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AFFILIATES WARY OF ABC PLANS ON CABLE REPURPOSING: Several ABC TV affiliates tell us they're "deeply concerned" and "troubled" by any plans of ABC TV Network to repurpose prime-time programming on cable's Family Channel — network that parent Disney purchased 2 weeks ago from News Corp. for \$5.3 billion. While Disney-ABC haven't announced plans for reprogramming its new cable channel, upsetting to affiliates were statements by Disney Chmn.-CEO Michael Eisner and Pres.-COO Robert Iger at Pasadena news conference shortly after deal was announced.

At that time, Iger was quoted as saying Family Channel would become ABC II, while Eisner called recycling of network shows on cable "an insurance policy for the consumer" by ensuring that Disney-ABC could afford to continue to produce costly programming. He said that by adding basic, advertiser-supported cable channel and "over time rebranded Disney, you can see the dual ability between broadcast, cable and premium cable that gives our company." Responded affiliate: "That's very troubling for over-the-air broadcasting."

Two days after Family Channel deal was announced, ABC TV Network Pres. Alex Wallau held teleconference with TV affiliates' board in which he said Disney-ABC hadn't firmed up programming plans for its new cable offering. Affiliates' Chmn. Bruce Baker of Cox TV told us Wallau repeated that statement to him Thurs. As for other affiliates' saying they were "troubled" and expressing "concern" over Disney-ABC plans, Baker told us, "We don't know enough yet to be concerned... Our first concern is that ABC remains a strong network."

Affiliate board member Larry Patton, KSWO-TV Lawton, Okla., said he expected stations and network "to sit down and work out a mutually agreeable deal." However, another view expressed to us was that ABC's claim it "hasn't firmed up any plans is bullshit... Why else would they spend all that money if they don't know what they're going to do?"

Consumer Electronics

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U.S. TO GET 1.1 MILLION GAMECUBES by year end, Nintendo says. It plans to ship 500,000 consoles in Japan next month. (P. 13)

RENT-A-CENTER TO TEST DTV sales of Mitsubishi 46W in 35 stores in Dallas, Las Vegas and L.A. starting in Aug. (P. 14)

Adding to affiliates' unrest is fact that network has said nothing to them about programming plans for Family Channel. Said one: "Not a thing. Not a word. Nothing... I'm sure they have a plan, they just haven't shared it with us."

Ace in hole for affiliates may be that under 3-year agreement, which expires July 31, 2002, whereby affiliates agreed to pony up \$45 million annually toward cost of *Mon. Night Football*, ABC is limited in amount of prime-time programming it can repurpose for cable. Maximum is 25% for 6 months following broadcast, or until end of TV season, whichever comes first. Also under agreement, if ABC repurposes large amount of programming on Family Channel that results in profit, network is obligated to offer affiliates opportunity to participate in that profit. Affiliates also have "economic participation" in ABC's cable *Soap Channel* — up to 15% of net profits generated in any affiliate's market.

NETWORKS DEBUNK NASA CHARGES: "True motivation" of Network Affiliated Stations Alliance (NASA) in asking FCC to investigate TV network practices (TVD March 12 p1) was attempt "to persuade the Commission to dictate contract terms" that favored affiliates over networks, NBC charged. Big 4 TV networks all have responded to NASA petition — and all have said there was no substance to affiliates' charges. Original NASA filing (since amended twice) was "replete with unfounded charges that presented a distorted view" of network-affiliate business relations, NBC said.

Networks said if Commission decided to take up any part of NASA petition, it should do so in conjunction with FCC's reevaluation of network rules started in 1995. All 4 networks also cited numerous changes in competitive environment since original rules — many extension of old chain broadcasting rules for radio networks — were put in place. NASA claim that network practices "threaten localism... is a cynical ploy designed to insulate the affiliates' desire to be insulated from the rigors of competition by seeking inappropriate government intervention," NBC countered.

Viacom-CBS — which was treated much better than ABC, NBC and Fox in NASA filing — pointed out main complaint against it was on program preemptions and that despite NASA's "half-hearted attempts to suggest otherwise, CBS cannot remotely be thought to have violated" existing rules. Main purpose of affiliate program preemptions, CBS said, is for economic reasons and "they deserve no government protection." Prominent TV station groups behind NASA petition, said CBS, include "some of the largest and most powerful media conglomerates in the United States... These group owners are eminently able to negotiate for themselves and have no call on the government's help in doing so."

Disney-ABC told FCC what affiliates "really seek here..." is the creation of an unwaivable and unbounded right of absolute programming autonomy... whenever that would suit an affiliate's economic self-interest." On affiliates' complaint about networks (except CBS) interfering in station sales, Disney-ABC said nothing in existing rules gave affiliate "a nonnegotiated, government-guaranteed" right to sell network affiliation along with station. NBC also argued its review of affiliation contracts when station is sold is perfectly proper. Lack of Commission precedent for any of NASA's requests "is itself fatal to this petition," Disney-ABC said, and agency now is being asked "to promulgate a set of entirely new rules."

NASA petition is nothing but attempt "to drag the government into these private business negotiations over 'distribution of profits' in an attempt to gain an economic advantage," Fox TV Network told FCC. All 3 versions of NASA's request are "equally flawed," Fox said, with affiliates "hoping that at least one of its requests will gain enough traction to spur a Commission proceeding."

NAB is reviewing its options following last week's federal court ruling that broadcasters must pay royalties for AM/FM signals streamed simultaneously over Internet, Assn. said. NAB filed suit in U.S. Dist. Court, Philadelphia, after U.S. Copyright Office refused to exempt streamed broadcast signals from limited public performance right provision of copyright law. Broadcasters alleged that Office's rulemaking exceeded its statutory authority and asked court to declare that stations that streamed nonsubscription transmissions of their over-air programs were exempt from digital performance rights and were eligible for single ephemeral copy exemption of law. Court sided with Copyright Office, saying its ruling was reasonable, particularly given Congress's silence on issue. NAB said it was "disappointed" that "unique relationship" among broadcasters, record companies and consumers would be disrupted by decision.

DISH Network customers signing up in Aug. will be able to receive satellite TV at rate of \$9 per month for up to 118 channels, company said. Customers wanting to subscribe to deal must first purchase DISH Network's satellite TV system for \$199 or higher and subscribe to either their U.S. or Latino channels package for one year. Company said deal includes free installation and will mean \$462 of savings per customer. Promotion also is available with company's DishPVR 501 satellite receiver.

FCC has let pass deadline (Aug. 2) to appeal U.S. Appeals Court, D.C., ruling striking down 30% cable ownership cap. Cable Bureau Chief Kenneth Ferree said last week that agency within 2 months would file notice seeking comments on cap.

NCTA extended employment contract of Pres.-CEO Robert Sachs through Dec. 31, 2004.

PTC NETWORKS FAMILY HOUR SHOWS: There have been "huge increases" in coarse language (78%) and violence (70%) on TV networks in 8-9 p.m. (so-called family hour) over last 2 years, according to new study by Parents Family Council (PTC) released at Aug. 1 news conference in U.S. Capitol. In same period, sexual content has decreased 17%, but sexual language has become "far raunchier, with UPN by far the worst offender," CBS least, in airing 8-9 p.m. language unsuitable for children, Council said.

Time period formerly reserved for family-friendly programming has become "The Sour Family Hour" and situation has gone "from bad to worse" in last 2 prime-time seasons, Council said. At news conference in which Sens. Lieberman (D-Conn.) and Brownback (R-Kan.) participated, Council Pres. Brent Bozell said group was starting national campaign in effort to gain support from similar groups and public at large to put pressure on networks and advertisers to clean up their 8-9 p.m. programming.

Bozell said 650,000-member Council and its supporters would seek "one-on-one" meetings with network executives, advertisers and agencies in its drive for more family-friendly programming. Advertisers "are the ones who really get away with bloody murder," he said. "We will name names [of advertisers of raunchy programs] and we will name them often... We will publicly shame those advertisers who market and sponsor the violence, sexual raunch and vulgarity to our nation's children."

While Lieberman again stressed that he was against censorship in any form — as he did at Senate hearing last week on standardized voluntary ratings for all media (TVD July 30 p4) — he pointed to FCC fines of radio stations for indecent programs, adding: "Maybe it's time to appeal to the FCC... to use the power that it has" to crack down on televised indecency. But, said Lieberman: "We're not seeking censorship. We are seeking good citizenship... We are not asking the networks to whitewash their entire slate of programming, but just to restore a safe haven for children."

Council monitoring of 6 weeks of 8-9 p.m. programming in season just ended found UPN shows had 18.1 instances per hour of content it defined as unsuitable for children. NBC was distant 2nd with 9.1 such instances, Fox 7.8, WB 7.5, ABC 6.7 and CBS far down list with only 3.2. UPN also led in unsuitable language, with 5.6 instances per hour, while NBC led in unsuitable sexual material with 5.7 instances. Combined on 6 networks, Council said it recorded 8.41 instances of objectionable programming in family hour each day. While it found drop in sexual content, Council said much of today's sexual content "deals with such subjects as oral sex and pornography" — topics that "were rarely touched... a decade ago" even in 10 p.m. programs.

Citing Council's report, Brownback said "the family hour is on death watch... Violence, vulgarity and profanity in supposedly family hour programming has skyrocketed." Asking "how much worse can it get?" he said: "Unfortunately, it appears the networks are scrambling to find out... It's terrible. It's disgusting." He and Lieberman said their bill pending in Senate would provide antitrust exemption for networks to set up voluntary code.

In response to Council study, UPN said: "We strongly believe in the viewers' rights to make an informed choice about what they watch, which is why we clearly label every UPN program with a content rating." Other TV networks were slow to react, although day after news conference CBS moved reality show *Big Brother* to

9 p.m. from 8 p.m., effective Aug. 7, while saying move had nothing to do with Council's report. Bozell called CBS action "heartwarming... The other networks should practice similar discretion for the programs they air at p.m."

ABC official: "We were not provided with a copy of this report, so we cannot comment at this time." From Fox: "We've read it and we don't have anything to say."

Nancy Victory, nominee for NTIA dir., received friendly reception before sparsely attended, brief Senate Commerce Committee nomination hearing Aug. 1, despite recent discussions with govt. ethics officials about potential conflicts of interest. Only 3 senators were present: Dorgan (D-N.D.), Allen (R-Va.), Burns (R-Mont.). Victory, until recently attorney with Wiley, Rein & Fielding, told panel that in recent weeks she has met with Office of Govt. Ethics and White House ethics experts to discuss concerns about potential conflicts of interest. Any stock in telecom companies that she had once owned she no longer holds, Victory said in response to questions, particularly from Dorgan. "To the extent that there may be other stocks to sell," Victory said, she will do so. Among stocks that Victory and her husband Michael Senkowski, also Wiley, Rein & Fielding attorney, reportedly have owned included shares in Verizon, Motorola and AT&T. Companies are among those with interest in outcome of 3rd generation wireless proceeding. *Wall St. Journal* reported Wed. that Senkowski had told govt. ethics officials that he wouldn't represent companies that had business before NTIA as long as his wife held post there. NTIA is overseeing 3G policy decisions on spectrum such as 1.7 GHz occupied by Dept. of Defense users. Victory told committee that in discussions with govt. ethics experts, they went through, in detail, her and her husband's investments and personal relationships with industry companies. Victory said White House ethics experts identified only one matter that she would have to contend with, ultra wideband (UWB) proceeding. Wiley, Rein & Fielding has represented UWB developer Time Domain at FCC in proceeding. Victory's own past ties to wireless industry include work that she has done as outside counsel for PCIA. NTIA and FCC have been working through technical details of upcoming rulemaking on UWB that, aside from 3G, is among biggest issues that NTIA faces. Despite many questions about ethics and her stance on issues such as 3G, all 3 senators expressed intention to support her nomination. Dorgan asked her "are your intentions to be an activist over there" on broadcast ownership issues. He noted approvingly that former NTIA Dir. Larry Irving had taken up ownership issue every time it was raised by FCC. "I hope I have the opportunity to be an activist," Victory said. Victory was confirmed by Senate Aug. 3.

Wireless Communications Assn. told FCC Aug. 3 that competitive marketplace conditions for video programming "are worse than what existed" before 1992 Cable Act. Disagreeing with that was Comcast, which also filed comments on FCC annual report to Congress on competition. Assn. contended buying power of MSOs was reducing competition and cable programmers were "forced to deal with a single cable operator who has consolidated previously independent systems." Assn. also argued eliminating vertical ownership rules would expand cable's market power "with no countervailing benefit to the public." Comcast argued that competition for services was "mature, robust, and ubiquitous" and that cable operators' First Amendment rights must be protected. Comcast said it must compete with DBS, Internet and other content providers. It urged FCC to "tread lightly where competition is working so well." Commission will issue its report to Congress in early 2002.

BROADCASTING REGULATIONS IMPOSED: New requirements for converging media companies were set by Canada's federal regulator Aug. 2 while renewing licenses for country's 2 largest private broadcasters. Decision by Canadian Radio-TV & Telecom Commission (CRTC) mandates separate management structures for print and broadcast newsrooms when they are owned by same parent company. CRTC said goal was to preserve distinct editorial voices. Agency called for creation of neutral monitoring committee to ensure decision was followed.

In mandating separation, CRTC said it was "concerned about the possible loss of diversity of voices and the potential reduction in the number of distinct editorial voices available to the public in the system as a result of cross-media ownership and convergence." As condition of 7-year license, regulator ordered 2 broadcasters, CTV and Global, to "maintain news management and presentation structures for their conventional TV operations separate from those of their newspapers. TV news managers will not be involved in the management of any of their newspapers or vice versa."

Decisions on journalistic content for TV division are to be made solely by that division and news managers won't sit on editorial board of any affiliated newspaper. Commission said separate news management functions didn't require distinct newsgathering activities and "some cooperation" between affiliated TV stations and newspapers in newsgathering "would be permissible."

