, District Cablevision, chmn.; **Gene Hager**, Antietam Cable TV, first vice chmn.; **Todd Eachus**, Comcast, 2nd vice chmn.; **Barbara Gehrig**, Comcast, treas.; **Ken Crooks**, Comcast, secy... **Michael Grover**, ex-AT&T Broadband, appointed dir.-govt. affairs, Cox... **Colleen Rooney**, ex-GE Financial Network, named dir.-employee communications, Comcast.

William Kennard, ex-FCC chmn., elected to Nextel board... **David Goodfriend**, legal adviser to departing FCC Comr. Ness, named dir.-legal and business affairs, EchoStar... **Barry Umansky** partner at Voy, Sater, Seymour & Pease, joins Washington office of Cleveland-based law firm Thompson Hine June 4... Joining Leventhal, Senter & Lerman: **Howard Topel** as member; **Beth-Sherri Akyereko** and **Jenell Trigg** as of counsel.

Hughes Chmn.-CEO **Michael Smith** retires; **Harry Pearce** of GM will replace him as chmn. and **Jack Shaw** is advanced to CEO and Hughes board member... **Gregory Willis**, ex-Interactive Video Technology, appointed vp-global sales operations, PanAmSat... **Sally Fifer**, former exec. dir., Bay Area Video Coalition, appointed exec. dir., Independent TV Service... **Jack Gates** advanced to pres.-COO, National Captioning Institute.

Regulators should be patient with broadband rollout, but shouldn't "wait forever," FCC Chmn. Powell told Forrester forum in Washington last week: "We need to focus on where we're hitting bumps and alleviate them." Powell, who wouldn't express position on Tauzin-Dingell broadband bill (HR-1542), said increasing price of broadband was likely to slow deployment. However, he said slow business cycle was larger reason for declining start and consumer demand for broadband still was relatively unknown. He also questioned whether debut of broadband actually was slow when compared with color TV, VCRs and even electricity.

Deutsche Telekom (DT) is poised to open Washington office as it attempts to expand its telecom business in U.S., we're told, and leading candidate for position is Greg Rohde, former NTIA dir., who took over Dutko Group's new e-Copernicus.com consulting arm in Feb. DT's move to create Washington office could become even more timely as Sen. Jeffords (R-Vt.) joins Democratic Caucus and as Hollings assumes chairmanship of Commerce. Rohde is said to have inside track. He couldn't be reached for comment.

Andrew Corp. will provide DTV antennas and filters for 15 Cosmos Bcstg. TV stations by 2002 under new contract. Deal also potentially included multistation switching technology.



WARREN COMMUNICATIONS NEWS Telecom & Media Intelligence www.warren.com

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497-1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

This Newsletter is available electronically via Predicasts, Nexis, Dow Jones Interactive and Infonautics and also may be received via email.

Warren Communications News, Inc. is publisher of Audio Week, Cable & Station Coverage Atlas, Communications Daily, FCC Report, Local Competition Report, Long Distance Competition Report, Mobile Communications Report, Multimedia Wire, Public Broadcasting Report, Satellite Week, State Telephone Regulation Report, Telco Business Report, Television & Cable Action Update, Television and Cable Factbook, Television Digest with Consumer Electronics, Warren's Cable Regulation Monitor, Washington Telecom NewsWire, Daily Document Service, and other special publications.

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FCC is seeking comments on Network Affiliated Stations Alliance (NASA) petition for inquiry into network relations with affiliates, it said in May 22 notice. Commission noted that networks and affiliates disagreed on procedural issues as well as basic issue (TVD May 21 p1, March 12 p1). Comments in permit-but-disclose proceeding are due July 23, replies Aug. 22. NASA Chmn. Alan Frank of Post-Newsweek Stations said group was "pleased that the FCC will give serious consideration to the important issues" in its petition.

Consumer Electronics

A Section of *Television Digest* with *Consumer Electronics*

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending May 11, and year to date:

	MAY 5 - 2000	%	APR. 28- MAY 4	19 WEEKS 2001	19 WEEKS 2000	%
	MAY 11 WEEK	CHANGE				CHANGE
TOTAL COLOR TV	414,023	366,656	+ 12.9	298,010	8,702,201	9,274,171
DIRECT-VIEW**	402,127	355,879	+ 13.1	286,818	8,366,851	8,866,440
TV ONLY#....	349,530	294,164	+ 18.8	228,070	7,005,543	7,380,945
TV/VCR COMBO.	52,597	61,715	- 14.8	58,748	1,361,308	1,485,495
PROJECTION...	11,896	10,777	+ 10.4	11,192*	335,350	407,731
TOTAL VCR**....	271,010	330,246	- 17.9	366,355	6,416,062	8,382,482
HOME DECKS...	218,413	268,531	- 18.7	307,607	5,054,754	6,896,987
CAMCORDERS....	101,784	91,417	+ 11.3	114,193	1,826,999*	1,747,566
DVD PLAYERS....	88,546*	70,951	+ 24.8	140,413*	3,195,688*	1,702,701

Direct-view TV 5-week moving average#: 2001-315,534; 2000-379,687 (down 16.9%).

Projection TV 5-week moving average: 2001-14,197; 2000-18,787 (down 24.4%).

VCR deck 5-week moving average: 2001-273,087; 2000-407,283 (down 32.9%).

TV/VCR 5-week moving average: 2001-68,550; 2000-93,342 (down 26.6%).

Camcorder 5-week moving average: 2001-114,104*; 2000-108,913 (up 4.8%).

DVD player 5-week moving average: 2001-153,951*; 2000-94,497 (up 62.9%).

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

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

ZENITH PARTS WAYS WITH SEARS IN NEW DIGITAL STRATEGY: Zenith Electronics has left Sears as it shifts focus to step-up digital products and will retain Circuit City as sole national account heading direct sales roster of 100-125 dealers, company said.

Decision to end distribution through Sears, which represented 10% of Zenith's \$559.4 million in revenue for fiscal year ended March 31, is strongest sign yet that company is making wholesale changes. In past, while Zenith introduced digital products in attempt to attract younger consumer to brand, it never shed low-end, commodity products that were grist for price leader ads in weekly retail circulars.

Dealers eligible for new direct sales program had minimum of \$250,000 in annual Zenith sales in past and have committed to carrying selection of HD-ready and integrated rear-projection, plasma display panels (PDP) and LCD monitors, Vp Richard Powers said. Zenith also will ship product through Crosley Group, which represents 40 independent distributors, to smaller dealers "still developing a digital market," but who are "currently analog customers," he said.

Powers said that commodity products were "a business we are walking away from and the business that we were doing there we're not interested in doing in the future. It's so competitive that you don't make any money and Circuit wants to do things similar to what we're doing. They have committed to us that when we have plasma available that we will launch it with them." Sears executives weren't available for comment.

As part of new distribution strategy, Zenith has doubled number of sales regions to 6 — Northeast, North-Central, South-Central, Southeast, Rocky Mountains and West Coast — and will have regional sales and product support manag-

ers for each section of U.S., Powers said. Digital sales and marketing group will move to parent LG Electronics' (LGE) Englewood, N.J., hq, leaving 200 employees at Zenith's Lincolnshire, Ill., offices.

Initial goal is split sales of 65% for digital and 35% for analog and focus solely on Zenith brand, Powers said. Inteq, which Zenith introduced in 1996 for high-end products, will be dropped as will Allegro, which had found its way in recent years onto low-end promotional VCRs. Inteq was introduced 5 years ago under then-Zenith Sales Co. Pres. Gerald McCarthy's "value-added distribution channel strategy." Powers said: "People understand what Zenith is and to take that brand and then have a subset could be very confusing."

Process of transforming Zenith from lower priced, widely distributed brand to tightly focused, high-end line that targets regional dealers will take several years to complete, Zenith officials said at product line show in Chicago last week. But process of integrating LGE and Zenith R&D teams needed to create line of digital products has been under way for 3 years, Zenith Senior Vp-New Product Development Wayne Park said.

At line show, first fruits of R&D effort were evident as Zenith displayed 8 HDTV-ready and 3 integrated sets, 2 of which were carried over from year ago (56W and 64W). It also took wraps off 60W and 40W PDPs, 15.1", 20.1" and 29W LCD monitors and first LCD rear-projection set with Epson-built 1.2" panels scheduled for delivery in Oct. at \$7,999.

Zenith also plans to ship DVD-Audio and DVD-RW decks by first half next year and held out possibility of carrying Super Audio CD (SACD) model as well. It had planned to ship DVD-RW recorder by 3rd quarter at \$2,499 (TVD Dec 18 p10). It has no plans for D-VHS recorder in U.S., despite LGE's having completed some development work on product, because market "isn't interested in that concept," Park said.

Also on hold is planned 27" interactive TV that was scheduled to ship in April with TeleCruz processor and free Internet access provided by Transcast (TVD Dec 18 p11). With free Internet access falling from favor as ISPs such as NetZero are starting to charge for service, Zenith said it decided to postpone plans. It has taken several stabs at adding Internet access to products, including NetVision TVs in 1996 and Network Computing Inc. (NCI) set-top box in 1998. "We now realize that we have to look at other [Internet access] business models and we're definitely looking at those where we can make some money from the service," Park said. "We have the hardware and the only thing holding up the launch of the product is an ISP agreement."

New digital TV line runs from 50" monitor at \$2,299 and 60" at \$2,499 to fully integrated models at 61W (\$5,999) and 64W (\$7,999). New 56W (\$2,999), 61W (\$3,699) and 65W (\$3,999) HD monitors feature new lens system from Corning Precision Lens that replaces Delta 78 lens with optics that increase brightness 10% and focus and sharpness 25%. New 60W LCD rear-projection set has 350:1 contrast ratio, 18" depth and 2 component video inputs. Zenith said it also may add built-in Dolby Digital decoding. Majority of CRT-based HD-ready sets use 7" Hitachi tubes and are assembled by Hitachi in Mexico. LGE is assembling HDTVs in Korea.

Rounding out CRT-based DTV line are 6 direct-view sets in 27", 32", 36". Step-up pieces (\$1,299-\$2,299) add 2-tuner picture-in-picture (PIP) and Caller ID, while entry level 27" starts at \$999. Also shown was prototype 30W that LGE sells in Korea, but Zenith hasn't finalized plans for U.S., Product Development Dir. Richard Long said. Company is continuing line of 6 analog 13"-36" sets (\$149-\$749) and 2 rear-projection TVs at 60" and 50" (\$1,399-\$1,899). It also will keep status as one of few remaining console TV suppliers with four 25"-27" models at \$599-\$749. VCR line consists of 2-head (\$59), 4-head mono (\$69) and 4-head hi-fi (\$79). Analog offering is down substantially from years past when lineup reached more than 50 models. "Our main focus is on digital products so we want to minimize development resources [that are] being put into an analog product," Park said. "But if the market feels that analog support is needed to effectively sell digital sets we will have to do some revamping of the analog product line."

Ambitious PDP plans have been scaled back for this year. Zenith will ship 40" in June (\$6,999) with 640x480 resolution, 370 candelas and 500:1 contrast, while 60W (\$27,999) arrives in 2nd half with 1,280x720p resolution, 200 candelas, 350:1 contrast. Pushed back until next year were 42W and 36", each of which had been scheduled for 2nd half delivery. Also on horizon is 50W with HD resolution, Long said. "In 42W there are a lot of models and it's getting kind of congested so we're looking at different sizes," Long said.

In LCD monitors, Zenith dropped price of 15.1" to \$1,299 from \$1,999 and kept same features including 1,024x768 resolution. It added 20.1" (\$4,299), but is likely to replace planned 22W with 29W that's expected to be available in first half 2002, Long said. New 20.1" has 640x480 resolution, 400 candelas, 400:1 contrast ratio. "We think that 29W will be more viable at this time than 22W," Long said. "The 22W will sell a certain amount at a certain price point, but with 29W we would sell a little bit less, but at a much higher price point."

To complement displays, Zenith introduced line of front projectors including 3 CRT-based (\$9,995-\$29,995) and 3 DLP models (\$5,995-\$9,995) as well as LCD unit (\$6,495). Last uses three 0.9" Sony panels and has 1,024x768 resolution and 1,200 lumens.

While much of Zenith's DVD strategy had been announced earlier, company is planning to make push with DVD-Audio in first half while also weighing SACD. LGE's ties to Philips — companies operate LG/Philips LCD joint venture — apparently has led to discussions on SACD. "DVD Audio is what we've talked about in the past, but one of our interesting challenges is we are partners with Philips in other technologies and there is some suggestion that we take a look at Super Audio CD," Long said. "I believe that multichannel is key and SACD multichannel will be in a nice position. We've announced DVD Audio, but we are definitely looking at SACD with all of our external relationships."

As for DVD-RW, Zenith has decided to wait until copy protection standard is finalized before making definitive product push, Long said. LGE also has shown DVD-RAM drives for PCs. "We're looking at what is happening in the industry, and right now we have enough challenges with some our products for this year," Long said. "We can do any capability, but we want to make sure it is the right one."

Previously announced DVD products include 5-disc and single-disc progressive scan players (\$299-\$399) as well as standard models (\$160-\$219) and portable with 7" screen (\$899). New to line is DVD player with Dolby Digital decoding packaged with 180 w speaker system that includes center channel and 30 w passive subwoofer (\$499).

Zenith has postponed introduction of combo DirecTV/HD decoder (\$799) to 3rd quarter from this month and isn't likely to offer standalone DirecTV receiver because of price competition in category, Long said.

Additional combo products in future could involve bundling personal video recorder (PVR) with Internet access, Park said. LGE is studying standard definition (SD) and HD-level PVRs, which would require 40-60 GB and larger hard drives, he said.

Other Zenith developments: (1) While company has supported Extended Conditional Access (XCA) as smart card-based copy protection system for HDTV, it also is backing DTCP. With Thomson said to be developing 2nd-generation XCA technology, Zenith hasn't ruled out implementing technology in future, Senior Vp Research & Technology Richard Lewis said. At same time, while Zenith is backing IEEE-1394 connection, it also has received pitch from Silicon Image, which champions digital visual interface (DVI). DirecTV, EchoStar and JVC have hinted at plans for DVI, which has gained support from several Hollywood studios. "When it comes to making a choice, we're looking at 1394 as a viability especially with recent announcements from Mitsubishi and Sony," Long said. "We're still looking at DVI and we're trying to cover all our bets and at the same time make the right decision." (2) With LGE's strong position in CDMA-based cellular phones, Zenith-branded phone could emerge, although not before 2002-2003, executives said. (3) Zenith remains "interested" in Wink Communications' enhanced TV technology, but has no plans to add it to products this year, Long said. Zenith first announced plans for Wink-enabled product in 2000 and technology still could emerge in set-top box application, he said. (4) In audio, Zenith's offerings will include previously announced MP3 player with 64 MB storage (\$229) that will be packaged with 32 MB Multimedia card and dual-tray CD recorder with MP3 capability (\$399). (5) As further sign of changing face of Zenith, million-sq.-ft. Melrose Park TV tube plant is under contract to be sold to developer, although deal hasn't been finalized, spokesman said. Development plans couldn't be learned, but they aren't likely to include TV tube plant, spokesman said. Zenith produced direct-view TV tubes at Melrose Park for decades before shutting it down as part of restructuring in 1998 (TVD Oct 19/98 p9). (6) What's old is new again — Zenith is carrying over 19" TV from year ago, but has renamed it as Table Top Game TV (\$229). Set, which has front A/V jacks and headphone connection, is being marketed for videogame applications. It has 270 lines of resolution, 3 speakers with 6 w, MTS Stereo, EZ Big Button remote control, V-chip for parental control.

NINTENDO SETS \$199.95 PRICE FOR GAMECUBE: Nintendo said last week that GameCube will be priced at \$199.95 when next-generation console system becomes available on U.S. store shelves Nov. 5.

Company also said system would ship with slate of 6 exclusive Nintendo titles, each at \$49.95. But Nintendo said that number would be "expanding by the end of the year with licensee games, representing a robust and diverse library with games for players of all ages."

That GameCube will be priced lower than PlayStation 2 (PS2) and Xbox — each \$299 — didn't come as surprise. There had even been rumors going into Electronic Entertainment Expo (E3) in L.A. week before pricing announcement that Nintendo would indeed be setting \$199 tag.

Exact reasoning behind Nintendo's decision wasn't clear at our deadline. But company did declare in its announcement that it wanted to set "mass market price." Nintendo of America (NOA) Mktg. Vp George Harrison told Reuters: "The price point of \$200 is the mass-market price point. That's the price point where you can experience some accelerated sales." He also told Reuters that despite low price, Nintendo had "no intention to lose much, if any, money on the sale of hardware." Harrison also pointed out that Nintendo is strictly in videogame business and therefore is "not in a position to offset losses on other divisions in the way Sony or Microsoft might." In much same vein, NOA Exec. Sales & Mktg. Vp Peter Main said in Q&A portion of Nintendo's E3 news briefing that "Nintendo has a history of not being in the business of losing money on hardware."

Jupiter Media Metrix Analyst Billy Pidgeon agreed it was unlikely Nintendo would lose money on GameCube hardware. "They never price below the cost of goods sold," he told us, adding that he wasn't surprised about "competitive" GameCube price tag.

What role — if any — yet-to-be-announced pricing on upcoming Panasonic hybrid device that will play 8 cm GameCube discs and standard 12 cm DVD movie titles (TVD May 21 p9) had in Nintendo's GameCube pricing decision also was unclear. Pidgeon called Panasonic's product "a great-looking appliance" that he guessed would cost "significantly higher than \$200" — "at least" \$299.

At least some analysts and other industry observers also saw decision by Nintendo about pricing as move to protect itself if Sony decided to drop cost of PS2 later this year. Despite rumors to contrary, Sony Computer Entertainment America (SCEA) Senior Vp Jack Tretton told us at E3 that his company had no plan to drop PS2 pricing this year. That, of course, was before Nintendo's pricing announcement. But SCEA spokeswoman told us last week her company still wasn't planning to change PS2's pricing this year. "We're very comfortable with the \$299 price point," she said, noting that Nintendo's pricing didn't come as surprise and "makes sense considering [GameCube's] functionality" in comparison with PS2. SCEA also doesn't believe it will be competing with Nintendo or Microsoft for same type of consumers this fall, she said. That's in large part because by then there will be potential for PS2 to reach installed base of 7 million in N. America, spokeswoman said. "Our goal is still to get as many units into the channel" as possible and, at this point, whatever has been getting into channel has been selling, she said.

Pidgeon told us that although Sony might not cut price of PS2 this year, "something I would expect" is that company might opt to do some bundling to be more competitive. For example, he said Sony could decide to bundle in 40 GB hard drive it announced at E3 for which pricing had yet to be given. Sony also can opt to provide consumers with certain amount of free online gaming access. He said that, regardless, it was "safe to assume Sony is still trying to economize their manufacturing process and get the cost of goods down below the retail price." Pidgeon said that as far as he knew, Sony didn't make money initially off of PS2 sales and he wasn't sure it was turning profit on it now. Similarly, Microsoft will be losing money on Xbox hardware sales at least at outset, he said.