CRTC said broadcasters would be relieved of those conditions if they came up with acceptable industrywide code governed by Canadian Broadcast Standards Council. In hearings last spring, broadcasters had put forward statement of principles but resisted having them adjudicated by independent committee and imposed as condition for licensing. "My only fear is that this committee evolves into a censorship board," Global CEO Gerry Noble said. "Obviously, this wouldn't be what the commission is looking for."

Canadian content with on-screen ethnic diversity also was mandated and broadcasters were told they must hire visible minorities and make senior-level executive accountable for diversity practices. Canadian Assn. of Bcstrs. (CAB) must submit action plan by Dec. 31 on how broadcasters can ensure their services reflect "the presence and portrayal of the diverse groups they serve." CRTC's Exec. Dir. of Bcstg. Jean-Pierre Blais said: "What we want to move along is a mindset," adding that diversity practices were hard to measure.

Out of jobs in News Corp. acquisition of Chris-Craft (CC) TV stations are gen. mgrs. of C-C stations in L.A., N.Y. and Phoenix — cities where News Corp.'s Fox TV has obtained 2nd TV station. News Corp. closed Tues. on \$5.35 billion deal, which was approved week ago on 3-2 FCC vote (CD July 26 p3). News Corp. official confirmed that Fox gen. mgrs. in those cities also would take over former C-C stations. Losing their positions are David Woodcock at KCOP L.A., Robert Furlong at KUTP Phoenix and Robert Qudeen at WWOR-TV N.Y. Taking over for them (with current Fox positions) are David Boylan (KTTV L.A.), Kevin Hale (KSAZ-TV Phoenix) and James Clayton (WNYW N.Y.). C-C also is closing its Washington office, headed by Robert Giese. News Corp. acquisition gives Fox 33 TV stations and puts it well over 35% TV household cap (for which it has received temporary waivers from FCC). In separate action, Fox said it was swapping KSTU Salt Lake City and KABB San Antonio for Clear Channel's WFTC Minneapolis-St. Paul.

DBS IGNORING RURAL AREAS: DBS industry will leave behind most of U.S. TV stations when new spot beam satellites are launched, said study by Equal Airwaves Right Now (EARN), organization supported by 20 broadcast companies and groups. At least 2/3 of U.S. market (1,100 TV stations) won't receive local TV signals, said EARN study, *The Left Behind Project*. In news conference at National Press Club, group said study demonstrated why FCC should license competing services such as Northpoint. EARN Exec. Dir. Peter Pitts said "satellite giants" made decisions on must-carry "based on pure profit and politics" with no consideration of "public interest." He said policy on local TV carriage was "wrong."

EARN said satellite companies were focusing service on top markets. Satellite Bcstg. & Communications Assn. (SBCA) called EARN statements "totally unfounded, reckless and misleading." SBCA said organization was "clearly a front for terrestrial services" to influence policymakers. Charge that DBS companies made decisions "without a thought to public interest" was not only "absurd," it showed EARN had "little or no knowledge of how the video marketplace works," SBCA said.

Media Access Pres. Andrew Schwartzman said it was "hypocritical" for DBS companies to seek public support for program access and other forms of regulatory relief and then turn around and challenge constitutionality of Satellite Home Improvement Viewer Act (SHIVA) and must-carry regulations. Others supporting EARN findings included Benedek Bcstg., Consumer Federation of America, Eagle III Bcstg., Granite Bcstg., Gray Communications Systems, League of United Latin American Citizens, LIN TV Corp., National Assn. of Black Owned Bcstrs., Northpoint-Broadwave USA, Paxson Communications, Second Generation of Ia.

Comcast reported Aug. 1 2nd quarter earnings of \$35.2 million (4 cents per share) on \$2.29 billion in revenue. That compares with almost \$188 million in earnings (19 cents) same period year earlier. Company is adding subscribers while investing heavily in upgrades. "The cable division continues to deliver terrific operating performance and growth, even as we integrate new cable systems and continue to make significant investments in our cable infrastructure," Pres. Brian Roberts said. Comcast officials said they expected to have 2.2 million digital cable subscriptions and 950,000 high-speed data customers by year-end. It said it expected to invest \$1.75 billion in its infrastructure program this year. Company also stressed 15% domestic growth in earnings for QVC. It recently started QVC Japan. Company defended last month's unsolicited offer of \$40 billion for AT&T Broadband, which was rejected as too low, saying figure was far higher than what AT&T paid for cable unit. "The market has responded ... AT&T stock has gone up approximately \$13 billion post offer," Comcast Vp John Alchin said. He said 700 of AT&T's institutional investors also owned Comcast stock. Meanwhile, AT&T has asked Comcast and other companies interested in buying cable unit to sign confidentiality agreements, Reuters reported.

Paxson TV said it had entered into local marketing agreement with Hearst-Argyle-owned NBC TV affiliates in 4 markets (Pax TV station is listed first): Sacramento — KSPX and KCRA-TV; Orlando — WOPX and WESH; New Orleans — WPXL and WDSU; Greensboro-High Point, N.C. — WGPX and WXII. Pax TV also has "strategic alliance" sales agreement with NBC TV Network and several other NBC affiliates.

PAGON WANTS DBS SUIT DROPPED: Satellite industry should drop must-carry lawsuit and concentrate on “building viable partnerships” with local broadcasters, Pegasus CEO Mark Pagon told SBCA’s Satellite Bcstg. & Communications 2001 Convention in Nashville Aug. 3 in keynote speech. He said commitment to providing local TV signals to all markets was “inconsistent” with effort to deny local broadcasters their legally sanctioned right of carriage. “To say that it is not is disingenuous. That’s the way broadcasters, politicians and our own customers see it.”

Pagon said SBCA members were “deluding themselves” in thinking that wasn’t case. His comments were sharpest criticism to date of parent organization by member and came at time when some members such as Pegasus were seeking to distance themselves from restructuring of organization that led to departure of Pres. Charles Hewitt and Vp Andrew Paul.

“The critical element is that you have to build partnerships and relationships with broadcasters,” Pagon said: “The future development of American DBS business may come to resemble the European DBS landscape in which hundreds of U.S. broadcasters have their signals carried and even new content carried on DBS platforms.” Pagon said DBS companies might adopt interoperability standards throughout industry without being required to do so by govt.

Pagon predicted satellite would overcome cable as “dominant” TV medium in rural areas in next 5 years. He promised Pegasus would be at “forefront” of providing service to those areas. New Ka-band license is critical to fulfilling that promise, he told us later in interview. “We are very happy with where we are today with our DBS product. You can’t keep reinventing yourself. We haven’t reached a fork in the road yet.” He said promise of future was clear, but he wasn’t about to predict results. “Ten years ago, Pegasus didn’t exist. I never imagined we would be where we are today when we first started. My crystal ball isn’t very clear beyond the next 2 years.”

Introduction of Ka-band satellite capacity, spot beam satellites coupled with set-top boxes that incorporate interactive features such as personal video recorders “will become a revolution” that will hit DBS business. “The whole notion of a network is going to change,” Pagon said: “I foresee an explosion of content not available anywhere.” Niche programming to niche audiences may become standard fare. He said Pegasus was “inclined to go with open platform with nonproprietary standards.” That will allow company to “lease capacity to other content and platform providers,” giving consumers maximum choice.

Great opportunities exist in rural areas where cable companies “are stuck in an analog world” compared with satellites, which are offering “most advanced digital TV signals” in world, Pagon said. He said “investors have lost confidence” that small rural cable systems can compete against satellites. He said there were 2 cable industries — one made up of 1,000 large companies such as AT&T, AOL Time Warner, Comcast, Cox, etc. that serve 50,000 subscribers per system in large cities. Other cable industry is made up of smaller companies that haven’t been “digitally upgraded.” Pagon said there were 9,000 of those systems serving fewer than 8 million subscribers. He said smaller systems had “limited access to capital” and were “economically marginal.”

‘DISENCHANTMENT’ WITH NIELSEN: TV station dissatisfaction with Nielsen ratings — particularly in diary-only markets — showed up clearly in mail survey by NAB Research Dept. Survey, first of its kind, was intended to establish “benchmark” for future surveys, with next to be conducted this fall, NAB said. Currently, there’s nothing to compare results against, NAB Vp-Research & Planning David Gunzerath said. But, he said, “it indicates a certain disenchantment” by TV station subscribers with Nielsen ratings, he said.

Of stations responding to questionnaire, 48.2% said “overall quality” of Nielsen’s audience estimates were either “poor” or “unacceptable,” with 13% rating service “good,” 36.8% “fair.” Overall, 23% of stations had “very low” level of satisfaction with Nielsen, while “satisfaction” of another 40% was “low.” When subscribers began discussions with Nielsen about quality of its services, 32.9% said firm’s “responsiveness” was “poor,” 10.6% “unacceptable,” with 34.5% giving Nielsen only “fair” rating in response to complaints.

For diary-only markets, 16.6% of stations said number of diaries used by Nielsen was “unacceptable,” another 36.2% “poor,” with only 11.3% saying number was “good” or “very good.” Response rate by diary keepers was “unacceptable” to 20.3% of stations, “poor” for another 36.2%. “Variability” of diary ratings from book to book was “unacceptable” to 21.3%, “poor” to 31.6%. Demographic sample of diary keepers was “poor” or “unacceptable” to 47.7%, with 49.5% rating it “good” or “fair.”

Nielsen metered markets won higher levels of satisfaction from subscribers, with 53.6% saying ratings constituted “accurate reflection of my market,” 41.3% “poor” or “unacceptable.” Meter response rate was found “good” or fair by 68.6%, “poor” or “unacceptable” by 25.6%.

Study was undertaken at request of NAB’s Committee on Local TV Audience Measurement (COLTAM) following pressure from group of diary-represented stations — which have continued to battle with Nielsen to make improvements. NAB questionnaires were sent to stations last Nov. and results were provided to Nielsen in spring, but there has been no public announcement by NAB of survey and its findings — and dissident TV stations didn’t have results when they met with Nielsen officials in June (TVD July 2 p4). Survey results now are posted on NAB Web site — www.nab.org/research.

Meanwhile, NBC Research Chief Alan Wurtzel said problem with TV audience ratings is that “Nielsen’s a monopoly... so whatever they say goes.” He told TV critics in Pasadena: “I understand why we have to have a sweeps [period], but we don’t all have to have it at the same time.” He suggested sweeps could be conducted mid-Jan. to mid-March — with measurements staggered in various markets during that time frame. Such staggered ratings periods would put end to networks’ program stunting, he said. Wurtzel said he made that suggestion to Nielsen, which responded: “It would cost you a lot more money because it would cost us a lot more money.” For any change to take place, all facets of TV industry must apply joint pressure, he said. However, NBC Entertainment Pres. Jeff Zucker disagreed with his research chief. “I think it’s [sweeps] just an ingrained part of the way we operate,” Zucker said. “I think it’s here to stay.”

KA-BAND LICENSES ISSUED: FCC issued 2nd round Ka-band licenses to 11 companies Aug. 2, including 10 that will use authorizations to provide Ka-band service at 34 orbital locations in broad effort to provide advanced broadband service in U.S., International Bureau Chief Donald Abelson said. Competition for 2nd round licenses had become intense because of limited amount of spectrum available and some companies such as Pegasus feared they would be shut out, but "on surface" Commission "seems to have satisfied" all parties involved, industry attorney said.

Pegasus CEO Mark Pagon called Ka-band authorization critical to providing rural areas with "affordable access" to digital TV, local programming and high-speed Internet service, not currently available. "The combination of virgin spectrum" in Ka-band and spot beam satellite designs will allow Pegasus to provide service at "significantly lower costs." He later told us in interview that company wasn't ready to comment publicly on plans. He also didn't give timetable for launching or building satellites. "We're not really at the point where we can lay out the specifics," Pagon said. "We have a lot of work cut out for us. It'll be awhile before we know anything." Vp-Public Affairs Cheryl Crate called Ka-band licensing "major step forward" for companies such as Pegasus. "We applaud the FCC for making bridging the divide for rural Americans a top priority."

Celsat is only company not using Ka-band for fixed satellite service (FSS). It plans to use authorizations for feeder links to support its 2 GHz mobile satellite system (MSS) licensed last month. Pacific Century Group intends to operate satellites approved in U.K. to serve U.S. market. As result, Pacific Century Group U.S. authorization is in form of reservation of spectrum rather than license, Commission said.

Licenses awarded to Hughes, Loral and PanAmSat will expand number of satellites each is authorized to implement under previous Ka-band licenses issued in May 1997. Spectrum allocated for Ka-band is at 17.7-20.2 GHz (downlink) and 27.5-30.0 GHz (uplink). FCC also issued separate orders denying modification applications by GE Americom and EchoStar to operate their previously licensed Ka-band satellite systems on additional spectrum.

Companies receiving licenses: CAI Data Systems, Celsat, DirectCom, Group Inc., Hughes Communications, KaStarCom World Satellite, Lockheed Martin, Loral Cyberstar, Pacific Century, PanAmSat, Pegasus, TRW. Milestones were issued with licenses giving each company one year to begin construction of first satellite, complete construction within 2 years and launch at least one satellite within 5 years.

Time Warner of N.Y. is shuffling some of its network channels around. Company had planned to swap channel assignments of Bravo and CNBC, but networks were able to gain working agreement whereby they stay put. TW is adding FX in Sept., plus Court TV and USA Network will swap spots. Other channel swaps will involve QVC and Cinemax, as well as TNN and The Weather Channel. Changes will affect more than 1.2 million customers in 4 city boroughs.