Echoing SCEA's spokeswoman, however, Pidgeon said he believed Nintendo was indeed going after different type of consumer than Sony, which first targeted hardcore gamers and early adopters, or Microsoft, which will be going after same type of consumers as Sony did. He said Nintendo primarily would be targeting younger gamers and their parents right from rollout, which Microsoft and Sony have ignored so far. While he said Sony already was "trying to widen their base" for PS2, he said kids still didn't seem to be part of that equation.

Despite \$100 price difference between GameCube and its competitors, Pidgeon said he doubted cost would sway many consumers to buy Nintendo's system over others. There may be some who will be deciding between GameCube and Xbox for whom price will be factor, but real issue will be games. While PS2 and Xbox are likely to be going head to head, he said, "I don't really see the Xbox audience and the GameCube audience having too much crossover right now." Meanwhile, small percentage of hardcore gamers may buy both systems, he said.

Exactly why Nintendo decided to wait until right after E3 to reveal GameCube's price also was unclear. Nintendo officially said at E3 that it was waiting until company made its May 24 financial statement to announce pricing, although it also said price might be revealed "by May 24." Nintendo source told us at E3 that company wanted to study Xbox and PS2 pricing moves before tipping its hand. That company wound up making price announcement before its financial statement strongly suggested that main reason Nintendo held off on announcing GameCube pricing at E3 was indeed its desire to see what Microsoft and Sony were doing.

What 6 games GameCube will be shipping with at start also were unclear but Harrison told us at E3 that system would ship with 5 first party titles in U.S.: *Super Smash Bros. Melee*, *Luigi's Mansion*, *Pikmin*, *Wave Race Blue Storm*, *NBA Courtside 2002*. Last represents company's attempt to gain strength in sports genre. Harrison said *Eternal Darkness* would be one of 2 first party titles shipping in time for holiday season, so that could be 6th title Nintendo was referring to. Exact number of 3rd party GameCube titles that will be shipping at start and by year-end also remained unclear Fri. Nintendo said other upcoming GameCube titles include *Animal Forest*, *Disney's Mickey*, *Donkey Kong Racing*, *Kameo: Elements of Power*, *The Legend of Zelda*, *Mario Kart*, *Metroid Prime*, *Raven Blade*, *Star Fox Adventures: Dinosaur Planet*.

Also still unclear at our deadline was how many units of GameCube would be shipping at launch. However, news reports from Japan last week did say Nintendo planned to sell 4 million GameCube consoles and 10 million GameCube titles this fiscal year ending March 31, 2002. One report said Nintendo planned to ship 2.5 million GameCube units in Japan and U.S. by end of this calendar year.

In making its pricing announcement, Nintendo said move came "on the heels of what Nintendo executives describe as an 'overwhelming positive response' from thousands of the visitors" at E3. Main said: "The response to Nintendo GameCube at E3 [was] overwhelming. Game developers expressed over and over that our games are of unmatched quality, especially *Luigi's Mansion*, *Super Smash Bros.*, *Star Wars Rogue Leader: Rogue Squadron II*. *Pikmin* also spiked interest for its incredibly unique game content and approach."

Despite degree of hype in Main's statement, what we saw and heard at E3 from analysts and other attendees seemed to back up his position. *Luigi's Mansion*, in particular, received one of more vocal signs of approval at show when Nintendo gave attendees taste of game during its news conference. In addition, in Midway analyst/investor presentation we attended at E3, those seated at our table were almost unanimous in saying that Nintendo's E3 presentation was more impressive than those of Microsoft and Sony.

But analysts we interviewed there were disappointed that Nintendo opted to not provide GameCube pricing and number of units it planned to ship at outset. Gerard Klauer Mattison's Edward Williams and Jupiter's Pidgeon told us they also didn't think Nintendo's 3-day jump on Microsoft's Xbox (Nov. 5 compared to Nov. 8) would give Nintendo any edge over its competitor. Williams said advantage Nintendo has over Microsoft, rather, is still fact that Japanese videogame giant has stable of proven character franchises such as *Donkey Kong* and *Pokemon*. While Pidgeon said he believed *Shrek* has capability of becoming solid franchise for Xbox — especially if film is hit (which it seems to be) — he doubted that *A.I.* would be able to do same. He said latter might prove too complex to translate into videogame arena. Meanwhile, *Shrek* also may allow Microsoft to tap into younger audience, Pidgeon said.

Despite Williams's disappointment over lack of GameCube details at E3, he told us that, based on Microsoft and Nintendo presentations: "I think it's pretty clear that Sony's got their work cut out for them." GameCube and Xbox, he said, are clearly viable products that have real chances for success. However, Sony still is in driver's seat to large degree in sense that it has huge lead over its competitors in terms of installed base.

Japanese news report last week, meanwhile, apparently confirmed what an earlier report had said during Tokyo Game Show: That Nintendo was considering dropping GameCube if it failed to receive positive reaction at E3. Nintendo Pres. Hiroshi Yamauchi was quoted as saying: "Fortunately, we got a good response... Naturally, we'll go ahead with sales as planned."

TIVO RECEIVES PVR PATENT: TiVo has received broad patent covering its personal video recorder (PVR) technology including key claim that could have implications for Microsoft's UltimateTV product.

Patent, filed in July 1998, covers method for simultaneous playback and recording of TV programs. TiVo's DirecTV combo product and UltimateTV each has dual tuner that enables feature, but only latter is currently using it now. TiVo expects to activate 2nd tuner by summer and DirecTV has hinted at using it in video-on-demand (VOD) service.

Patent has 56 claims, with others relating to methods of processing various multimedia streams such as audio and video at low cost and storage format that allows user to pause and scan through live TV broadcast, Chief Technology Officer James Barton said. TiVo hasn't reviewed UltimateTV product for possible patent infringement, but will do so in future, Barton said. TiVo also is developing set-top box pairing PVR with AOL Time Warner's AOLTV interactive platform that will be released in early 2002, Chmn.-CEO Michael Ramsay said.

"We recommend that they [Microsoft] examine the patent applicability to their design and that they contact us to discuss this," Barton said. Thomson officials weren't available for comment, but Microsoft said it had "an extensive portfolio of patents of its own that protects its products." Thomson builds UltimateTV product for sale under its RCA brand. TiVo rival ReplayTV is "confident in its intellectual property position and we will have as strong, if not stronger, patent position than TiVo," Vp Steve Shannon said. Spokesman for Replay licensee Matsushita declined comment.

Patents represent first of "whole pipeline" of intellectual property that TiVo is developing and will seek to have patented. TiVo also will seek licensing agreements for PVR software technology and has had discussions with "a number of parties with very strong interest" in doing so, Ramsay said.

At same time, Sony and Philips have issued combination rebates and price reductions that effectively drop entry-level price for TiVo PVR to \$199, from current \$299, Ramsay said. Philips cut price on 20-, 30- and 60-hour PVRs \$100 to \$199, \$299 and \$599, respectively, and, along with Sony, has added \$100 rebate to DirecTV/TiVo, effectively lowering that retail to \$299. Sony also is offering \$100 rebate on 30-hour PVR (\$199). Rebates run through Sept. 30. Sony spokeswoman confirmed price moves and said they weren't related to inventory build up, but rather were part of effort to "stimulate demand in the market." TiVo offered \$100 rebate on hardware last year, but program expired Dec. 31. New TiVo PVRs are expected by late this year, sources said. UltimateTV product is priced at \$449.

"Since the beginning of the year we have seen sales have been ahead of last year, but we felt that we were missing the opening price point," Philips Home Access Solutions Vp John Strobel said, but midmonth price moves at Best Buy and Circuit City helped double sales. "We felt we really had to get back to that [\$199] price point to really drive the business where it ought to be. It's also looking forward to next-generation product that we expect to be at these price points anyway and to pull those down ahead of time will ramp this whole category."

Price slashes would be most aggressive to date to spur growth of PVR service that so far has attracted 200,000 subscribers including 35,000 in recently completed 2nd quarter. More than 20% of subscribers added in quarter were through DirecTV/TiVo combo product, Ramsay said. Cost of rebates and price cuts would be borne by Sony and Philips and wouldn't involve subsidy from TiVo, Ramsay said. Philips and Sony officials weren't available for comment.

"We all share the desire to move product as quickly as we can," Ramsay said.

Meanwhile, TiVo, which recently slashed 80 jobs, reported that first-quarter loss grew to \$50.2 million from \$23.4 million in 4th quarter as revenues increased to \$3.2 million from \$2.2 million. TiVo also had \$1 million backlog in advertising revenue at quarter's end that will likely be recognized in 2nd quarter, CFO David Courtney said. Restructuring is forecast to generate savings of \$60 million.

Operating expenses plunged 37% to \$53.6 million from \$84.6 million in 4th quarter, led primarily by sharp drop in marketing expenses to \$13 million from \$46.9 million, Courtney said. Payments to related parties, largely in form of subsidies, increased to \$23.5 million from \$21.1 million.

TiVo forecast using \$50 million in cash through year-end to fund operations and then seeking new funding in early 2002, Courtney said. Marketing expenses are likely to be \$7-\$8 million in 2nd quarter, \$29-\$31 million for year, he said. R&D spending will be about \$30 million. Revenues are projected to be \$3.5-\$4 million for 2nd quarter, \$20-\$24 million for year, Courtney said. TiVo forecast adding 180,000-220,000 subscribers this year to bring total to about 350,000 by Jan. 2002, Ramsay said. TiVo ended quarter with \$71.7 million in cash and investments in addition to \$50.7 million in restricted funds stemming from agreement with AOL Time Warner.

TiVo's stock price soared after news that it was granted broad PVR patent. It closed up \$3.50 at \$8.50 on May 24 and rose another \$2.81 to \$11.31 in early trading on May 25 before ending week at \$11.21.

RecordTV.com, which briefly offered consumers ability to record TV programs and play them back online, is selling its assets as result of legal and financial troubles. RecordTV had hoped to avoid courtroom battles that had brought down similar services and last month it agreed to pay MPAA \$50,000 to settle copyright infringement suit. RecordTV also agreed not to record or showcase any works by major studios without permission. "We were kind of in a catch-22," RecordTV CEO David Simon told CNET News.com. "We couldn't raise funding because of the legal issues... but couldn't also fight the lawsuit without raising the funding."

THOMSON TO SHUT SCRANTON PLANT: Thomson will close Scranton, Pa., TV tube plant in Aug. in cost-cutting move aimed at preserving its position in price-competitive direct-view market.

Scranton factory, which employs 1,070, produces 27" direct-view tubes and has annual capacity of 2.5 million tubes. It will close Aug. 24 as production shifts to Thomson's Marion, Ind., factory where capacity will be increased to 14,000 units per day from 12,000 by year-end, Thomson Americas Tube Operations Vp Thomas Carson said. With addition of 27", Marion's annual capacity expands to 4 million tubes from 3.3 million, he said.

Eventual goal will be to move all 27" production to Thomson's new factory in Mexicali, Mexico, by mid-2002, Carson said. That plant is scheduled to open in July and start production with 32". But 32" line has been retooled to also accommodate 27" late this year if Marion facility needs extra capacity, Carson said. Dedicated 27" line will consist of equipment taken from Scranton plant, he said.

Closing of Scranton factory marks 2nd phase in project Thomson started 2 years ago to improve productivity by combining jobs and "reducing the non-value-added activities," Carson said.

"We opted for the Scranton closure because it's a plant that doesn't have a lot of product diversity," he said. "The difference between Scranton and Marion is that Marion has a lot more diverse a product portfolio."

In deciding to eventually move 27" production to Mexico, Carson conceded that decision was based on "cost differential" between operating plant in Mexicali and Scranton. "It was a big gap that we couldn't ignore in terms of helping us improve our cost structure," Carson said. Boosting production at Marion factory also "helps the overall cost per unit," he said.

Scranton factory, which opened in 1967, produced 25" tubes for many years before shifting sole focus to 27."

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Write-once DVD+R blank for DVD+RW recorders will be playback-compatible on rival DVD-RAM and DVD-RW formats as well as DVD-Video players, Philips Mgr.-Digital Platforms Chris Buma told us last week. DVD+RW format won't use write-once DVD-R discs standardized by DVD Forum, he said. Main technical differences between DVD+R and DVD-R are pregroove information, he said. First DVD+R blanks might not be available at hardware's summer introduction but should follow soon, Buma said. Price difference wasn't available. But Buma said: "Fundamentally, there is not a great difference in manufacturing cost, but there are more manufacturers equipped to do DVD+R." DVD+RW Alliance at first seemed to eschew idea of write-once media, but reversed opinion after March CEBit show in Germany.

Latest addition to Logitech's trackball/mouse line is cored version of its TrackMan Wheel with new metallic silver finish, shipping at \$39.95. It said its best-selling trackball — Marble Mouse (\$29.95) — was being updated to same metallic finish. TrackMan Wheel features 2-button design with scroll wheel it said provided quick and easy scrolling for all applications and for navigating Web.

Retail Salaries: Circuit City Chmn. Richard Sharp's annual salary declined to \$700,296 in 2000 from \$991,550 as he handed over day-to-day management responsibilities to CEO Alan McCollough, but he also received \$1.4 million bonus and options for 200,000 shares. At final year-end, Sharp owned 1.5 million shares, down from 2.5 million (1.2% of those outstanding), company said in SEC filing. McCollough was paid \$928,469, up from \$712,219 and received \$285,000 bonus and 2 million options. McCollough currently owns 369,013 shares, up from 329,113. Top Circuit City shareholder was Capital Group International with 13.1 million shares (6.4%), followed by Mellon Financial and Oppenheimer Fund at 5.9% each...

Best Buy CEO Richard Schulze's salary increased to \$1.05 million from \$1 million year earlier but bonus fell to \$1.17 million from \$1.55 million. He received options for 400,000 shares and remains largest shareholder with 35.6 million (17%), down from 37.2 million (18.5%) year ago. Pres.-COO Bradbury Anderson was paid \$766,500, increase from \$730,000. Anderson's bonus fell to \$489,591 from \$679,247, but options jumped to 160,000 from 60,000. Second largest shareholder was FMR Corp. with 21.2 million shares (10.2%). New shareholder was former Musicland CEO Jack Eugster, who received 156,446 shares and seat on BB's board as result of sale of chain to CE retailer earlier this year... **Ultimate Electronics** CEO Edward McEntire's salary remained flat at \$325,000 in fiscal 2001 and he received \$143,005 bonus, down from \$494,486. Pres.-COO David Workman was paid \$325,000 salary and \$143,005 bonus against \$300,000 and \$474,795 year earlier. Chmn. William Pearse remained top shareholder with 1.8 million shares (17.2%) as McEntire increased stake to 158,032 shares (1.42%) from 132,225 (1.22%). Workman reduced stake to 92,066 from 163,667 (1.51%). FMR was 2nd largest shareholder with 1.6 million (14.9%)... **Harvey Electronics** Pres. Franklin Karp received \$138,000 salary in fiscal 2000 and \$60,000 bonus, up from \$126,000 and \$5,000 year ago. Chmn. Michael Recca was paid \$108,000 and \$15,000 and remained largest shareholder with 405,078 (11.9%) up from 343,298 (9.3%) year earlier. Karp increased stake to 179,500 (5.2%) from 112,833 (3.1%).

Latest retail chain to announce policy to prevent youngsters from buying "Mature" (M)-rated videogames is Circuit City (CC). Spokesman told us last week that, starting next month, cashiers at company's stores will check identifications of customers suspected of being under age before they will be allowed to buy M-rated games, as well as R-rated videos and music with parental warning labels. He said: "We have always and continue to believe that parents have the responsibility and the final authority [to decide] what is appropriate entertainment for their children. We just felt this was the right thing to do and the policy is in support of that. We're not trying to take their place." Although much of recent controversy about violent entertainment's getting into hands of youngsters has centered on videogames, he told us CC decided to include movies and music in policy as well because company "wanted to be consistent." Spokesman said policy would be implemented once signage explaining it was in place at CC's stores. Signs probably will be posted in first week of June, he said. CC's new policy was hailed by Ill. Attorney Gen. Jim Ryan last week.

Kodak will retire its landmark Kodachrome 25-ISO slide film later this year. Company said decision was result of slumping sales for ISO-25 stock with market acceptance of improved resolution in faster 64- and 200-speed variants. Kodachrome was world's first color transparency film, making debut in 1936 as ISO-10 speed for stills.

HITACHI DROPS HDTV COMBO: Hitachi, which struggled to bring 61W HDTV with DirecTV receiver to market, is dropping product and will focus solely on HD-ready sets.

Hitachi had planned to bring 61W (\$4,999) with DirecTV Plus receiver to market in 1999, but delays in integrating hardware pushed delivery into 2000. With departure of 61W, Hitachi will lack integrated HD set this year, but is likely to return in 2002, Mktg. Dir. Leo Delaney said.

"We met our production goals [for 61W], but those were relatively modest because it's a high-end product," Delaney said. "It was an important engineering issue to become familiar with that level of integration so that when we do the work in the future of putting more feature content into HD product we have some know-how."

In seeking to strengthen position in HD-ready, Hitachi expanded line to 9 models from 6 and added several new features including high-end 61W (\$3,999) and 53W (\$3,499) rear-projection sets with 6-element lens and new Wide Neck 7" tubes. Latter increases diameter of neck to 36 mm from conventional 29 mm to increase control over electron beam's shape, size, focus. Sets also use 3rd-generation D3VirtualHD digital signal processor that contains advances over predecessor including ability to upconvert to 540p from 480p. It also has 8-point motion detection vs. 3-point year ago.

Aside from major push in projection TV, Hitachi's line was notably thinner than year ago. DVD player lineup consisted of 2 models (\$179-\$199), down from 5 year ago. Step-up is CD-R compatible and has MP3 playback. There were no progressive scan models and DVD-RW and D-VHS recorders remained "under study" with no scheduled release date. Hitachi had long championed D-VHS, at one point introducing combo recorder/satellite receiver. Gone from line is combo DVD player/CD recorder (\$749).

"Our primary business is projection TV and we will have 2 models of DVD largely to accommodate retailers who want a fuller line," Senior Product & Mktg. Manager William Whalen said.

Ultravision Digital projection line will consist of two 61W sets (\$3,499-\$3,999); two 53W (\$2,999-\$3,499), single 43W (\$2,199). Widescreen line will be complemented by standard 4x3 sets in 61" (\$2,999), 53" (\$2,499) and two 43" models (\$1799-\$1,999). Last 43" is designed to compete with other entry-level HD-ready models including Panasonic's 47W at \$1,999. Standard sets have 5-element lens and 24 w x 2 speaker system.

Topping TV line is 55W rear-projection set (\$12,999) based on Texas Instruments' Digital Light Processing (DLP) technology. Set has three 0.78" DLPs and 10-element lens, 1,280x720p resolution, 350 lumens, 500:1 contrast. Hitachi had planned to ship product last Dec., but postponed it to finalize product and delivered limited amount this spring.

"It's the first time for production of this [DLP] set and we were sorting out [picture] adjustment issues," Delaney said. "Most of it is related to Hitachi's Q&A process."