Ad-supported cable network Web sites accounted for more than 57% of all time spent by Americans on media-related Internet venues in June, Cable TV Ad Bureau analysis said. Number of gross at-home and at-work usage min. by cable sites in June was 1.63 billion, compared with 1.2 billion for Web sites of broadcast TV networks, radio, magazines, newspapers.

HEWITT, PAUL RESIGN AT SBICA: Fulfilling expectations, resignations of Pres. Charles Hewitt and Vp Andrew Paul were officially announced Aug. 2 by Satellite Bcstg. & Communications Assn. (SBICA) (TVD July 30 p3) following board meeting at convention in Nashville. Assn. said changes signaled beginning of reorganization of primary lobbying group for satellite industry. Hewitt had led SBICA since 1984, when, as one of group's founders, he was named first pres. Board asked Vp Andrew Wright to assume role of acting pres. and appointed search committee to help find new leader. Wright will be among candidates. Hewitt and Paul will stay on in consultant roles.

Appointed to search committee were: SBICA Chmn. Stan Kozlowski, NRTC; Jeff Torkelson, DirecTV; John Ovrutsky, HBO; Tola Murphy-Baran, NFL; Rik Hawkins, Starpath Communications. Hewitt and representative of EchoStar also will serve on search committee. Hewitt and Paul haven't announced plans. However, Paul, who has been at SBICA since 1990, is expected to remain in satellite industry as adviser for TV, communications or entertainment entity.

Resignations shouldn't diminish contributions of Hewitt and Paul, Kozlowski said. He called their roles in satellite industry "enormous" and credited them with keeping important issues alive in Washington such as must-carry, zoning, 3rd party packaging and OTARD, despite limited budgets. "When you look back at all of the battles fought and all of the challenges faced during their watch, it is truly remarkable what they have accomplished," Kozlowski said. "It's unlikely that our membership could have been well-served all these years without their contributions."

Noting influence of DBS leaders DirecTV and EchoStar, Kozlowski said in last 2 years industry had entered "another period of significant change" and it needed to "adapt and move forward," which he said required new leadership. "With that challenge in mind, we find ourselves once again reinventing" SBICA.

Attempt to revive campaign finance reform legislation is formally under way, following filing of discharge petition July 30 by Blue Dog Coalition of conservative House Democrats. Petition, which requires 218 signatures to move reform bill (HR-2356) back to floor, as of Aug. 3 had 205 supporters, including 15 Republicans. Bill by Reps. Shays (R-Conn.) and Meehan (D-Mass.) stalled last month after Republicans unsuccessfully offered substitute rules for floor debate. NAB is staunch opponent of provision in bill that would require broadcasters to give politicians nonpreemptible ad time at discounted rate and has vowed to step up Hill lobbying campaign to ensure bill's defeat. Last week in news conference Shays declined to say how coalition would attempt to win support from members and constituents through mass media: "I don't know if any television campaign is planned." House Democratic Leader Gephardt (Mo.) said Blue Dogs intended to offer "fair rules" for floor debate: "We're quite willing to have our opponents shoot at the bill with amendments."

C-SPAN has signed multiyear, multitransponder agreement with GE Americom for follow-on C-band transponder capacity on GE-10 and GE-11, successor satellites to Satcom C-3 and C-4. Higher powered satellites, which will have 24 transponders each, will be located at 135° and 131° W, respectively, and will be used for distribution of C-SPAN's political programming beginning in 2004.

Personals

Richard Dyer, ex-Gannett, joins Hearst-Argyle as pres.-gen. mgr, KETV Omaha... **Valari Staab**, gen. mgr. of ABC's KFSN-TV Fresno, appointed to same post at co-owned WTVD Raleigh-Durham, replacing **Bruce Gordon**, resigned... **Susan Schiller**, CBS News producer, appointed news dir., CBS-owned KYW-TV Philadelphia.

Changes at Disney Channel: **Gary Marsh** named exec. vp-original programming and production; **Andrea Taylor**, ex-ABC Cable Networks Group, appointed senior vp-mktg.; **Jill Casagrande**, ex-ABC Cable Networks Group, named senior vp-programming; **Susette Hsiung** promoted to senior vp-production; **Nancy Kanter**, ex-Bluecow.com, named vp-original programming, Playhouse Disney; **Adam Bonnett** appointed vp-original programming, Zoog Disney series; **Nancy LaPerla** promoted to senior vp-advertising and sponsorships sales, American Movie Classics Networks.

John Garand promoted to exec. vp-planning and control, Disney... **Dave Howe**, ex-BBC, named senior vp-mktg. and creative, Sci-Fi Channel... **Bill Beesley** appointed dir.-commercial network operations, Cox Communications... **Daniel Tunnel**, ex-American Concrete Pavement Assn., named pres., Pa. Cable & Telecom Assn.

Joel Flatow named gen. mgr.-West Coast, RIAA, also remains senior vp, Artist & Industry Relations... **Sheryl Wilkerson**, ex-FCC Office of Legislative & Intergovernmental Affairs and ex-counsel for Senate Commerce Communications Subcommittee, joins ArrayComm's new Washington office as vp-legislative affairs... **Randall Gausman**, ex-Zantaz, appointed CFO, iBEAM Bcstg... **David Baumann** joins Mintz, Levin, Cohn, Ferris, Glovsky & Popeo as partner while retaining position of CEO of TechNexus consultancy.

Without backing from FCC or Justice Dept., consumer groups appealed to U.S. Supreme Court in hope of preserving cable ownership cap, they announced Aug. 3. Consumer Federation of America (CFA) and other consumer groups favor FCC ownership rules, which say that one cable operator cannot serve more than 30% of all subscribers in country. U.S. Appeals Court, D.C., in March struck down FCC's 30% cap. FCC and Justice let pass Aug. 2 deadline to appeal to high court. FCC Chmn. Powell has said he doesn't like diversity "for diversity's sake" and would not try to sustain rules from previous administration. Cable Bureau Chief Kenneth Ferree has said new rules would be proposed. CFA Research Dir. Mark Cooper said Congress wanted rules more stringent than antitrust laws and competition didn't always mean diversity. "Mike Powell doesn't believe in this stuff," said Cooper, explaining reasons for filing without govt. backing. FCC spokesman declined to comment. Filing said appeals court "ignored the free speech interests" of public and independent programmers. Supreme Court can let lower court ruling stand or take case.

News Corp.-DirecTV deal may have hit another snag, according to industry reports. Potential liability over who would be responsible — Hughes or News Corp. — if asbestos were found in satellite has stalled negotiations, both sides said. News Corp. Chmn. Peter Chernin has been startled by prospects of environmental liability, which dates back to Hughes's manufacturing operations in 1960s, sources said. Companies are trying to figure out how to handle liability. In meantime, Chernin, who had predicted deal would close by end of last week, won't estimate when negotiations might be completed.



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Look for Viacom-CBS and Fox TV to announce station swaps in near future with each gaining 2nd station in major markets, according to several sources. Viacom is said to be angling for 2nd station in San Francisco, where it now owns KPIX, while Fox is expected to acquire duopoly in Baltimore, and perhaps other markets, where it now owns WBFF while Viacom owns WJZ-TV there. Swaps have been prompted by Fox acquisition of Chris-Craft TV stations, which closed July 31.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

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

	JULY 14- JULY 20	2000 WEEK	% CHANGE	JULY 7- JULY 13	29 WEEKS 2001	29 WEEKS 2000	% CHANGE
TOTAL COLOR TV	459,825	490,776	- 6.3	274,795	13,022,808	14,663,029	- 11.2
DIRECT-VIEW**	448,809	471,820	- 4.9	266,714	12,558,106	14,069,140	- 10.7
TV ONLY#....	351,398	390,508	- 10.0	203,608	10,416,164	11,664,360	- 10.7
TV/VCR COMBO.	97,411	81,312	+ 19.8	63,106	2,141,942	2,404,780	- 10.9
PROJECTION...	11,016	18,956	- 41.9	8,081	464,702	593,889	- 21.8
TOTAL VCR**...	328,756	479,683	- 31.5	199,444	9,847,766	13,352,210	- 26.2
HOME DECKS...	231,345	398,371	- 41.9	136,338	7,705,824	10,947,430	- 29.6
CAMCORDERS.....	56,225	99,179	- 43.3	65,319	2,785,597	2,854,831	- 2.4
DVD PLAYERS....	111,637*	117,949	- 5.4	116,576*	4,748,996*	2,941,734	+ 61.4

Direct-view TV 5-week moving average#: 2001--343,439; 2000-417,467 (down 17.7%).

Projection TV 5-week moving average: 2001-13,214; 2000-18,231 (down 27.5%).

VCR deck 5-week moving average: 2001--247,953; 2000-380,173 (down 34.8%).

TV/VCR 5-week moving average: 2001--77,031; 2000-84,048 (down 8.3%).

Camcorder 5-week moving average: 2001--88,736; 2000-84,048 (down 16.8%).

DVD player 5-week moving average: 2001--172,478*; 2000-118,238 (up 45.9%).

** Includes TV/VCR combinations. # Excludes TV/VCR combinations.

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

SAMSUNG AND DIRECTV SEEK HDTV JUMP-START: In attempt to jump-start market for HDTV, Samsung, along with Sears, will underwrite HDTV broadcasts of college football games on CBS-TV this fall, while DirecTV, in conjunction with Dallas Mavericks owner Mark Cuban, is said to be readying 24-hour channel to start in Oct.

Programs are boldest attempt to date aimed at addressing dearth of HDTV programming that has held back expansion of technology despite strong sales of TVs capable of displaying it. Under multimillion-dollar agreement with CBS-TV, Samsung and Sears will underwrite costs of producing Southeastern Conference (SEC) football games in HDTV. Starting with league opener on Sept. 15 and running through Dec. 1, games will be broadcast in HDTV and relayed to Sears' 860 stores via EchoStar's Digital Sky Highway (DISH) network for display on Samsung HDTV-ready and direct-view 32" and 36" and 54" rear-projection sets. Retailer will promote "HDTV Game Day at Sears" with ad circulars starting in Oct. and point-of-purchase materials and banners in CE dept., Sears Home Electronics Vp-Gen. Mgr. Raymond Brown said.

Samsung Mktg. Dir. James Sanduski said: "It's going to be promoted throughout the department, but there will be a particular emphasis on Samsung TVs with banners and point-of-purchase information." Samsung last underwrote HDTV broadcasts of *Wed. Night Movie* on CBS-TV in 1999-2000 TV season. "What was intriguing to us was that we could very clearly, on the retail floor, point out the difference to the customers between an analog 4x3 image and a high-definition image presented in 16x9." HDTV broadcasts will be displayed in Sears stores on TVs from Samsung and its competitors, Brown said. "The [HDTV] picture can be shown on other sets, but the focus will be on Samsung," he said.

SEC broadcasts will be interspersed with Samsung 15-sec. ads promoting its digital products as well as 15- and 30-sec. Sears commercials. Samsung also may buy additional 30-sec. ad blocks on CBS-TV as part of its corporate branding campaign, Sanduski said.

Samsung agreement will be significant change from CBS-TV's strategy year ago, when it signed on Mitsubishi as sponsor for HDTV broadcast of U.S. Open Tennis Championships and other special events (TVD Aug 28 p14). Mitsubishi also had underwritten conversion of CBS prime-time programming to HDTV in 1999-2000 season. Among other CE manufacturers, Thomson sponsored HDTV broadcasts earlier this year of Super Bowl and 4 AFC playoff games (TVD Aug 21 p10). Thomson has no immediate plans to resume HDTV sponsorships, but has had discussions with CBS and other networks. "This is still something that regular advertisers have to consider and it still feels like a subsidy," Thomson spokesman said. "It's a great thing that Samsung is doing because that will help us all sell products."

Mitsubishi Mktg. Vp Robert Perry confirmed discussions with CBS-TV, but said no agreement had been reached. Negotiations are said to have included possible renewal of U.S. Open sponsorship, but Perry declined comment. "We continue to talk to CBS about what promotional opportunities might be available to further cement digital television and Mitsubishi," he said.

Despite focus on Samsung brand for HDTV broadcasts at Sears, Brown said other vendors didn't oppose promotion. "I think most manufacturers are thrilled that Samsung's footing the bill on this particular promotion," he said, noting that CE manufacturers had taken turns promoting HDTV concept. "It's Samsung's turn in the queue to do this type of promotion. Most manufacturers will admit that anything that anybody does to promote high-definition irrespective of the brand will help the technology."

DirecTV, which has been slow to add HDTV programming to line-up, is expected to unveil 24-hour HDTV channel by Oct. under agreement with Cuban, sources said. As part of agreement, Cuban will lease transponder space to deliver initial HD fare using Channel 191 from which DirecTV currently broadcasts 8 hours of HDTV programming daily. Agreements are said to have been reached with NHL and NBA and discussions are under way with other professional sports leagues as well, sources said. First channel will be free to subscribers, but DirecTV is said to be planning to add another 5 possibly as soon as year-end that presumably would carry added charge. Other channels would feature HBO and other premium channels, sources said. Cuban, in e-mail response to our questions, confirmed plans for 24-hour HDTV channel and said deals had been struck with "several leagues," but declined to disclose details. "I won't give you a date [for HDTV start] yet, but it will happen," he said. DirecTV officials weren't available for comment.

To date, DirecTV has operated only single HDTV channel, although Matsushita, Mitsubishi, Thomson and Toshiba have marketed combo HDTV decoder/DirecTV receiver. Samsung has postponed plans for combo set-top box until 2002, while Hitachi has discontinued TV that featured device as built-in feature. HBO HDTV programming for DirecTV has been beamed from satellite at 119° W and sold as part of DirecTV's Total Choice Premium (\$89.99 per month) and Total Choice Silver (\$47.99-\$72.99) packages. Satellite service has lacked agreements with other premium services such as Showtime, which is HDTV supplier for EchoStar. Latter markets HDTV decoder/satellite receiver at \$499 and supplies HDTV programming from bird at 61.5° W.