Hitachi also is carrying 42W plasma display panel (PDP), but has no immediate plans for 37" or 32W panel it markets for professional applications and in Japan, respectively. Hitachi tested 42W PDP year ago, but didn't bring it to market.

Dropped from TV line is 52" LCD rear-projection set (\$4,999) that was first shown in 1999 (TVD Jan 11/99 p18) and had single 1.6" panel with 800x600 resolution. "We just weren't successful with it and the other technologies [CRT, DLP and PDP] have better potential for high-resolution displays," Delaney said.

Majority of 27-36" direct-view sets will be carried over at \$479-\$1,199. Lone new pieces are 36" (\$1,799) and 32" (\$1,499) multimedia monitors due in fall. Shorn from multimedia line-up is 27". Multimedia monitors have 800 lines resolution, 3D Y/C comb filter and 10 w x 2 front firing speakers.

Considerably downsized were camcorders and VCRs. Camcorder lineup is headed by DVD-RAM model that shipped in Jan. at \$1,999, but has 3 other units vs. 8 year ago. Hitachi is shipping 2 Sony-sourced Digital 8 camcorders (\$599-\$699) and single Hi8mm model at \$399. Hitachi, like Sony, is discontinuing standard 8mm models.

VCR line was whittled to 2 units from 7 year ago. It consists of two 4-head hi-fi models (\$79-\$99), step-up adding faster rewind time and VCR Plus.

Roxio will introduce DVD burning software for PCs in 2002 as it seeks to capitalize on market created by its Easy CD Creator for Windows and Toast for Macintosh. DVD recording software will be offered late this year for professional applications and moved into consumer market in first half of next year, COO Thomas Shea said. Among applications envisioned for recording software is data backup and using photos and video to create personalized DVDs, he said. Pricing wasn't available, but Roxio's top-end Easy CD Creator 5 Platinum sells for \$79. Roxio signed agreement with Hewlett-Packard last week to include Easy CD with CD-RW-equipped Pavilion desktop PCs. Roxio also reported 4th quarter pro forma net income dropped to \$4.6 million from \$8.7 million year ago after it took \$2.6 million charge for stock-based compensation. Revenue rose 23% to \$36.3 million on strength of 120% gain in retail sales. OEM sales increased 2%. OEM accounted for 58% of revenue in quarter and retail 42%, Shea said. OEM and retail will draw even next year, he said. Increased retail sales cut gross margin to 79% from 82%. Roxio said it had 70% of market for CD burning software and expected to have installed base of 70 million by year-end. In quarter, Easy CD Creator generated 95% of Roxio's revenue, while its GoBack PC system recovery software represented 5%.

Rent-Way (RW) said noncash negative adjustments stemming from accounting scandal uncovered last fall would total \$127 million, more than double previous estimates. RW originally put accounting adjustments at \$52-\$62 million. About \$15 million of total is listed as additional year-end audit items unrelated to investigation. Adjustments will be made to full-year 2000 and 1999 results, stretching further back than originally believed. RW officials first said alleged fictitious entries in financial statements were confined to 3rd quarter of 2000 fiscal year. Company expects to release much-delayed 10-K for fiscal year ended Sept. 30 in June. Separately, RW said 2nd quarter revenue jumped 17.4% to \$174.8 million from \$148.9 million... **Rent-a-Center (RAC)** has priced public offering of 3.2 million shares at \$42.50. Offering consists of one million primary shares and 2.2 million held by selling shareholders. RAC will use \$39.7 million from net proceeds to pay down debt.

ULTIMATE ADDS PLAYSTATION: Ultimate Electronics, taking its first stab at videogames, is testing sales of PlayStation hardware and software at 5 Phoenix-area stores and plans to roll it out chainwide by fall, Pres.-COO David Workman said.

Colo.-based chain, which operates 37 stores in 10 states, is carrying PlayStation One (PS One) and 2 (PS2) videogame consoles as well as selection of 100 titles, Workman said. Mix is about 80% PlayStation 2, 20% PS One, latter being offered largely because it's requirement of distribution agreement with Sony, he said. When PlayStation is chainwide, title selection will increase to 150 titles, Workman said.

Ultimate's push into PS2 is something many specialty CE retailers considered and then abandoned last fall in face of console shortages and what many deemed to be lack of interest by Sony Computer Entertainment America (SCEA), although SCEA Senior Vp Jack Tretton told us his company was willing to sell consoles to CE retailers willing to also carry line of software as well. CE retailers were attracted to PS2's DVD functionality, which had proved to be strong selling feature in Japan, although some consumers have complained of problems playing at least certain DVD movies in console.

Ultimate has been "encouraged by the results" of Phoenix test thus far and shortage is no longer problem, Workman said. "This could broaden our youth appeal," he said, adding: "We think about what this could mean in the future when there are ways to buy games other than off the retail shelves."

Chain has no plans to carry Xbox or GameCube along with PS2 in fall, but "we'll leave that option open" in future, Workman said.

At same time as it's beginning to sell PlayStation, Ultimate also is planning to reduce its inventory 4-5% on same-store basis by 3rd quarter in eliminating "redundant" products, Workman said. Ultimate also is "revising" ad strategy to focus more on its "selection of product" than price, he said. First ads of new campaign will break in late June, he said. Ultimate also is eliminating some costs, including investments in Internet.

Ultimate unveiled cost-cutting plans and PlayStation test in reporting that first-quarter net income rose to \$1.69 million from \$1.55 million year ago on 21% gain in sales to \$115.1 million. Same-store sales were flat. Satellite systems and TVs remained strong sellers and increased as proportion of Ultimate's business to 35% of revenue from 30% year ago. Audio declined to 20% of revenue from 22% and mobile electronics fell to 10% from 12%. Gross margin slipped to 30.9% from 31.3% due partly to increased sales of lower priced DBS gear.

While CE manufacturers have dropped entry-level pricing for digital TVs (DTVs) to \$2,000 range, Workman said he didn't expect further price erosion this year. "I don't think manufacturers want to grab market share at the expense of lowering prices," he said.

In other categories, Ultimate "is well on its way" toward goal of averaging sales of 60-90 units per month of plasma display panels (PDP) by year-end, Workman said. It's carrying 6-7 PDPs per store, he said.

Chain remains on target to open 8-10 stores in current fiscal year, including those in Phoenix, Oklahoma City, St. Louis, Minneapolis.

Harvey Electronics said 2nd-quarter sales increased 6.6% to \$9.1 million on 2.6% rise in same-store sales. Revenue was affected by April sales, which rose 5.6% on less than 1% gain in same-store sales. While results from new Eatontown, N.J., outlet have been "encouraging," partial closure of N.Y.C. store due to renovations "negatively affected" revenue in April and May, Pres. Franklin Karp said. Renovations are expected to be completed by July. Custom installation business increased to account for 37% of \$20.6 million in sales for 6 months ended April 28 from 29% year earlier.

Sony Computer Entertainment (SCE) and RSA Security announced alliance last week to enable secure Internet communication and data storage on PlayStation 2 (PS2). SCE said it would incorporate RSA's BSAFE SSL-C encryption software in PS2 so gamers in near future could conduct secure Web entertainment, browsing and online transactions. Sony said it would incorporate RSA's encryption software to enable privacy of data stored on PS2's upcoming hard disc drive unit. RSA's software also will be included in software development kit used to create Internet-based applications for PS2, companies said. Explaining why his company signed deal with RSA, SCE Senior Vp-Chief Technology Officer Shinichi Okamoto said: "Security is one of [the] most important issues in the networking business. By adding RSA BSAFE encryption software, which is one of the best security solutions in the industry, to the PS2 platform, we can provide our customers with a highly secure network for both content distribution and trusted online communication." RSA said its software already was being used in Web browsers, wireless devices, commerce servers, mail systems, virtual private network products.

GTR Group terminated agreement that called for Brampton, Ontario, company to sell its Games Trader value-priced videogame business and related infrastructure to SwapIt. GTR said it "was unable to reach acceptable financial terms with SwapIt." GTR reiterated its previously announced strategy to redeploy its assets and focus on its Mad Catz accessory subsidiary. GTR Interim Pres.-CEO Morris Perlis said: "The recent success of Mad Catz at the Electronic Entertainment Expo (E3) confirmed our belief that the 3rd party peripherals business in which Mad Catz is a leader is poised for substantial growth over the next few years. In order to maximize this opportunity, we intend to rivet our attention and focus our resources on Mad Catz."

Princeton Graphics (PG) is negotiating licensing agreement for Ch. 1's TV-based Internet access service with goal of finalizing pact by Infocomm trade show in June, sources close to company said. Identity of potential licensee couldn't be learned, but was believed to be non-CE company interested in entering consumer market. Pact would involve licensing of software platform including graphical user interface, but licensee would have to find own source for assembly as well as components including TV tubes, source said. Meanwhile, PG has started shipping 36" set (\$3,499) equipped with Ch. 1 service and featuring National Semiconductor's Geode processor, 800x600 resolution, 56-kbps modem. Scheduled to follow are 32" and 27" models in July-Aug. at \$1,799 and \$899, respectively. New 27" will be sold under Sylvania brand. Princeton has received first 20 units of 32" from pilot production, source said.

Japanese game makers Enix, Namco and Square are taking up to 5% stake each in one another "to promote cooperation as development costs rise," Tokyo report said.

SCEA CLARIFIES PS2 GAME NUMBERS: Sony Computer Entertainment America (SCEA) clarified number of titles that will be available for PlayStation 2 (PS2) this year, reducing number of games to be released for rest of 2001 to 120 for total library of 200.

At its Electronic Entertainment Expo (E3) news conference in L.A., SCEA Senior Mktg. Vp Andrew House seemed to suggest that 200 new games would be released through end of year, increasing total to 280 (TVD May 21 p11).

But several publishers we talked with said SCEA is now pushing 3rd party publishers to boost quality of new PS2 games, warning that games not up to new higher standard in terms of both graphics and gameplay wouldn't be approved. "Sony had let some PlayStation 2 games slide by because they wanted a lot of titles for the launch, but now they're telling us to push the polygon count so they look at least as good as the games for the Microsoft Xbox," a publishing source told us.

SCEA Senior Sales Vp Jack Tretton conceded approval process had changed somewhat but suggested focus now was more at beginning of development. "It's easier to get your product, once it's approved, through the pipeline, but we are making the process for concept approval a little bit more involved," he said. "We need to know a lot more about what it is you are planning on doing [as a game maker] and make sure there's a quality game there. Once you get the concept approval then I think the process will be streamlined, but I think the process of approval will be a little bit more involved because we wanted to make sure that good quality games are getting approved."

Tretton told us slight change in approval process shouldn't affect number of titles being released: "I think it ensures that developers don't go down the wrong path too far before they realize they are headed in a direction that we may not think is in the platform's best interest."

But publishing source told us SCEA was tightening up approval process at both concept and finished product stages, adding: "We've got 3 or 4 games now that we're not sure are going to make the cut."

Somewhat hidden among all E3 hype was fact that retail sales for year to date have been disappointing. Tretton said SCEA sales were "actually running a little bit ahead of last year," but others were saying that PS One software sales had been especially disappointing. Part of problem has been game pricing, which has plummeted sharply despite SCEA's continuing to bring out \$39.95 first party games. One source said certain PS One new releases were expected to wholesale for as little as \$2, while many 3rd party publishers were resigning themselves to bringing out games for \$9.99 MSRP.

"I can honestly say retail has made me very nervous about it," THQ Licensing Vp Germaine Gioia told us: "When you look at how off their numbers are in some cases, I think PlayStation One has slowed more dramatically than retailers would like. There are a lot of people at retail who are very nervous about how much stuff they have in the channel."

While retail market overall should get boost when Nintendo's Game Boy Advance appears June 11 in U.S., many are eagerly waiting for SCEA to kick off its \$250 million marketing campaign for both PS One and PS2.

Despite retail situation, SCEA continued to dominate game market with PS One and 2 accounting for 64% of all retail dollars, Tretton said.

One publishing source said: "Sony has a lot of great games coming out. They [have] just got to raise the consumer interest."

Troubled Grundig, Germany's largest TV maker, saw 2000 profit tumble 87% and is cutting jobs with forecast of further losses this year. Company said 2000 net income fell to 2 million marks (about \$880,000) from 15.4 million marks in 1999, despite 6.3% sales increase to 2.84 billion marks (\$1.25 billion), but CE product prices declined 3%. As result, Grundig will retrench by offering smaller product selection, cutting jobs and some manufacturing operations. Nuremberg-based company said it would focus on higher margin DTVs and DVD recorders in hope of making "small operating profit" next year. It will stop TV set production at its HQ but continue manufacturing tuners and moldings there. Change will reduce German work force by 900 to 2,000, with rest of 5,000 outside of Germany, including Vienna plant where TVs will be made. Grundig said first-quarter 2001 sales dropped 10% from year-ago period, but didn't reveal details or degree of loss it expected this year. Formerly family-owned company once had substantial investment from Philips, but Dutch CE giant divested that in late 1990s.

Video hardware sellthrough plummeted in April, said NPD Intelect research firm, which tracks consumer sales through retailers. It said April sales of combined video product categories showed "a very large dollar decrease" of 15.1% compared with April 2000. In comparison, March showed "very small dollar decrease" of only 1.06%. Sales of all major video products declined except TVCR combos and newer DVD and PVR categories, NPD Senior Video Analyst Tom Edwards said. Lower average selling price of each category probably had slight effect on April decline, but 15.1% drop now can be considered negative indicator when compared with national economic conditions, Edwards said. He said retailers had not significantly changed their merchandising plans or revised their promotional calendars.

Marilyn Monroe's 75th birthday this week (June 1) will see spate of her movies released on DVD. Fox Home Entertainment on May 29 ships *Marilyn Monroe: The Diamond Collection* comprising *The Seven Year Itch*, *Gentlemen Prefer Blondes*, *How to Marry a Millionaire*, *No Business Like Show Business* and *Bus Stop*. Digitally restored and remastered movies are available individually (\$24.98 each) but boxed set (\$99.98) also includes DVD of documentary *Marilyn Monroe: The Final Days* that airs June 1 on American Movie Classics. It includes first release of edited reconstruction of film *Something's Got to Give* that hadn't been completed at her Aug. 5, 1963, death. Reconstruction was culled from 500 min. of footage. Other Monroe classic, *Some Like It Hot*, was released on DVD by MGM last week.

Zenith Electronics will begin \$30 million ad campaign in July promoting new line of digital products, National Advertising Dir. Samuel Caputo said. Two 30-sec. spots, which will air on network affiliates and national cable in prime time and early morning slots, highlight Zenith LCD monitors and plasma display panels (PDPs). TV campaign will be accompanied by one targeting more than 20 magazines including *ESPN*, *GQ*, *Spin* and others, Caputo said. Less clear is whether Zenith will sponsor HD programming in upcoming TV season. Spokesman said no decision had been made. Company sponsored some CBS-TV movies last season.

PS2 BOOSTS EB SALES: Electronics Boutique (EB) credited strong sales of PlayStation 2 (PS2) hardware, software and accessories for contributing to 14.3% increase in comparable-store sales in company's first quarter ended April 29.

EB said revenue for quarter jumped 18.7% to \$178.90 million from \$150.56 million year ago but it reported loss of \$1.42 million (-6¢ per diluted share), reversing \$2.4 million (11¢) profit. Despite loss, EB said excitement created at Electronic Entertainment Expo (E3) in L.A. "bodes well for fiscal 2002."

In conference call with analysts last week, EB Pres.-CEO Joseph Firestone said company's growth in quarter reflected "a strengthening videogame market" that was supported by "continuing strong demand for Sony's PlayStation 2 and the ramp-up of related software sales." He said that while first and 2nd quarters historically were slower periods for industry, company was on target to achieve record sales and improved profitability for fiscal 2002, with full benefits to be realized in 2nd half. He said catalysts for growth would be upcoming rollouts of Game Boy Advance (GBA) June 11, GameCube Nov. 5, Xbox Nov. 8.

Strong PS2 results in quarter were partly offset by decreases in sales of Dreamcast, Nintendo 64 and PlayStation One software and Pokemon trading cards compared with same quarter year earlier, Firestone said.

In same conference call, EB Senior Mds. and Distribution Vp Jeffrey Griffiths said company had been preselling GBA for 3-4 weeks and there "appears to be a high level of interest" in it. But he said EB was trying to match what it was preselling with number of units it expected to receive at start to avoid what happened with PS2 last year. Regardless, EB said not surprisingly that it expected initial supply wouldn't meet demand for GBA.

On PS2 front, Griffiths said demand for console in last quarter continued to exceed supply until 2nd week of April. Since then, he said, EB has been receiving enough supplies to have inventory on its shelves "on a regular basis."

Breaking down revenue in quarter by category, EB said videogame software represented 37%, down from 45% in same quarter year ago; videogame hardware 23%, up from 7%; PC games 16%, down from 19%; education product flat at 1%; PC productivity 1%, down from 3%; accessories 15%, down slightly from 16%; all other categories 7% this year, down from 8%. Company's software-hardware tie ratio in quarter was 4.7:1 for game systems, Griffiths said, and company was "on target" to reach goal of 8:1 for year.

Demand for all of upcoming game systems seems to be out there, company said. Griffiths said that based on what he saw at E3, EB also was "extremely confident that Nintendo will launch [GameCube] on time and we are almost extremely confident that Microsoft will launch [Xbox] on time." He said EB had no current plans to sell GameCube and Xbox bundles with software. But he admitted that plan might change if allocations for those systems were "scarce." Griffiths said company would continue to bundle products online because that had proved to be successful for EB.

Retailer also said in conference call that it had online sales of \$7.7 million, more than double \$3 million year ago. It also said that cost of goods sold as percentage of net sales edged up 2.2% in

quarter, largely because of increased sales of lower margin videogame hardware and lower sales of higher margin Pokemon products. Company said increase was partly offset by lower freight costs as percentage of sales, which it attributed in part to new inventory management systems installed by EB in middle of last year and to higher average cost per unit shipped. EB said operating income dropped \$5.8 million in year, largely because of lower gross margins on sales and increased selling, general and administrative expenses associated with additional store base. As of May 5, EB operated 763 stores, up from 628 year ago.

EB said it was "on schedule to open at least 175 new stores in fiscal 2002 in the countries of Australia, Canada, Denmark, Norway, New Zealand and the United States." It said it expected 2nd quarter sales to jump to \$156 million on more comparable-store sales, openings of additional stores, continuing consumer demand for PS2, debut of GBA. But EB said it still expected to report another loss — this time in range of 21-24¢ per diluted share.

For fiscal 2002, EB said it expected improved profitability over fiscal 2001 because of strong 2nd half. It already had predicted sales for year would leap 30% to \$1 billion. It expects 60% increase in year-over-year sales in videogame category — most of it via 4 main next-generation systems: GBA, GameCube, Xbox, PS2.