"If they [DirecTV] add those channels it will make a huge difference in their ability to sell set-top boxes that can bring HDTV programming to the installed base of HDTV-ready TVs," buyer at midwest retailer said. Indeed, most retailers say digital TVs now account for more than 50% of their rear-projection set sales.

Yet News Corp.'s possible acquisition of DirecTV parent Hughes Electronics could cast shadow over HDTV plans given Fox Bcstg.'s opposition to Digital Transmission Content Protection system proposed by 5C group of Hitachi, Intel, Panasonic, Sony, Toshiba. Fox instead has supported digital visual interface (DVI) and high-bandwidth digital content protection (HDCP). Most retailers, however, remain optimistic.

"This whole thing presents strange bedfellows in that you could be hostile one moment and the biggest proponent the next," West Coast retail executive said. "It's all about the dollar and if [News Corp. Chmn. Rupert] Murdoch feels he can make a buck he'll be HD's biggest champion."

MORE CD ANTICOPY SYSTEMS COMING: Field of wannabee CD copy prevention systems is getting crowded. At our deadline, we found 2 more joining Macrovision's SafeAudio and Midbar's Cactus — one of them from Sony and other from International Federation of Phonographic Industries (IFPI).

Details were scant on Sony's "key2audio" owing to time zone differences Fri. with Europe, where key2audio is administered by company's Digital Audio Disc Corp. (DADC) division in Salzburg, Austria. Patents weren't yet available for us to study, but spokeswoman for Sony Music Entertainment in N.Y.C. confirmed system's existence — which has been test marketed in Europe on 20 titles totaling more than 600,000 CDs from Sony and other labels.

As with other copy prevention methods, key2audio makes it impossible to copy Red Book music CD with PC recorders. That's because unique codes embedded on disc can't be duplicated by CD burners or professional replication equipment.

Moreover, key2audio CDs can't even be played on PCs, either in CD-ROM or DVD-ROM drives. That is likely to be point of controversy because consumers regularly and legitimately play CDs on PC music systems. DADC said it had "very little response concerning this issue." It said that of 140,000 discs released of "very popular title" it received only 11 complaints of nonplayability on PCs.

It wasn't clear whether key2audio allowed copying on home audio CD recorders, which have Serial Copy Management System to prevent making digital copy of digital copies and on which U.S. consumers pay royalty for privilege of digital recording. Answer on that wasn't forthcoming last week, although DADC said key2audio discs were playable "on nearly all hardware dedicated to playing audio CDs." That includes car and portable equipment, DVD players — and Sony's PSOne and PlayStation 2 videogame consoles. Analog copying also is possible, DADC said.

System was tested last Nov. by RIAA and IFPI and was top-ranked among others tested at time, DADC said. Claim couldn't be verified last week, and it wasn't known what other systems were tested.

Claim was intriguing because IFPI developed other system we unearthed last week. System doesn't have name but U.K. patent (GB 2 357 165) attributes invention to Richard Gooch of Recording Industry Trading Co. — assets-holding company for IFPI where Gooch is senior technical adviser.

As described in patent, IFPI system deliberately corrupts timing signal of laser beam cutter during CD mastering. Pressed disc will "play normally in the majority of audio CD players," patent said. But if CD-ROM drive in PC is used to copy time-corrupted CD to blank disc, data extraction is "disrupted" to spoil copy.

Patent concedes system produces nonstandard CDs compared with those made according to Red Book license. IFPI also concedes that system not only blocks CD copying, but also prevents "legitimate usage such as the importation of data into portable players developed under the SDMI" [Secure Digital Music Initiative] and "legitimate extraction of digital audio data for rendering through high-quality systems such as the Meridian 800 Reference DVD/CD Player".

To enable legitimate copying such as SDMI dubbing, IFPI system stores repair data on disc as compressed information in subcode channel. When authorization is obtained through Internet or other means, repair data are accessed to restore normal playability to copy, IFPI said. It wasn't clear whether repair data also could let discs play on Meridian hardware.

Jury is out on playback compatibility of discs that carry embedded data for repair or for digital rights management. Macrovision last week contended such systems added complexity that might compromise CD's ability to run on installed hardware base (see separate report, this issue). Philips told us last week it still was studying various copy prevention systems for compliance with CD Red Book standards.

MATSUSHITA POSTS \$156 MILLION LOSS DESPITE HIGHER AV SALES: Matsushita joined chorus of Japanese majors in blaming worldwide economic slowdown for significant first-quarter loss. News was slightly better for bottom line at Pioneer, which reported 7% rise in net profit. But it was weaker yen and higher patent royalty revenues that spurred Pioneer's income increase, not company's core electronics products, which declined significantly in some sectors.

Matsushita posted \$156 million loss on 6% lower sales to \$13.51 billion (\$1 = ¥124, approximate conversion rate used by Matsushita as being in effect June 29 on Tokyo Foreign Exchange). Company blamed "sluggish results" on "sharply aggravated" downturn in market conditions for products such as cellphones and related equipment and components, combined with economic slowdowns in Japan and overseas. Sales in Japan fell 5% to \$6.65 billion, despite higher sales of core AV products. However, components and devices and industrial equipment suffered sales "setbacks." Overseas sales fell 6% to \$6.86 billion despite higher sales of audio and video equipment.

Sales in AVC Networks sector, which includes core AV products, dipped 2% to \$7.66 billion. However, sales of audio and video equipment rose 3% on "steady growth" in TVs, DVD-related products and CD music albums. Also recording increases were CD-R drives, car AV equipment, business-use AV systems. However, mobile communications sales suffered 5% decline.

Accentuating bleak economic conditions, Matsushita said Japan “appears to have entered a setback phase,” with slowdown in export markets and decline in capital investment. Overseas, it said, economic downturn in U.S. “has had an adverse impact on Asian and European economies.” As result of dismal economic environment, Matsushita hedged bets until later date on revising sales and earnings forecasts for fiscal 2002, “pending further review and monitoring” of business conditions. For first half ending Sept. 30, Matsushita said it now expected consolidated sales to fall 10%. In more significant turnaround, it said it now expected first-half net loss of ¥45 billion. Only 3 months ago, it had forecast net profit of ¥9 billion.

At Pioneer, consolidated net profit rose 7% to \$24 million (\$1 = ¥125, approximate “prevailing” conversion rate used by Pioneer as being in effect June 30) on 1% decline in sales to \$1.13 billion. Core AV products fell 12.9% to \$270.1 million, mainly on 16.2% sales decline in Japan, where DVD players sold well but audio products faltered. Overseas sales fell 11.7% to \$200.1 million on weak demand in N. America for AV products, despite depreciated yen.

Company's biggest revenue generator in quarter was royalties from patent licensing, which climbed 26.9% to \$38 million. Company credited weaker yen and higher royalty revenue on sales of recording equipment such as CD-R drives. However, sales in Pioneer's AV software business edged down 1.4% to \$254 million. AV software sales fell 3.7% to \$103.2 million and were flat at \$150.9 million in overseas markets on lower sales of DVD-ROM drives, which were displaced by introduction of DVD-R/RW burners.

DVD BOLSTERS MACROVISION'S RESULTS: Growing demand for DVD copy protection boosted Macrovision's 2nd quarter revenue 38% from year-ago period. Increase came despite erosion of company's business in videocassette and pay-per-view (PPV) areas, executives said in teleconference last week that included lengthy discussion of pending audio CD copy prevention systems by Macrovision and others (see related story, this issue).

“DVD revenue continues to exceed our expectations,” CEO John Ryan said. Company has been “largely unaffected by the economy” but is mindful of others' trepidation about cutbacks in IT sector, where Macrovision markets its SafeCast digital rights management (DRM) technology for online transactions, he said. “Other companies are selling patents to stay afloat” Ryan said, telling analysts Macrovision was “bargain shopping” some of those.

Financials weren't as significant as insight they yielded into changing nature of industry, where digital technology imposes demand for copy protection on packaged media and now content carried on Internet. Macrovision's revenue was \$25.8 million in 2nd quarter, up from \$18.7 million year earlier. Net income dropped to \$5.1 million from \$5.7 million owing to \$2.2 million one-time charge, but stood at \$8.7 million for first 6 months, up substantially from \$2.8 million last year. On pro forma basis, earnings for quarter rose 26% to \$10.4 million from \$8.3 million, with per-share earnings yielding same growth at 20 cents each. Executives said quarter usually was slow owing to “deferred revenue” deals with Hollywood studios.

Big increase is expected in next 2 quarters from slate of hit movies coming on DVD, where Macrovision's copy protection is used on 75% of all discs and higher proportion of big studios' titles, executives said. Pres.-COO Bill Krepick said studios released 1,000 titles in last quarter alone, increasing DVD library to 10,000 movies. Macrovision's revenue from DVD jumped 133% to \$9.6 million, he said. Company's average take on each disc is 6¢ and although disc prices are dropping, Macrovision's revenues will be balanced by greater volume, he said. It expects growth from increasing number of special-interest, nontheatrical programs released on DVD.

Outlook isn't as rosy for videocassette area, where prerecorded content is being nosed out by DVD. Krepick said Macrovision's business there had slid 9% to \$3 million from “continuing trend in Hollywood to protect DVD and not tape.” Videotape “continues to erode slowly” he said, with 19% drop in last year's quarter. Revenue from copy protection on PPV programming from satellite and cable slid 30% in period owing to “softness” in digital set-top rollout compared with strong build-out last year, Krepick said. Rollout is “likely to continue to slow down for several quarters” owing to economy, but that was “not a surprise” and Macrovision had calculated it into forecasts, he said. In growth areas, company's SafeDisc protection for CD-ROMs climbed 84% to \$2.3 million in year because of “strong quarter” for PC videogames. It also expects gains from Internet e-commerce, where its SafeCast DRM technology can be applied to control access and use of downloaded music or other content.

Macrovision isn't making book on audio CD copy protection, where its SafeAudio system is one among growing field of contenders (see separate report, this issue). Company already has run consumer trial with 2 major record labels, putting 200,000 CDs in field. Krepick said labels “appear to be very satisfied” with trials, which encountered no problems with player and disc incompatibility. As result, Macrovision and partner TTR Technologies have strengthened copy-prevention method, he said.

Macrovision also is providing test discs to other 3 big labels, Krepick said, but he warned that no label was anywhere close to adopting single copy protection system and all were evaluating competing technologies from Midbar and others. At our deadline, systems from Sony and International Federation of Phonographic Industry also popped up on radar.

Situation is complicated by conflicting and vacillating desires among record companies to add digital rights management and access controls to CDs as well as copy-proofing them, Krepick said. Labels are testing such "hybrid discs" but Macrovision believes compatibility with players could be compromised by adding more layers of control, he said.

"Macrovision has these technologies but we've chosen not to use them with the first 2 SafeAudio releases. We don't want problems with some CD players or PCs," Krepick said. CEO Ryan was more emphatic about compatibility problems from DRM systems, and even their usefulness: "DRM solutions can be beaten by hackers. They're obsolete before they start."

Comment came as Internet buzzed with claims that SafeAudio could be hacked. Krepick said Macrovision already was studying various CD-ripping programs to see whether they infringed on its patents, and would prosecute if they did. Company regularly devises and patents circumvention methods for its own copy protection technologies and historically has used those patents to get black boxes and other circumvention products off market.

Sears has opened first 20,000-sq.-ft. free-standing CE store in Shreveville, Ind., and remains on target to open 2 more in suburban Chicago by Oct., Home Electronics Vp-Gen. Mgr. Raymond Brown said. Sears Appliances & Electronics store carries 1,500 SKUs that closely mirror those in CE dept. in standard Sears store, he said. New brands not currently carried by core Sears outlets also will be added by fall, but Brown declined to disclose details. Shreveville store is within 8-10 miles of 2 full-line Sears outlets, but is designed to drive local consumer traffic. It won't advertise separately, but rather will be promoted in regional Sears circular, he said. Store opened in late July, month behind schedule (TVD May 14 p18). Sears has tested CE as part of "off-the-mall" format before, mixing category with furniture as part of short-lived HomeLife format (TVD Oct 9/95 p13). Meanwhile, Sears CEO Alan Lacy told employees that hq staff may be cut as part review of operations, spokeswoman confirmed. Warning of possible job cuts was contained in memo sent to retailer's more than 7,000 hq employees Aug. 1, spokeswoman said in confirming *Chicago Tribune* report. Last round of job cuts at Sears' Hoffman Estates, Ill., hq was in 1999 when 10% of corporate work force, which then numbered 10,000, was trimmed.

Boston Acoustics said first-quarter profit fell to \$170,654 (3¢ per share) from year-earlier \$1,149,484 (23¢) on 13% lower revenue to \$19,895,567 from \$22,823,028. Company blamed poorer results on "the continuing downturn in the economy" and its "significant impact" on company's core businesses, especially multimedia PC speaker sales. While sales of core audio products fell 4.5% in quarter, revenue from OEM and after-market multimedia speakers was down 25%. Company's largest OEM account is Gateway. CEO Andy Kotsatos said that despite 13% lower sales, company managed small profit in quarter. Moreover, he said, inventories have been reduced 22.1% since March 31 to \$19.18 million and outstanding debt has been cut by \$4 million. Kotsatos said: "The quarters ahead will be challenging, but our balance sheet remains strong." He said company's goals were to remain profitable "through this difficult period," gain market share in core products and "continue to reduce our working capital requirements."

Price has dropped on blanks for DVD recording from Pioneer. Company said write-once DVD-R now has \$9.95 suggested retail and \$19.95 for rewritable DVD-RW. Each has 4.7 GB capacity.