Nintendo income surged to ¥96.6 billion (\$806 million) for year ended March 31 from ¥56.1 billion year ago, reports from Japan said last week. But revenue dropped 13% to ¥462.5 billion (\$3.9 billion) from ¥530.7 billion. Associated Press said Nintendo earnings received ¥66.34 billion (\$554 million) "boost from currency fluctuations." Looking ahead, Nintendo predicted group net profit of ¥80 billion (\$432 million) for fiscal year ending March 31, 2002, on ¥580 billion (\$4.8 billion) sales and operating profit of ¥120 billion (\$1.2 billion). Earlier in week, Sega said its group net loss widened to ¥51.73 billion (\$420.6 million) for its fiscal year ended March 31 because of costs related to its stopping production on Dreamcast console. Company had reported ¥42.88 billion loss year ago. Sales dropped 28% to ¥242.9 billion from ¥339 billion. For current fiscal year, Sega expects to report its first profit in 5 years on its new strategy of providing videogames on 3rd party basis for Microsoft, Nintendo, Sony.

Sony leads in DTV market share with 29%, according to composite of sell-through figures from Cahners In-Stat and NPD Intelect reported last week by *N.Y. Times*. In 2nd place is Hitachi at 22%, 3rd is Mitsubishi with 19%. Others are Toshiba (13.1%), Panasonic (8.7%), RCA (2.7%), Samsung (2.3%), Pioneer (2%) Philips (0.5%), Sensory Science's Loewe Opta brand (0.3%). Figures include widescrreen (16:9 ratio) DTV-ready monitors and sets with integral DTV decoder.

"Digital Rights Enforcement" is topic of roundtable to be hosted by Internet Security Conference (www.tisc.com) Wed., June 6, at L.A. Century Plaza Hotel. Topics include Digital Millennium Copyright Act and Secure Digital Music Initiative. Panelists include legal and technical experts in cryptography and digital copyright enforcement — 800-798-2928 or 408-354-2500.

Best Buy received permission from authorities to build new hq in Richfield, Minn., last week. It plans to relocate from current Eden Prairie base late next year.

CROUCHING TIGER COMING ON DVD: Region Code Enhancement (RCE) wasn't used on *Crouching Tiger, Hidden Dragon* DVD that Sony's Columbia Tristar Home Entertainment (CTHE) is shipping June 5 in U.S., company told us at briefing in N.Y.C. last week.

Sony Pictures DVD Center Project Supervisor Marshall Starkman told us company only uses RCE "spoiler" on selective basis.

As we reported, Sony first used RCE on DVD movie *The Patriot* last year with mixed results (TVD March 12 p16). RCE is supposed to prevent Region 1 N. American DVDs from running on players modified for all-region play. Discs that use RCE can be run on players whose regional code settings can be changed by remote menu, but shouldn't operate in decks that have been modified for "all region" or "Region 0."

However, effectiveness of RCE has proved to be variable so far and often depends on player brand and type of modification. Starkman said he believed that was main reason why company was being so selective when using it. However, he didn't indicate whether another reason Sony opted to pass it up this time might have been that Oscar-winning hit *Crouching Tiger* already had been released as Region 3 Asian disc and pirated versions have been readily available in places including U.K. (TVD April 23 p12).

Legitimate DVD version of movie has yet to be released on DVD in U.K. and other Region 2 countries. CTHE DVD Programming & Content Vp Michael Stradford told us he didn't know when title would be available in those countries, saying that Sony didn't handle video distribution in those regions.

Crouching Tiger director Ang Lee was on hand at last week's briefing, where CTHE showed off some of disc's special features, including Bravo "making of" documentary, *Unleashing Dragons*, as well as interview with actress Michelle Yeoh, audio commentary by Lee and exec. producer James Schamus, photo montage.

DVD is being released in widescreen format. Language options allow viewer to watch film in original Mandarin or English dubbed version (both in Dolby Digital) or dubbed in French (2-channel Dolby Surround). Disc also provides choice of English or French subtitles.

Lee, not surprisingly, said watching film in Mandarin with English subtitles was best way for American audiences to appreciate film, especially its performances. But he said English dubbing performed for disc was among best he had experienced. "I think it's good people have a choice" with DVD," he said.

Total online spending in N. America increased to \$4.29 billion in April from \$3.51 billion in March, latest Forrester Online Retail Index showed. However, CE category took hit, dropping to \$154.29 million from \$207.21 million. Also down were toys/videogame category, which fell to \$82.96 million from \$102.70 million; software, to \$106.36 million from \$135.83 million; videos, to \$66.47 million from \$81.32 million; computer hardware, to \$368.33 million from \$400.45 million. However, music saw slight uptick, to \$103.40 million from \$102.39 million. Report also said number of overall online buyers increased to 15.69 million from 13.35 million while average spending increased \$10 — to \$273.18 from \$263.07.

XBOX CRITICIZED AGAIN: Microsoft declined comment last week on separate reports in which Sony Computer Entertainment Pres. Ken Kutaragi and 3DO CEO William (Trip) Hawkins predicted Xbox would fail.

Hawkins was quoted in Bloomberg report as saying: "Microsoft looks clueless. If they are going to come into the market late, what are they going to do to change the world? They didn't do anything dynamic to shake up the status quo. They really don't know what they are doing." He also told Bloomberg that Microsoft might dump Xbox if company lost too much money on system and it might be less of problem to do that because Flextronics was building console, so Microsoft wouldn't have to worry about shutting down any costly factories of its own.

Meanwhile, Kutaragi was quoted in *Financial Times* as saying: "Microsoft was finished before it even got started. They have no games, [and] retailers in the U.S. are already disappointed." Same report quoted Societe Generale analyst as saying Xbox games Microsoft showed at Electronic Entertainment Expo (E3) in L.A. "were just extensions of PC games" and "nobody needs to buy an Xbox."

U.S. retailers have largely avoided saying anything negative — officially, anyway — about Xbox. But at least some analysts have expressed reservations about Microsoft's chances for success. Merrill Lynch report earlier this year said software giant had long road ahead of it before it ever would see any profits from Xbox (TVD March 12 p16) and Forrester games analyst predicted last year that Microsoft would be fighting losing battle (TVD May 22/00 p21).

From what we observed and overheard at E3, Microsoft's Xbox presentation failed to impress many industry observers present. Ability to come up with exclusive character franchises for Xbox is seen by many as crucial for Microsoft. Some game designers and others in industry have said Xbox's technology is most advanced in history and will allow for some of most eye-boggling games ever. But not a lot of that was on display at E3. And having best technology isn't always enough to win war, as Sony itself learned with its Betamax video home recording format.

But what many still say is in Microsoft's favor is company's deep pockets.

CD-R disc prices will climb to 26-27¢ per disc in current quarter and possibly continue rise in 3rd quarter, Taiwanese optical storage media producer CMC Magnetics said. Prices have risen steadily from 20¢ in April to 24¢ this month, it said. As prices rose, CMC's capacity utilization rate jumped to 60% in April from 40% in 4th quarter 2000 and is forecast to hit 100% in Aug. Market boom could last for 18 months, CMC Pres. Robert Wong said. CMC also signed agreement with Philips to reduce per-disc royalty payment to 35¢ from 45¢ and agreed to pay Taiyo Yuden 15¢ per disc in royalty fees. CMC Magnetics findings closely parallel those of Memorex-brand parent Memtek, which said per-disc costs for all vendors had increased 30% since end of 2000 (TVD May 7 p16). Result has been that many small and medium-sized manufacturers have shut down and blank CD prices are likely to increase at retail. U.S. market for CD blanks was just over one billion last year and was projected to increase to 1.46 billion this year.

Final "verified" attendance at Jan. CES was 126,730, 3.5% higher than original estimates, CEA sponsor said. Final tally was reached following CEA-commissioned audit by Expomark.

FOX INTERACTIVE TRIES NEW STRATEGY: Fox Interactive (FI) used Electronic Entertainment Expo (E3) in L.A. to clearly communicate its new business model and its desire to support all of game industry's new platforms.

FI had recently announced co-publishing deals with game makers Activision, Electronic Arts (EA), Vivendi Universal Publishing. In addition to spotlighting first titles that are part of those deals at E3, FI Pres. Steven Bersch explained to us how co-publishing deals were key to his company's new business model.

Bersch said that as part of new strategy, FI still handles production of its games — all of which are based on Fox's established film and TV franchises — while protecting integrity of those brands. FI's co-publishing partners are handling distribution and marketing of games.

What prompted FI to change its strategy, Bersch said, was that it saw "a lot of consolidation" taking place in industry. In process, he said, need to handle large slate of titles had become more important, as had ability to have larger staff to handle those titles — and "we weren't well-served in that capacity" before. With new business model, "we play to our strengths" while co-publishing companies "play to their strengths," he said, adding that it was "the perfect combination" — one that allowed FI to do "what we do best and [our partners do] what they do best."

Bersch said FI was "ideally suited to make great games." After all, he asked rhetorically, who knows how to handle *Alien*, *Die Hard* and *The Simpsons* better than company that was doing so all along? "We have tremendous expertise on the properties."

New titles FI demonstrated at its E3 booth included *Aliens: Colonial Marines* for PlayStation 2 (PS2), co-published by EA; *Aliens vs. Predator 2* for PC (co-publisher, Universal); *Die Hard: Nakatomi Plaza* for PC (Universal); *No One Lives Forever* for PS2 (Universal); *The Simpsons Road Rage* for PS2 and Xbox (EA); *World's Scariest Police Chases* for PlayStation (Activision). All but last, which is about to ship, will be arriving in 4th quarter.

Already shipping is *The Simpsons Wrestling* for PlayStation, which is part of FI's deal with Activision. Also already announced by FI were *Buffy the Vampire Slayer* for Xbox, co-published by EA, and *Cops* for Xbox, co-published by Universal. Ship dates for last 2 titles have yet to be determined. FI-Universal titles are being released under latter's Sierra On-Line brand.