Vintage and recent TV provide broad range of DVD titles coming from A&E Home video Aug. 28. Flagship is *The Complete Emma Peel DVD Mega-Set* — \$199.95 boxed set containing all 51 episodes of *The Avengers* series that featured actress Diana Rigg. Collection includes 1966 episode *A Touch of Brimstone* that originally was banned in U.S. Making first appearance on video in *The Complete Hammer House of Horror* (\$69.95) are all 13 episodes from British TV series produced by legendary Hammer Films horror studio. Series aired in 1980 featuring Hammer regulars such as Peter Cushing and Christopher Lee, as well as early roles for current stars such as Pierce Brosnan. Documentaries round out DVD offerings, including A&E's *The Impressionists* (\$39.95) on art. Eight History Channel documentaries at \$19.95 each include *The Great Escapes of WWII*, *Civil War Journal: The Commanders*, *Mummies and the Wonders of Ancient Egypt*, *Ancient Mysteries: Myths and Legends*.

Growth of CD recording in U.S. can be seen in increasing royalties collected by Copyright Office on home audio digital recorders and blank media. Levy to compensate content owners for digital copying was established under 1992 Audio Home Recording Act, and although it covers digital tape and MiniDisc, since 1996, main contributor to fund is audio CD-R decks and blank discs. Fund last year amassed \$5,425,765, up 52.8% over 1999. Royalty revenue was \$1,035,926 in first quarter of this year. Since 1992, \$14,991,491 in royalties have been collected. Levy paid by manufacturers and included in price of digital recording products is 3% on landed cost of blank media, 2% on hardware with \$8 cap for single-transport recorder, \$12 for dual-transport dubbing deck. Caps also apply to recorders integrated with combination systems such as shelftop stereos.

Legendary Leica Camera will collaborate with Panasonic on new digital cameras to be produced and marketed under each brand, companies said. Leica lens already is used in Panasonic PV-DV951 digital camcorder.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥125 = \$1, except where noted.

NOA TO SHIP 1.1 MILLION CONSOLES: Nintendo of America (NOA) confirmed Fri. accuracy of reports out of Japan that said U.S. market would receive 1.1 million GameCube consoles between Nov. 5 rollout and year-end. But no official number was available at our deadline on how many hardware units would be available in U.S. or N. America overall at outset.

NIA also confirmed word that 500,000 units of GameCube hardware would ship in Japan at next-generation videogame console's Sept. 14 debut, followed by additional 900,000 by end of calendar year.

Meanwhile, intent on eliminating long lead times for refilling software orders, Nintendo has shifted game manufacturing to U.S., NOA Senior Mktg. Vp George Harrison told us last week.

Harrison said: "All the duplication will be done in the U.S. and we'll be packaging and shipping out of our North Bend [Seattle area] facility. Reordering will be very similar to a CD-based model at about 10 business days." However, GameCube hardware manufacturing will continue to be done in Far East, with NEC producing graphics chip and with all assembly in Japan.

With first party games set to be priced at \$49 MSRP, NOA now has eliminated 2 vestiges of its cartridge-based model that hampered company's Nintendo 64 (N64) console when it battled original PlayStation — higher game prices and necessity of guessing software demand well in advance because of 6-8 weeks it took for software orders to be manufactured and shipped to N. America.

Harrison said NOA marketing and sales plan behind N. American GameCube introduction had been approved by Japan and company was in middle of developing ads and materials. "We have a little bit of back-to-school stuff that will start at the beginning of September — book covers and in-school advertising," he said. But he said "most of it will start up around the end of September, first of October."

NOA also recently held meetings with Blockbuster and hopes to have plans for rental channel completed in 30 days. Harrison told us: "We just recently have been able to get an idea of how much product we're going to have so that will affect [Blockbuster's] decision-making in terms of how aggressive they can be."

In meantime, Harrison said Game Boy Advance (GBA) hardware continued to do well. "We're living with less than 2 weeks' supply at retail, which means that some stores will have spotty out of stocks and we expect it to continue into the fall. So it's been very encouraging." Tie ratio for GBA software is running 1-1 with hardware sales, leading Nintendo to conclude some gamers were taking advantage of next-generation portable system's backward compatibility to stock up on GB Color games. Recently released *Pokemon Crystal* for GB Color sold 50,000 on its first day alone.

As for N64, Harrison told us there would be no new first party titles, but said Electronic Arts might be bringing out *Madmen NFL 2002* for cartridge-based system and there still could be one or 2 other 3rd party N64 games coming out. He said he still expected N64 to have shelf presence through holidays even given company's decision not to drop hardware price below

\$99. "We think there's enough separation at this point between the \$299 of our competitors, the \$199 for GameCube and \$99 for N64," he said.

Roxio's first quarter net income slid to \$2.37 million from \$2.42 million as company took \$3.4 million in stock-based compensation charges, it said. Revenue, driven by strong sales of Easy CD Creator CD burning software, increased to \$37 million from \$28.6 million. OEM licensing revenue fell 28% and accounted for 41% of total while retail sales jumped 43% and represented 59%. Former was affected by "sharp drop" in sales in Asia and Europe, Pres.-CEO Christopher Gorog said. Average selling price of CD burning software declined less than 10% in first half, he said. At same time, Hewlett-Packard said it would halt bundling of Easy CD Creator software with its desktop PCs and CD-RW drives in Jan., decision that Gorog attributed to slowdown in PC market. CD burning software adds \$3-\$4 to cost of desktop PC, he said. Roxio also plans to introduce DVD burning software for professional applications in Aug. and will have consumer version compatible with DVD-RW and DVD+RW by first quarter 2002, Gorog said. "Within 12 months" Roxio will have software available with EMI Music that will allow copy-protected titles to be burned onto CD from online site, he said. Roxio signed deal with EMI earlier this year and has had discussions with other major labels, Gorog said. Roxio also received \$2 million from Prassi Software as part of settlement of patent infringement suit and was assigned rights to CD Right! And CD Right! Plus products.

DirectTV sold 4.1 million shares of Thomson Multimedia common stock, raising \$130 million for general corporate purposes. Sale of shares, which were acquired in Dec. 1998 in Thomson IPO, will reduce DirectTV's stake to 8.8 million shares or 3.1% of outstanding common. DirectTV also will keep seat on Thomson board. Thomson has 63% share of market for DirectTV receivers. Sale of stock comes as DirectTV parent Hughes Electronics positions itself for possible sale to News Corp... **EchoStar** has begun "Trade Up to DISH" program offering DirectTV subscribers \$200 for their equipment, amount that will be applied toward purchase of DISH receiver/personal video recorder (PVR) that has OpenTV interactive middleware platform (\$400). Promotion, which effectively lowers PVR cost to \$200, bests DirectTV's TiVo and Microsoft's UltimateTV's receivers/PVRs, which are around \$400. EchoStar also unveiled separate program that drops monthly fee for America's Top 100 or Latino Dos programming packages to \$9 from \$30.99 for consumers who buy \$199 receivers and commit to one-year DISH subscription. Basic installation is free. Program runs through Oct. 31.

Garmin, crediting strong sales of handheld GPS products, said 2nd quarter net income jumped to \$36.6 million from \$29.2 million year ago as net sales rose to \$103.6 million from \$93.9 million. Total units sold in quarter increased to 357,000 from 321,000. Revenue from consumer line of eTrex GPS devices increased 13% in quarter to \$129.4 million. Overall gross margin slipped to 58% from 63.8% due to stronger sales of \$119 eTrex GPS device, which has no on-board memory, 2,000 tracking points and 22-hour battery life. Garmin also plans to introduce combo GPS/GSM phone for European market by 4th quarter, but has pushed back delivery of product based on Palm operating system (OS) to 2002, spokesman said. Garmin signed licensing agreement with Palm earlier this year. "We're looking at a lot of different applications for Palm, but right now it's an engineering resources type of thing and we need to prioritize what we feel is our best chance," spokesman said. "Right now resources are spent building this seamless integration with Palm OS."

RENT-A-CENTER TESTS DTV: Rent-a-Center (RAC) will test rentals of 46W Mitsubishi high-definition (HD)-ready rear-projection TV in late Aug. in move that will stretch boundaries of rent-to-own (RTO) market.

Each of chain's 2,275 company-owned stores will merchandise 3-4 sets that will be available on 24-36-month contracts at \$45.99 per week, RAC Pres. Mitchell Fedel said. RAC rents analog rear-projection TVs up to 60" with \$29.99-\$39.99 weekly fee based on contract of same length. If contracts are taken to term total cost could be \$4,782-\$7,174 for set that carries \$2,199 price at retail.

RAC plans to test sales of 46W at stores in Dallas, Las Vegas and L.A. for 60 days before deciding whether to expand distribution. In addition to Mitsubishi, which RAC added to merchandise mix last year, chain carries JVC, RCA and Sony TVs.

"I think there is going to be a market because the customers are asking for it," Fedel said. "The demand is going to be there, but at a higher price we have to make sure that customers are going to take to this one."

RAC won't promote 46W in ad circulars in test markets, strategy that won't change unless distribution is expanded, Fedel said.

"We're very optimistic about the future of RAC's transitioning into this new technology," Mitsubishi Vp Max Wasinger said. "We believe that the 46W is the right product for them." Mitsubishi earlier this year lowered 46W retail price to \$1,999, but later moved it back up to \$2,199 with introduction of new model.

RAC also has introduced Sony's PlayStation 2 console chainwide, offering it with \$29.99 weekly fee on 12-month contract. Stores are carrying 4 consoles each or about 9,000 units total. Each unit is being packaged with PlayStation 2 game and extra controller. RAC tested PlayStation 2 rentals for 90 days before rolling out chainwide in July. Stores, which are being supplied by distributor Fla. State Games, aren't carrying software and have no immediate plans to add Nintendo's N64, Fedel said. "We're going to stick with one [game console] at this point rather than have a vast assortment," he said. "This doesn't mean we won't be able to do anything with Nintendo, but we don't need to carry it right now."

Unclear is whether any of RAC's ColorTyme franchisees, which operate 334 stores, also will carry PlayStation 2 and 46W. Franchisees have access to RAC merchandise, Fedel said.

In unveiling new product strategies, RAC said 2nd quarter profit narrowed to \$27.5 million from \$34.6 million as revenue jumped to \$442.7 million from \$392.2 million. Rentals and fees rose to \$409 million from \$360.2 million and merchandise sales to \$20.1 million from \$17.6 million. Same-store sales increased 8.7%.

RAC said it reduced debt to \$645 million at quarter's end from \$665 million in 2nd quarter and had \$27 million cash on hand.

Despite strong earnings, RAC stock plunged by as much as 30% after company cut 2001 profit forecast on soaring insur-

ance and telecom costs. RAC said it expected 3rd quarter earnings of 68-70¢ and 2001 earnings of \$2.87-\$2.91 against analyst forecasts of 76¢ and \$3.02.

RAC's insurance, underwritten by Traveler's, expires Aug. 5 and new rates will raise annual costs to \$41 million from current \$28 million, CFO Robert Davis said. Sharp rise in insurance cost is tied to worker's compensation claims at stores, Fedel said. To cope with rising insurance costs, RAC will create risk management position, he said. "We can't do much about the rates, but we can do something about our claims and reduce the numbers," Davis said.

RAC's telecom costs also rose nearly \$400,000 per month in quarter after DSL provider Northpoint, which supplied service for Intranet to 500 stores, shut down operations. As alternative to DSL, affected outlets have been using standard 56 kbps modems, move that has driven average monthly per-store telecom cost to \$900 from \$100, he said. RAC expects to reset DSL network in 3-4 months with mix of MCI Worldcomm and AT&T, Fedel said.

RAC opened 74 stores in quarter including 54 through acquisition, but has lowered year-end goal to 75-100 outlets from 100-125. "We're a little bit behind on that and it's taken a little longer for us to find the right locations than we thought," Fedel said.

Rent-Way (RW) said syndicate of banks led by National City Bank of Pa. had extended loan forbearance agreement to Oct. 5. It expired July 31 (TVD July 9 p11). RW said it intended to have filed 10-Q statements for Dec., March and June quarters by Oct. deadline. Credit agreement with bank allowed RW to borrow maximum of \$76.1 million under revolving portion of facility. Pact also includes term loans of \$143.1 million and \$177.5 million. Chain was forced to restate earnings for last 3 years to reflect total of \$129 million in accounting improprieties and year-end adjustments (TVD July 2 p17). It uncovered accounting problems last fall (TVD Nov 6 p17).

Following talks with U.S. Attorney's office in San Francisco, Electronic Freedom Foundation (EFF) said it would rejoin call for nonviolent protests against arrest of Russian software programmer last month. Dmitry Sklyarov was arrested in Las Vegas on criminal count of trafficking in product designed to circumvent copyright protections under Digital Millennium Copyright Act (DMCA). Moscow resident was scheduled to speak at conference of hackers about software he developed that decrypted copyright protections on Adobe's eBook Reader. Adobe since has said that it does not support arrest of individual and criminal charge, which carries \$500,000 fine, 5 years in jail. EFF said U.S. Attorney's office didn't indicate whether it would drop charge, so group endorsed protests.

Pixelworks CEO Allen Alley has filed with SEC to sell 50,000 shares valued at \$1.1 million. He retains 2.3 million shares (5.7%) of company's outstanding common stock. Sanyo also seeks to sell 50,000 Pixelworks shares worth \$750,000... Sage CEO Chandrashekar Reddy filed to sell 20,000 shares valued at \$274,000, retaining 851,964 (6.5%)... THQ board members James Whims and Gregory Ballard filed with SEC to sell 44,417 and 7,000 shares valued at \$2.2 million and \$336,000, respectively. Whims, managing dir. of TechFund Capital and ex-Sony Computer Entertainment exec. vp, and Ballard, MyFamily.com CEO and ex-3Dfx, will retain 75,730 and 28,625 shares respectively after sale.