Just before E3, details of EA-Fox deal were unveiled. Companies said deal was worldwide and multiyear, but didn't disclose terms. They said another original *Aliens* title for next-generation systems would follow *Colonial Marines*, but didn't say when. Another *Simpsons* title will follow *Road Rage* in 2002 for PS2, companies said.

As part of its shift in focus, FI is seeing its sales and marketing staff shrink to 5 from about 25, Bersch said. "Reductions are tough," he said, but he noted that company hadn't changed its game production staffing. FI, meanwhile, announced appointment last week of Michael Heilemann as technology dir. He's videogame industry veteran best known for his work on EA's top-selling NHL software franchise. Before EA, Heilemann worked at Dreamworks Interactive and Malibu Interactive (since acquired by Gametek).

Although execution of FI's new business model has proved to be "a lot of work," Bersch said company felt it was necessary: "I think [other] consolidations are coming [in the industry] and I think it's probably better to be at the front of that curve than be at the end of that curve."

Bersch told us his company had spent last 3-4 months concentrating on shift to new business model. With that now accomplished, he said FI had more time to focus on other things.

Although FI has yet to say officially anything about support for Nintendo's next-generation game systems, Bersch told us announcements would be coming on GameCube front and "we will definitely support" Game Boy Advance. "We're planning on supporting all the platforms," he said, and FI sees "the potential for 3 major console systems to exist at the same time." And while common perception among many in industry is that GameCube will appeal exclusively to young audience, Bersch said his company didn't necessarily agree. Although FI had made select games for Nintendo 64 in past, it sounded as if it could be expected to provide more support for GameCube.

Although FI has announced certain titles for only one platform, Bersch said it wasn't ruling out making versions of those games for other platforms. That decision, he said, will be based on "case-by-case analysis," adding: "Some things, we think, will be right for certain platforms."

New Apex Digital DVD player will read Kodak's Picture CDs, companies will announce this week. Parties were meeting last week on joint marketing and ad campaign for new model AD-5131, which ships in Sept. at \$299. Picture CD capability in 3-disc changer will enable consumers to view personal photos on TV using remote control for slide-show presentation, including with zoom function, Apex said. Microphone inputs for Karaoke function in AD-5131 also enable user to narrate presentation. Besides DVD and Picture CD, new model plays Video CDs, Super Video CDs, Music CDs, CD-R and CD-RW recordings, MP3-compressed and HDCD high-resolution recordings. Deck also is firmware upgradeable, Apex said. Consumers can register to win one by logging onto Apex Web site (www.apexdigitalinc.com).

NewKidCo International signed worldwide multiyear, multiplatform deal with Little League Baseball to ship 4 videogames in 2002. First 2 titles will ship for Game Boy Advance and PlayStation in spring 2002 — just as Little Leaguers are warming up for season, NewKidCo said. It said subsequent titles would be for GameCube and PlayStation 2. Games will be targeted at 6-14-year-olds and will employ Little League Baseball rules and regulations.

"**DTV Transition — Is Laissez-Faire Fair?**" is title of one-day CEA-sponsored seminar July 24 in Washington to probe and debate public policy issues of digital TV — CEA, Jenny Miller, 703-907-7079.

THIS WEEK'S YEN RATE

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

Electronic Entertainment Expo (E3) closed May 19 after 3-day run having drawn over 62,000 visitors and more than 400 exhibitors, promoters said. Unavailable at our Fri. deadline was exactly how much exhibit space had been sold this year and number of media attendees. E3Expo spokeswoman said that although exact number of attendees and exhibitors still wasn't clear, it appeared that there were fewer exhibitors than last year, largely due to consolidation among companies, but more non-exhibiting attendees. More than 62,000 attended last year's show as well, she said. Interactive Digital Software Assn. (IDSA) Pres. Douglas Lowenstein had told us before this year's show that less exhibit space had been sold, largely because of consolidation (TVD April 9 p11). Next year's show is May 23-25, 2002, in L.A.

Microsoft remained quiet last week on reason for departure of its 3rd Party Relations Dir. Kevin Bachus. Microsoft Games spokesman confirmed that Bachus had left but declined to give further information. He also said company "has no announcements regarding handheld games" at this point. Recent U.K. report had said Microsoft was looking to enter handheld game arena with its own device. Same report said Sony also wanted to do same, despite Sony Computer Entertainment's denials. Sony Computer Entertainment America Senior Vp Jack Tretton told us once again at Electronic Entertainment Expo (E3) in L.A. that his company was "still all about the console market" and had no plans to compete against Nintendo on handheld front.

Activision's E3 offerings included 25 titles for multiple platforms. Game maker announced it had obtained worldwide rights to develop and publish games for Nintendo's platforms based on animated TV show *Jackie Chan Adventures* from Sony Pictures Family Entertainment.

LSI Logic extended offer to buy chipmaker C-Cube Microsystems to June 8 from May 24. LSI now owns 45 million C-Cube shares, about 89%. Acquisition, valued at \$878 million when it was proposed in March, would see LSI exchange 0.79 of its shares for each outstanding C-Cube share.

Macrovision opened Taiwan branch office to expand its businesses in key markets of southeast Asia. Office will have jurisdiction for China, Hong Kong, Taiwan. It will be headed by Keith Lien, former head of game company in Taiwan.

Cree Lighting filed suit alleging that Nichia Corp. and its U.S. subsidiary were marketing semiconductor devices made from gallium nitride films in violation of Cree patent (No. 5,686,738). Cree said it was licensee of patent granted in 1997 to Boston U., which also is plaintiff in suit.

Valley Media said it was seeking hearing before Nasdaq panel to appeal ruling that its shares could be delisted if it didn't meet minimum requirements by June 25. Music and video software distributor said that under normal Nasdaq procedures, if panel grants hearing request, appeal could be set within 45 days and stock could continue to trade until final determination was made.

Sampo said its DTV and DVD lines now are carried by Fry's, Buy.com, 800.com and Home Shopping Network. Fry's sells Sampo DTVs in all its 18 stores. Buy.com stocks DTVs, DVD players and soon will add plasma monitors and digital cameras, Sampo said. Home Shopping Network offers Sampo digital camera while 800.com sells its DVD players. Sampo DVD660 tested well in our Dec. 25 lab report.

Consumer Electronics Personals

Bruce Albertson resigns as Iomega CEO-pres, no successor named immediately... **Sol Friedman**, ex-PMC-Sierra, joins Spatializer Audio Labs as chief technology officer... **Kevin Garretson**, ex-Allnet, named Escient eastern regional sales mgr... **Alan Lewis**, ex-Manning, Selvage & Lee PR agency, appointed Acclaim Entertainment PR dir... **Keith Lien**, formerly CEO at Taiwanese game developer E3 Interactive, joins Macrovision as gen. mgr. of its new Taiwan branch office... **Vijay Desai** resigns as Sage board level products vp-gen. mgr. to form smart panel module assembler Silicon Monitor... **Frank Baffi**, ex-Advanced Micro Devices, joins NXT as multimedia sales & mktg. vp... **Michael Uxa** advanced to national sales mgr. for new Consumer Products Group of Antenna Specialists... Appointments at MGI Software: **Rocco Rossi**, ex-beer.com, pres.-COO; **Kenneth McKenzie**, ex-DPS, CFO; **Uri Kozai**, engineering vp, replaces Israel Ben-Ishai as video development dir... **Michael Newman**, ex-GE and Intimate Brands, named RadioShack CFO, succeeding **Dwain Hughes**, who died earlier this year... **David Yuen**, ex-beenz.com, joins RealNetworks as vp-gen. mgr.-Asia Pacific region... **Michael Heilemann**, ex-Electronic Arts Canada, appointed Fox Interactive technology dir... **Catherine Fowler**, Konami of America sales dir., promoted to sales vp; **David Chen**, ex-Daily Radar, joins company's PR dept.

EON Digital Entertainment is gearing up to ship its 4th PC game in U.S. market — real-time strategy title *Z: Steel Soldiers* — June 15. It also is preparing to enter next-generation console arena and is "continuing to expand" its offerings, spokesman for London-based game publisher told us at Electronic Entertainment Expo (E3) in L.A. *Steel Soldiers* follows releases of *Airfix Dogfighter*, *Crime Cities*, *Mission Humanity*. Along with *Steel Soldiers*, EON showed variety of other upcoming games for first time at E3, including *Worms World Party* from Team 17 that will be ported from PC to Game Boy Advance and PlayStation in time for holidays, spokesman said. Also shown was *Groove Runner* (working title) for PC, PlayStation 2 and Xbox, which spokesman told us was "very early in development" and would ship for at least one of those platforms in first quarter 2002. He said new product line "solidifies [company's] stance in the North American market [and] shows they're here to stay."

Hitachi and Matsushita will collaborate to develop information services, home appliances and other related businesses, possibly including digital AV products, companies announced last week. Areas for working together include IC cards and other information service sectors; home network appliance systems based on "Echonet" (Energy Conservation and Homecare Network) system; and joint development of key components for home appliances, they said. Companies also will also study possibility of cooperation in digital AV business and production engineering areas, they said. Such efforts would combine Matsushita's digital manufacturing system with Hitachi's Engineering for Electronics Design and Mfg. Service (EDMS).

Disney has tech support site for DVD users (www.DisneyDVD.com/support). It includes title-specific information, such as where "Easter Eggs," other bonus features and layer-breaks are located on disc — as well as troubleshooting tips for specific titles. Site also has section where customers can report problem and receive response within 48 hours.