SONICBLUE POSTS LOSS: SonicBlue, taking \$275 million in after-tax one-time charges and saddled with heavy losses on United Microelectronics Corp. (UMC) investment, reported 2nd quarter loss plunged to \$312.5 million from \$36.2 million year ago.

Revenue fell to \$29.5 million from \$135.8 million year earlier, including revenue from discontinued multimedia board and graphics chips business. It also was down from \$50 million in first quarter that encompassed revenue from discontinued businesses including HomeFree home networking products (\$10 million) and graphics chip joint venture with Via Technologies (\$14 million).

Gross margin sank to negative \$65.7 million due to \$59.8 million inventory write-off largely tied to components for Rio 600 and Volt digital audio players, COO John Todd told analysts in conference call. Digital audio players, business SonicBlue entered in 1999 with acquisition of Diamond Multimedia, accounted for more than 50% of revenue in quarter. Rio Volt has 48% share of digital audio player market, Todd said. SonicBlue plans to add audio and video servers in fall, he said.

Charges also included \$109.1 million write-off of goodwill from Diamond acquisition, \$20.8 million loss on investments in 15 separate companies, \$13.1 million for restructuring that including slashing work force 30% (TVD June 18 p19). Additional charge is expected in 3rd quarter as SonicBlue integrates Sensory Science (SS) and ReplayTV acquisitions, Todd said. SonicBlue has forecast \$32 million 3rd quarter net loss on \$55 million in revenue.

SonicBlue, which owns 215 million shares of UMC stock, took \$69 million loss on investment in quarter. It has been selling shares, including 38 million in 2nd quarter, that helped pay off \$27 million of \$53 million loan from China Trust Bank, Todd said. SonicBlue is expected to sell another 31 million in current quarter to help fund operations, he said. SonicBlue, formerly S3, acquired UMC stake in 1995 along with several other companies, including SanDisk.

Meanwhile, sales of SS's DVD/VCR players were strong in quarter as overall SS's revenue increased 49%, CEO Kenneth Potashner said. SS also is continuing sales of dual-deck VCRs under Go-Video brand and new owners appears "to be taking their lead on how to push that category," source close to company said. "They're still getting decent sales out of the category and making money on it."

Still being negotiated is extension of agreement with German TV maker Loewe, pact that may be finalized in Sept., sources close to company said. SS, which has rights to sell Loewe branded TVs, is expected to introduce new set designs in fall but keep same screen sizes. It also is said to be studying adding home theater components to line including DVD players or A/V receivers. Loewe also recently reached agreement with Bose to jointly develop home theater speakers. "It will be any product that makes sense from a home theater point of view," source said.

Unclear is future of SS's California Audio and its high-end line of audio components. On drawing boards is incorporating SS's Extreme DiGital Entertainment (EDGE) platform into other SonicBlue products including future models of ReplayTV PVRs. SS introduced EDGE last year as modular software ar-

chitecture designed for HDTV, DVD, PVR, audio jukebox, games and Internet applications (TVD Aug 21 p18).

SonicBlue also completed \$80 million acquisition of ReplayTV and plans to introduce new products. In addition to ReplayTV's previously announced agreement with Motorola for set-top box (STB) applications, company is in discussions with AT&T and Enron, Potashner said. Sonicblue said earlier that ReplayTV eventually could account for 10% of total revenue. ReplayTV's personal video recorder (PVR) technology is being sold at retail under Panasonic's Showstopper brand, and company previously counted among its investors Sharp and EchoStar.

Meanwhile, ReplayTV rival TiVo disclosed in SEC filing that AOL Time Warner had extended repurchase right one month to Aug. 31. AOL Time Warner, which has 17.7% stake (8.2 million shares) in TiVo, has right to require TiVo to repurchase some of its Series A convertible preferred stock if company fails to maintain \$25 million cash position at end of each quarter. TiVo is required to repurchase amount of preferred stock equal to liquidation value of restricted funds held in escrow for that purpose — \$48 million.

Separately, TiVo said last week that it had received approval from its 11 largest stockholders, representing 57% of outstanding voting stock, to raise \$50-\$75 million in private placement.

Kopin, blaming sharp drop in sales of transistor products for cellular phones, reported \$15.2 million 2nd quarter net loss against \$3.8 million profit year ago. Loss included \$5.3 million charge for write-down of wafer processing equipment and \$20.9 million gain on exchange of investment in Kendin Communications for shares of Micrel Semiconductor. In cost-saving measure, corporate officer salaries have been cut 10% and those of high-level managers 5-10%, CFO Richard Schneider said. Revenue plunged to \$9.2 million from \$24.4 million due largely to decline in sales of heterojunction bipolar transistors (HBT) to \$3.8 million from \$19.5 million. Sales of its CyberDisplay microdisplays rose to \$5.2 million from \$4.8 million. CyberDisplay customers Panasonic and Samsung, which use 0.24" microdisplay for camcorder viewfinders, each accounted for 10% of total revenue. With installation base of 50 camcorders models worldwide, CyberDisplay has gained 20% share of viewfinder market which includes CRT and LCD versions. "We continue to see growth there and CRTs will be replaced hopefully within 18 months," CEO John Fan said. Kopin's CyberDisplay monthly production is running at 200,000 units with goal of breaking even by year-end with 250,000-300,000 units, he said... Microvision said 2nd quarter loss grew to \$8.6 million from \$6.9 million year ago despite increase in revenue to \$1.8 million from \$1.2 million. Company is developing microdisplay based on light-emitting diode (LED) technology from Cree Research and plans to market it for wireless phones and digital cameras. Goal is to introduce display in 2002 with 800x600 resolution that could sell in \$65-\$70 range, company said. Price will drop to \$30 with volume production, it said.

DVD slate for 4th quarter just got richer with Warner's announcement that it would release Academy Award winner *Doctor Zhivago* Nov. 6. Double-disc set (\$24.95 MAP) will include commentary by actors and behind-scenes documentary. It joins other 4th quarter blockbusters on DVD, including *Citizen Kane*, *The Godfather*, *Star Wars*.

KODAK AND MICROSOFT FEUD: War of words between Kodak and Microsoft broke out last week when companies unveiled their new, competing digital photo initiatives on same day. As result, Microsoft once again found itself accused of stifling competition.

Microsoft sponsored event in N.Y. at which various photo companies showcased how their hardware and software solutions would work on upcoming Windows XP platform, scheduled slated to become available Oct. 26. Kodak and AOL made available new version of their "You've Got Pictures" photo service. Latter 2 companies said, after listening to consumer feedback, they decided to enhance their existing service to make it easier and more convenient to use.

But Kodak spokesman charged that Microsoft was "positioning itself as the gatekeeper" in online photo space and said consumers' choices would be limited when using Windows operating system. Kodak said its competitors would be getting preferential treatment from Microsoft because XP system classified Kodak software as uncertified and automatically directs users to Microsoft Scanner and Camera Wizard software instead of Kodak's competing EasyShare.

Windows XP system will include bundled digital photo application guiding users through steps for downloading digital image from camera to PC, using software to modify images, printing them via online photo finishing service. Microsoft's hardware and software partners for digital photo solutions include Canon, Compaq, Corel, Dell, Epson, Fuji, Hewlett-Packard, Intel, Learning Company, NEC-Mitsubishi, Olympus, SanDisk, Sony Electronics.

Interestingly, Microsoft news release last week included Kodak in list of "industry leaders participating" in its presentation. Kodak spokesman explained: "Microsoft had called Kodak on Friday afternoon last week [July 27] and invited us if we wanted to attend the event. We considered that and said actually we would like to attend the event. We did go to the event and we demonstrated exactly how our products work with Windows XP — and we are very dissatisfied with the way our products work with XP, and Microsoft has been very aware of that."

But Kodak spokesman told us his company didn't take part in formal Microsoft news conference — only breakout presentation held after news conference: "We demonstrated the difficulties consumers are going to have when trying to interact with Windows XP and digital photography products. Our position is that we're certainly unhappy about Windows XP [and] how it works with digital photography applications because essentially Microsoft is inserting itself into the work flow and making consumers choose over and over again between a Microsoft application and a 3rd party application and it's always giving its application preferential treatment.

Kodak spokesman said other digital photo companies that took part in Microsoft presentation "may not recognize the challenges facing them from Microsoft today but then down the road they are going to be in a directly competitive position against Microsoft — and we're recognizing that now." He said: "Everywhere we turn within Windows XP, we see Microsoft putting up barriers and toll booths where they're preventing competition and then generating revenue off of transactions with pictures, and we don't think that's good for innovation and we certainly don't think it's good for consumers."

Microsoft spokesman contested Kodak's take on situation last week, saying: "Microsoft is very eager to work with 3rd party companies to ensure their applications are compatible with Windows XP. Windows XP has been designed to ensure a great consumer experience with a range of opportunities for photo and imaging solutions for 3rd parties. Microsoft wants to make sure Kodak and other companies partner with them and come up with great customer solutions."

LG Electronics, crediting \$1 billion gain from sale of 50% stake in CRT business to Philips, reported midyear net profit soared to \$900 million from \$341.7 million year ago. Gains were offset by \$138.3 million in losses from LG.Philips LCD joint venture and Dacom, its fixed line and Internet service company. LG.Philips had \$61.7 million loss. Earnings before interest and taxes (EBIT) declined to \$415 million from \$440 million due to "sluggish sales" of monitors, computers, DVD products. Display and media sales are projected to fall to \$5.3 billion from \$5.7 million year ago on slowdown in Internet technology (IT) sector. LG forecast 2001 sales of \$12.8 billion, up from \$11.4 billion year ago.

"**DVD Blowout Sale**" at e-tailer 800.com last week offered large selection of DVDs priced below \$10 and even as cheap as \$4.94. Among 471 titles under \$10, majority were catalog, and older classics dominated lowest priced discs. Of those, 800.com offered 45 movies at \$4.94, another 56 at \$5.94-\$7.94. In \$9.94 bargain bin, major studios accounted for 370 discs: Artisan (80), Columbia TriStar (33), MGM (114), Warner (143). E-tailer said prices were valid for unspecified "short time" and some titles "limited to stock on hand." It also offered promotion on highly acclaimed Criterion Collection DVDs, with 21 of 93 reduced to \$30 from \$40 (including *The Third Man* and *The Seven Samurai*) and to \$35 from \$50 (including *Spartacus*).

If **Circuit City's** new "We're with you" slogan has a familiar ring, that's because it's a registered servicemark of UnitedAuto Group and Dime Savings Bank of N.Y., *Richmond Times-Dispatch* reported. Several other companies expand on phrase such as Hampton Inn's "We're with you all the way." UnitedAuto registered phrase with U.S. Patent & Trademark Office in Dec. and uses it on its Web site. Dime used it in ad campaign in 1997-1998. Servicemarks registered by different business can be used as long as companies aren't in related industries, experts told *Times-Dispatch*. UnitedAuto is aware of Circuit's new slogan, which began July 1, and is "looking into it," spokeswoman said.

Sony and Yahoo last week formed alliance that will yield co-branded products and cross-promotions. Sony on My Yahoo will give users access to Sony content and products, and service will become default start page for Sony Style Connect, its Internet access service. Sony's Vaio PCs also will be preloaded with software that will allow consumers to register for personalized Sony and Yahoo services. Yahoo also will provide corporate consulting services to Sony. Financial terms weren't disclosed but while equity investment was not part of deal, relationships will be tightly integrated, companies said.

Chinese CE/appliance maker Haier will open combination showroom and restaurant at new hq in landmark neo-classical bank at 36th St. and Broadway in N.Y.C. Subsidiary Haier America bought site of 77-year-old Greenwich Savings Bank for \$14 million last month in bid to boost brand's image in U.S.

SONY SLASHES MEMORY STICK PRICES: Sony has slashed Memory Stick prices and formed alliance with Samsung in bid to narrow gap with competing flash memory technologies.

Memory Stick prices now run from \$24.95 for 8 MB to \$149.95 for 128 MB, down from \$29.95 and up to \$279, respectively. By comparison, market share leader CompactFlash retails online at \$79-\$179. Sony says it has 23% share of flash memory market.

Sony's move followed those of its competitors and also covered its Magic Gate Memory Sticks, which have embedded chip to detect digitally secured and copyrighted material. High-end 128 MB Magic Gate sells for \$169, but 32 MB version dropped to \$69.95 and 64 MB now is \$99.95.

Lexar, which makes Memory Sticks compatible with Sony's technology, will "support this action," spokeswoman said. Other competing format is Secure Digital (SD), which has backing of Matsushita and Toshiba, and SmartMedia, among others.

Meanwhile, Samsung and Sony unveiled agreement under which former will explore use of Memory Stick in its existing products and jointly develop new ones, company said. First target for Memory Stick application is likely to be camcorders, although models won't arrive until 2002, Samsung Mktg. Dir. James Sanduski said. Samsung, which supplies memory for Memory Stick, also has backed SmartMedia format in past and may introduce products using different storage technologies.

Samsung also is backer of DataPlay and probably will introduce technology with new line of digital audio players next year, Sanduski said. With addition of optical reader for DataPlay discs with up to 500 MB storage capacity, digital audio players will be priced around \$300, he said.

"Our approach to this is to be agnostic because it's our responsibility that whatever a customer's preference is, we're able to provide some type of application," he said.

Tripath Technologies said Fri. it would lay off 40% of its 137 employees as part of cost-cutting plan. Digital power amplifier supplier expects to reduce expenses 35% by end of 3rd quarter via combining manufacturing processes and trimming selective R&D spending. Tripath currently gets silicon from United Microelectronics Corp. and STmicroelectronics. It spent \$6 million on R&D in 2nd quarter, up from \$4 million year earlier. In July, Tripath reported 2nd quarter loss narrowed to \$8.8 million from \$10.6 million year ago, but revenue dropped 10% to \$1.8 million.

Locked content on coin-size DataPlay discs will be accessed for fee online through Reciprocal digital clearinghouse, companies announced. Under DataPlay business model, music or other content is prerecorded on 500 MB 2-sided disc and unlocked for play through Internet transaction as alternative to downloading content.

Matsushita will dissolve its Tokyo-based R&D subsidiary, Matsushita Research Institute (MRI), as part of companywide effort to consolidate R&D functions under parent firm's Advanced Technology Research Labs. Move takes effect Oct. 1.

JAPAN FTC HITS SONY: Japan Fair Trade Commission (JFTC) accused Sony Computer Entertainment Inc. (SCEI) of breaking Japan's Antitrust Law by pressuring dealers to sell games for PlayStation videogame consoles at set prices and only via select channels.

SCEI also was accused of hampering free distribution by instructing wholesalers to sell only to retail outlets and for retailers to sell only to consumers. JFTC ordered Sony to stop those practices. SCEI appealed, but FTC upheld initial decision.

In statement last week, SCEI said it "decided that it would accept the decision reached by JFTC as it takes into account the opinions that have been claimed by both parties."

SCEI added: "Regarding the restrictions on PlayStation software title price, SCEI believes that the market price has been free, yet the company will thoroughly notify the customers and retailers that no such restriction exists and that the price should be freely set by the retailers. Also, regarding the restriction of PlayStation software title wholesale distribution, SCEI has included the term in the contract in order to manufacture the products based on the actual demand by the customers. However, as such trend has now become common among the retailers and software makers, SCEI believes that this term has lost its significance. Respecting the opinion of JFTC, SCEI had already decided to eliminate this term from the contract, and according to the appeal, SCEI will enforce notification to its customers and retailers."

Alpine started shipping CDA-7878 CD receiver/CD changer controller with MP3 and CDR/RW playback functionality at \$850. Mobile electronics manufacturer said unit also featured exclusive Digital Harmonics Enhancer (DHE) technology that company said used digital processing to analyze and enhance harmonic element to emphasize different parts of music. CDA-7878 head unit also is XM Satellite Radio-ready. Brand Mktg. Vp Stephen Witt said: "The CDA-7878 will allow customers to truly personalize their in-car audio entertainment experience regardless of whether they are listening to downloaded MP3 files or tuning into digital satellite radio."

DirecTV threatened for first time to sue and seek punitive damages from individuals who illegally received satellite broadcasts, company said. It estimated as many as one million U.S. homes used unauthorized access cards and other signal piracy equipment to receive DirecTV without paying. Company said it had mailed strongly worded letters to possibly thousands of individuals and families suspected of piracy. Spokesman said it was important to convince average viewers that they could face stiff penalties for theft of service.

Winstar's video properties are up for grabs, spokeswoman told us at our Fri. deadline. Attempt to sell "noncore" assets is part of broadband and telephony provider's plan to speed its exit from Chapter 11, filed in April. Company's considerable movie and home video holdings include well-regarded Fox-Lorber Films and Winstar Home Video, as well as TV properties. In past, company had told us status of entertainment group wouldn't be affected by bankruptcy proceedings.

Comment was unavailable from Agfa at our deadline on U.K. report indicating German-Belgian company was quitting digital still camera (DSC) and low-end scanner categories. Report said company already had told its European resellers not to expect additional DSC supplies.

SOFTWARE CALLED KEY TO XBOX SUCCESS: In his company's annual financial analyst meeting, Microsoft CFO John Connors admitted just how important quality of Xbox games would have to be for console to be successful.

Connors said: "The software is really the key to our success. We'll get the hardware right. We'll work with our partners to make it successful. But you have to have killer titles for this to be successful. I think if you look at the model, we will ship a number of titles that we call first party, and there's good margin — software kind of margin — on those titles. And for those 3rd-party titles that are developed for our Xbox, we'll earn a modest royalty."

"We also have to be clear that the attach rate — that, is the number of games that people buy per console — is really what drives the economics," Connors said.

Connors made it clear Microsoft saw Xbox as long-term business model: "Microsoft is a long-term company, and I think as long as Bill [Gates] and Steve [Ballmer] are running it, it always will be a long-term company. Xbox is a long-term business cycle for us and a long-term opportunity. As we discussed in our conference call, we [expect to ship] between 4.5 million and 6 million units in the fiscal year '02... We would not anticipate the same level of investment next year as this year, although there will be an investment for several years before we get to scale and profitability."

Earlier in day, Games Sales & Mktg. Dir. John O'Rourke said Microsoft now had "over 200 of the world's best [game developers] lined up right now working on titles" and "over 40 game titles are being worked on within the Microsoft game development studios run by Ed Fries. By the end of the year, we're going to have somewhere around 100 games within [the most popular] genres — quality games, many from the internal Microsoft game development studios and many from our partners. As a matter of fact, there are over 80 exclusive titles that you will not be able to find anywhere other than on Xbox in development within the Microsoft game studios and our 200 partners."

O'Rourke said that, like most game makers, Microsoft realized it couldn't just ship same titles in each market: "We... realize that you can't just have a game portfolio that will sell well in North America and have that same portfolio sell well in Japan, or sell well in Europe. You have to have some changes. For instance, football is not a huge seller in London. Soccer is a much, much bigger selling title. In the racing category... F-1 racing games sell much better [in Europe] than they do in North America. The same thing with rally racing games."

Company also once again underscored importance of broadband and online game play in Xbox business model. O'Rourke said: "Of the over 200 game developers we have signed up, well over 30 of them are already working on games that will take advantage of the online capabilities when it goes live in the first half of next calendar year."

PhotoMax Fun 620 is latest digital still camera (DSC) from Polaroid, at \$69.99. Announcement of new DSC came after Polaroid reported loss and reduced revenue for 2nd quarter as it continued to have trouble competing against manufacturers with more strength in digital imaging (TVD July 23 p14).

CHUNGHWA TO PRODUCE TILED LCDs: Chunghwa Picture Tubes (CPT) will manufacture tiled LCDs based on Rainbow Displays' technology.

Taiwan-based CPT will start volume production of 37.5" display, which is stitched together using 21.5" LCD panels, in 4th quarter, with annual production at 50,000-100,000. CPT, which will work with Rainbow on developing 42W version, plans eventually to dedicate 40% of production at one plant to tiled displays with goal of hitting annual capacity of 670,000-1 million units by 2005, company said.

Agreement with CPT would appear to represent change in strategy for Rainbow, which earlier this year said it expected to start preproduction in Aug. using LCDs from Hosiden (TVD June 11 p16). Display has 852x480 resolution, 500 lumens, 500:1 contrast ratio, 16 millisecond response time. Rainbow Senior Vp Edward Zinni wasn't available for comment on CPT agreement.

Silan Corp. will assemble displays in Taiwan for LCD TV and other applications. Philips, which has 27% stake in Rainbow, is expected to have one-year exclusive on distribution of display to transportation market.

Meanwhile, FED maker PixTech reported 2nd quarter net loss narrowed to \$5.6 million from \$6.6 million year ago as revenue declined to \$1.2 million from \$2 million.

Separately, PixTech said it would take \$4 million charge against 3rd quarter earnings to cover shutdown of 73,000-sq.-ft. Boise, Ida., plant that produced 7W color display. Boise plant, which PixTech inherited in buying Micron Technology's display business in 1999, employed 68. Overall PixTech cut work force 30% to 150. Restructuring will yield quarterly savings of \$1.5 million, company said.

Production of 5.2" mono display at contractor AU Optronics plant in Far East is running at 1,000 units per quarter and may double by 4th quarter, but still will be short of goal of 5,000 (TVD May 21 p15).

PixTech's 31,100-sq.-ft. factory in Montpellier, France, is handling production of 7W color FED and has delivered first 2 prototypes to VW's Audi Div. for installation in high-end vehicles. Initial Audi tests have shown that display needs "to improve consistency" and "differential aging," PixTech CEO Dieter Metzger said. Volume production of 7W isn't expected until end of 2002, missing original target of next spring.

PixTech also acknowledged that last program with Defense Advanced Research Product Agency (DARPA) was likely to die at year-end, although Metzger said other proposals were being discussed, with decision expected by late Aug. PixTech has developed six 12.1" FEDs under \$4 million DARPA program.

Bose has added floor-standing and bookshelf speakers to line. New floor-standing models are 701 Series II (\$998 pair) rated for 300 w channel, and 601 Series IV (\$598 pair) rated for 200 w. Each is available with graphite gray or light cherrywood cabinets. Compact bookshelf speaker, Model 161 (\$158 pair) comes in black or white and also is bundled in \$349 center/surround sound package.

THE WIZ ADDS NEW SECTION: N.Y. metro area CE retailer The Wiz added new garage rock section to music department at select stores. It also kicked off Cavestomp Garage Rock Band Search contest in conjunction with E Street Band guitarist/Sopranos actor Steven Van Zandt (Little Steven).

Cablevision subsidiary said contest was designed to help discover and showcase new rock and roll talent. To enter contest, bands must turn in recording of original song and fill out form at music department of any Wiz store before Sept. 1. Twenty finalists will have their work included in compilation recording to be sold at Wiz, with profits going to charity. Finalists will be asked to submit short video shot live at recent performance. Grand prize winner will be invited to perform at Cavestomp Garage Rock Festacular Nov. 2-4 in N.Y.

In news conference at Greenwich Village Wiz store, Little Steven said: "What The Wiz is doing is extremely important" and could represent "rebirth of rock and roll." Appearing with him were Wiz COO Norman Goldberg and Cablevision CEO-Pres. James Dolan. Latter said: "It's pretty unusual for a major retailer to get involved" with initiative such as this, but not so unusual for Cablevision. Dolan said his company "has a long history of supporting artists who are not necessarily mainstream and who are not necessarily supported by big bucks." He pointed to Cablevision's Independent Film Channel as one example of commitment to nonmainstream artists.

Dolan said most recordings at major retail stores were from major labels. With way traditional music business works, he said, musician can be best but never be recognized. But "that is changing," he said, with Internet as primary factor. "We want to be a part of that change... and we want to see it start right here in New York," Dolan said.

In another example of nontraditional retail initiative, The Wiz recently joined forces with fellow Cablevision company MetroTV to create "The Daily Beat" cable program showcasing N.Y. music scene. Wiz is supporting show with newspaper, radio and TV ads as well as point-of-purchase displays and store circulars.

Separately, Wiz spokeswoman told us company was offering Cablevision's Optimum Online high-speed Internet service "in 26 of our 42 stores" and was "continuing the rollout in areas where Cablevision service is available." She said: "In those 26 stores we also offer customers access to customer service counters where they can access their Cablevision account."

Wiz recently held grand openings for its remodeled Huntington and relocated Massapequa stores on L.I. and is remodeling its Carle Place and Kings Plaza stores. Company also is gearing up to open 43rd store in Manalapan, N.J., "early this fall," spokeswoman said.

Company has yet to indicate when it expects Wiz will return to profitability. Spokeswoman would say only that "owning The Wiz is a long-term strategy for Cablevision that gives the company access to a retail operation that closely mirrors their franchise area." She added: "The reality is that the electronics retailer was bankrupt in 1998 as the former Nobody Beats The Wiz. We are improving and growing the company. We are moving in the right direction."

VIDEOGAME RATING SYSTEM PRAISED: Rating system set up by videogame industry was praised by Sen. Lieberman (D-Conn.) at congressional hearing in Washington, but not everyone agreed with his assessment.

Lieberman complained rating systems used by film, music and TV industries still didn't provide enough information for parents, but said: "If we are looking for an industry model, I would point to the videogame rating system, which is administered by the independent Electronic Software Ratings Board (ESRB)." He said: "The ESRB system, which was a response to congressional hearings, pairs age-based icons with detailed content descriptors in a clear, concise, and informative format. I believe it is the best media rating system in existence."

FTC report in April said game industry had made at least some efforts to stop marketing M-rated games to children, while film and music industries were criticized for their practices (TVD April 30 p5).

Testifying late last month, Interactive Digital Software Assn. (IDSA) Pres. Douglas Lowenstein once again tried to correct what he said was distorted perception many people have about who plays videogames. He said: "In truth, 145 million Americans play videogames and their average age is not 12 or 15; it's 28; 61% of all game players are over 18; 43% are women. Most games do not contain violent content. In fact, 70% are rated as appropriate for everyone ages 6 and up, and last year, only 117 of the 1,600 titles released were rated for Mature users due to violence."

Despite Lieberman's praise of ESRB ratings, one parent testified that she strongly disagreed with rating of particular videogame. While some might still not be convinced rating system provides accurate information, Lowenstein argued: "No less a watchdog than the chairman of this Committee has repeatedly and publicly lauded our industry for our self regulatory program, of which ESRB ratings are the centerpiece."

As for parent who argued against rating of game, Lowenstein said: "I understand that. I respect her views and opinion. But I do not concede that her opinion is more valid than that of the demographically diverse panel of raters used by the ESRB, or that it invalidates professional scientific, national research with 410 adults by Peter Hart which found that 'in 84% of all instances, games are rated equal to or less strictly than the official ESRB rating.' Hart found that the ESRB is 'twice as likely to be more conservative than the public' in rating decisions."

Lowenstein said: "In the end, people react differently to the same piece of entertainment, whether a game, music, or movie. And not even the government-blessed universal rating system that some tout offers any assurance of more reliable ratings because not even the government, or should I say, especially not the government, can speak for all Americans."

Optura100 MC DV camcorder from Canon will ship next month at \$1,899. Canon said new digital camcorder incorporates 1.3 megapixel CCD image sensor that captures video and digital still photos at 1280x960 resolution. Manufacturer said new model offers vertical design, setting it apart from Canon's previous Optura camcorders. Optura100 MC also has 10x zoom lens and 200x digital zoom.

UBI SOFT DIVES INTO ONLINE ARENA: Ubi Soft Entertainment (USE) announced aggressive plan last week to enter multiplayer online (MMO) videogame market in N. America. Meanwhile, Paris-based game maker reported consolidated sales jumped 162.5% in first quarter ended June 30, expanding to 60.39 million euros (\$53.2 million) from 23 million euros in same quarter year ago.

USE attributed sales increase to success with strong brand policy, global distribution strategy, early positioning of titles for new game consoles. It said standout titles in quarter were *Myst III: Exile* for PC and *Rayman Advance* for Game Boy Advance (GBA), both of which USE said sold more than 400,000 copies. Sales in N. America also more than tripled from year ago, contributing 47% of overall group sales.

Although USE said its average growth in Europe was 75%, it fared even better in Germany (135%), Britain (205%), Italy (265%), Netherlands (160%), Spain (111%). USE said European sales equaled 29 million euros and contributed almost 48% of overall group sales. Sales in Asia-Pacific region doubled, USE said.

By platform, sales of GBA and PlayStation 2 (PS2) games accounted for 27% and 8% of sales, respectively, USE said. PC product represented 40% of sales and PlayStation games for 15%. USE said "more than 80 games" would ship "in the coming months on all platforms." Upcoming titles include *Batman Vengeance*, *Disney's Tarzan*, *Evil Twin* and *Rayman Arena* for PS2 and *Disney's Donald Quack Attack*, *Final Fight* and *Men in Black* for GBA.

USE said it was "confident that strong growth will continue throughout the 2001-/2002 financial year."

Company said its online division would concentrate on most profitable area of online gaming — pay-to-play games. USE's MMO game initiatives in N. America kick off with deal to publish game *Shadowbane*. Title, being developed by Austin, Tex.-based Wolfpack Studios, is expected to debut online in first half of 2002. USE said it was looking "to attract several hundred thousand players and to generate in excess of \$40 million over the first 2 years of operations."

USE said that although it already had experience publishing in European MMO market, new agreement marked its "first foray" in that category in N. America. Company said it would use its marketing and distribution network to publish boxed version of title, while its new online division would handle all back-end support, including network and server infrastructure, billing, customer service, in-game support. Wolfpack will "continue to play an essential role after the game's release by developing updates and ongoing episodic content that will feed the game and its players for years to come," USE said.

Shadowbane is being touted by USE as "the first persistent world massively multiplayer online game to combine the fantasy role-playing and strategy genres." USE said title was "the first such product to embrace a dynamic world design model, in which players can physically affect the history, politics and landscape of the game itself."

Online Gen. Mgr. Gilles Langourieux called title "an extraordinary opportunity for us to further strengthen our online presence."

Consumer Electronics Personals

Gerard Kunkel, Worldgate senior vp for strategic programs, promoted to pres... **Hewlett-Packard Chmn.-CEO Carly Fiorina** to give keynote speech Jan. 8 at Las Vegas CES... **Changes at AMX Corp.:** **Jean Nelson**, ex-Brink's Home Security, joins as vp-CFO, replacing **Paul Fletcher**, who is leaving to pursue other opportunities; **Carl Evans**, ex-Samsung Telecom, joins as vp-operations... **Tina Tuccillo**, Toshiba asst. vp, named to head new marketing communications dept. combining sales training, PR, advertising, trade show and Internet activities.

Appointed at Vivendi Universal Interactive Publishing N. America: **Angela Emery**, ex-Fox Interactive, as communications dir.; **Leslie Hollingshead**, ex-Stamps.com, as senior corporate communications mgr... **Gary Sproule**, ex-Whatshot-now.com, named CFO-finance vp, Disney Interactive... **Randall Gausman**, ex-Zantaz, appointed iBeam CFO... **Joel Flatow** named RIAA gen. mgr. for West Coast affairs, also will remain Assn.'s senior vp for artist and industry relations... **Stephen Powers**, ex-Drive Entertainment, appointed pres., Miller & Kreisel Sound, succeeding company founder **Ken Kreisel**, who becomes CEO.

Another class action lawsuit was filed by disgruntled Amazon.com stockholders, but this time it wasn't targeted at Amazon. Rather, it was filed against Morgan Stanley Dean Witter & Co. and its Internet analyst, Mary Meeker, in U.S. Dist. Court, N.Y.C. last week on behalf of those who bought common stock of Amazon between Aug. 1, 1998 and May 14, 2001. Suit, filed by Bala Cynwyd, Pa.-based law firm Schifffrin & Barroway, charged Morgan Stanley and Meeker with issuing "false and misleading statements" and failing to disclose material information concerning Meeker's "true relationship with Amazon throughout the class period." It charged that Meeker's ratings, recommendations and positive statements on Amazon were not based on objective analyses but rather on her desire to attract and retain Amazon as Morgan Stanley banking client and that Meeker's compensation was directly tied to amount of investment banking business she generated for firm. End result, suit charged, was that class members bought Amazon common at inflated prices, causing them to suffer "enormous damages." Similar suit was filed on behalf of disgruntled eBay investors. But Morgan Stanley issued comment disputing charges, saying: "From the media reports, we believe that the claims against Morgan Stanley and Mary Meeker are without merit, and that both cases should be and will be dismissed."

Official opening of Fuji Photo Film U.S.A.'s expanded Hanover Park, Ill., facility was announced last week. Facility serves Fuji's new Midwest region office and distribution center, as well as national hq of its Graphic Systems Div. Fuji said 3-story, 320,000-sq.-ft. custom-built facility, northwest of Chicago, has enough space for 250 Fujifilm associates serving company's consumer markets, commercial imaging, graphic systems, document products and magnetic market customers. Fuji Photo Film U.S.A. COO-Exec. Vp Stanley Freimuth said facility "is yet another indication of Fujifilm's strong and continuing commitment to the American market." Graphic Systems Div. Vp-Gen. Mgr. Daniel Maffeo said new facility "provides expanded office space and training and technical support areas as well as a state-of-the-art product demonstration area for customers and dealers across the United States."



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TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

AUGUST 13, 2001

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

DBS BLOCKS STATIONS from satellite carriage, claiming signal quality issues. As many as 200 stations, mostly independents, affected. (P. 1)

FINANCE REFORM SUPPORTERS within 13 votes of House action, they claim. Hastert seen likely to act. Free time pressed. (P. 2)

LICENSE REVIEW SOUGHT in case that could affect FCC auction authority. Agency says NextWave decision could hurt 'integrity' of auctions. (P. 3)

FCC UPHOLDS YOUNG ON DBS, rejecting EchoStar claim Young didn't negotiate fairly on carriage. EchoStar admonished. (P. 3)

SUCCESS DOUBTED in bid for Supreme Court review of FCC ownership rules. MAP agrees, but says it's worth effort. (P. 4)

MMDS MOVE LIKELY, FCC's Powell signals. Commission to decide on using MMDS/ITFS spectrum for 3G wireless. (P. 4)

DBS BLOCKS INDEPENDENT TV STATIONS FROM CARRIAGE: DirecTV and EchoStar have rejected unspecified number of local stations for retransmission because of quality of signal, companies said. No numbers were given, but industry source told us as many as 200 independent stations might have been turned down for carriage on DBS channels. NAB spokesman said: "We regard this as a stunt from the satellite carriers to circumvent their obligations under SHIVA [Satellite Home Improvement Viewer Act] and FCC regulations. The satellite carriers lost in Congress, lost in court and now they are thumbing their noses at the law."

Broadcasters and satellite operators are preparing for oral argument Sept. 24 in 4th U.S. Appeals Court, Richmond, on consolidated appeal filed by Satellite Bcstg. & Communications Assn. (SBCA), DirecTV, EchoStar. DBS industry is challenging FCC rule requiring DBS operators to carry all stations in local markets where they provide service. Satellite interests believe must-carry rules will hamper their ability to provide "across-the-board" programming to viewers in more markets while local broadcasters say efforts to shut them out will hurt consumers and negatively affect advertising, forcing many out of business.

Satellite operators would like issue to be resolved quickly. Deadline for implementing must-carry rules is Jan. 1. Many retransmission agreements involving broadcasters and DBS providers DirecTV and EchoStar still are pending. DBS operators are balking at what they say is using valuable satellite capacity for inferior programming and poor quality signals. SBCA Acting Pres. Andrew Wright said: "The deadline for implementing must-carry is quickly approaching. It is imperative that we have the opportunity to make our constitutional arguments and for the court to render a decision before that time."

Most independents were rejected because of signal quality, not content, EchoStar and DirecTV said. Latter said it had denied about 90 stations because of poor signal and others because they were in DMAs where local channels weren't

Consumer Electronics

RENTAL DEALERS TEST DTV with Buy Rite, Rainbow Rentals and Rent-a-Center leading way; market remains small, pricing high. (P. 8)

DIGITAL FM BEATS ANALOG in all test criteria, iBiquity reports. Service rollout set for next year. (P. 10)

ENHANCED DVD-VIDEOS COMING that push limits of format's video resolution — or capacity for interactive features. (P. 11)

COURT STRETCHED LAW ON DVD HACKER, says Electronic Frontier Foundation in criticizing appellate ruling refusing to dismiss charges in 1999 case. (P. 11)

RECOTON REDUCES QUARTERLY LOSS but they grow in gaming segment. Company predicts videogame accessories will be 'catalyst' for turnaround. (P. 13)

CRAZY EDDIE HITS AIRWAVES in N.Y. metro area with new ad campaign. (P. 14)

being offered, spokesman said. Unspecified number of stations have been accepted, DirecTV said. "We obviously have one of the highest quality signals today," DirecTV spokesman said, and stations rejected "didn't meet our standards. They must improve their signals." EchoStar said it was making local broadcasters prove they could meet its standards before agreeing to carry their programming. "If the broadcaster was identified as one that has yet to provide us proof that they can deliver a good quality signal, we will be assisting those broadcasters by meeting them at the local receive facility so that they may test their signal quality" to meet EchoStar carriage requirements, spokesman said: "Ascertaining the precise volume of qualified signals is critical." EchoStar said it was working with TV stations in effort to conduct tests on signals.

Assn. of Local TV Stations (ALTV) Gen. Counsel Robert Branson said law required carriage and "that's what we want.. We are vigorously working to have the rules enforced. The statute is right: Carry one, carry all." If not, Branson said, local residents will be hurt because many won't get news and information they need. Issue of quality signal is really non-issue and "old argument" that's been used before by cable industry, he said.

DirecTV said it had "made it clear" it opposed must-carry rules, spokesman said: "If we didn't have to comply, we could offer local channels in 70 markets instead of 41." Spokesman cited major markets such as Chicago, L.A. and N.Y. N.Y. has 23 local stations, but overwhelming majority of viewers "only watch 8," spokesman said: "We are forced to carry 14 to 15 with very limited viewership at expense of not carrying local stations in smaller markets like Hartford and New Haven."

'BLUE DOGS' CLOSING IN ON CAMPAIGN REFORM BILL: Supporters of campaign finance reform in House tell us they expect Speaker Hastert (R-Ill.) to act on his own to bring measure back to House floor for vote. Predictions were made after House began its Aug. recess and with "Blue Dog" caucus of conservative House Democrats obtaining 205 signatures (including 15 Republicans), just 13 short of 218 needed (TVD Aug 6 p7) to successfully send Senate-passed measure back to floor. When discharge petitions get that close to success (and Blue Dogs say they're confident of getting 13 signatures needed), leadership in past has placed contested measure back on calendar in order to maintain control of debate, sources said. Bill was removed from House floor month ago, following several days of debate, following disagreements over Republican-proposed changes in Rules Committee report (TVD July 16 p3).

Meanwhile, task force of state and local election officials issued report Aug. 9 recommending that TV networks be prohibited from reporting any Presidential election results until all polls had closed in contiguous 48 states. However, unlike previous recommendations, and as sought by TV networks, group came out against uniform poll opening and closing times in all states. "We don't think there's a crisis, but it's important to fix the perception" of problems in national and state election laws, said Beryl Anderson, Ohio deputy secy. of state.

Earlier report of National Commission on Federal Election Reform, co-chaired by former Presidents Gerald Ford and Jimmy Carter, called for TV networks and stations to offer 5 min. of free prime time nightly to each qualified Presidential candidate beginning 30 days before general elections. Report also called for establishment of new govt. agency, Election Administration Commission, to oversee federal elections with annual funding of \$300-\$400 million. Another provision: "News organizations should not project any Presidential election results in any state so long as polls remain open elsewhere in the 48 contiguous states."

NAB has strongly opposed election reform bills — particularly lowest unit charge provision in Senate measure (TVD June 25 p1) — and issued statement in opposition to free air time proposal in Ford-Carter report. In response to broadcasters, Paul Taylor, exec. dir. of Alliance for Better Campaigns, charged Fri. that TV industry, "by using its exclusive control over scarce public airwaves to profiteer on democracy, it makes a mockery of its obligation to serve the public interest." He told us broadcasters should become "part of the solution to the problem of money and politics. At the moment, unfortunately, it's a big part of the problem."

Liberty Corp. said it signed new 10-year affiliation agreement with NBC. Accord covers all 8 of its NBC affiliates and includes continuing compensation from network during "a substantial portion of the term," CEO Hayne Hipp said. Deal will be compensation-neutral for rest of term, he said. NBC affiliates are WAVE-TV Louisville, WIS-TV Columbia, S.C., WLBT-TV Jackson, Miss., WFIE-TV Evansville, Ind., WSFA-TV Montgomery, Ala., KCBT-TV Lubbock, Tex., WALB-TV Albany, Ga., KPLC-TV Lake Charles, La.

Softening of ad dollars in radio "appears to have come to an end," Radio Ad Bureau said in announcing revenue for June. Local and national radio ad dollars combined were down 8% from same month last year, while in previous 2001 months revenue had been down in double-digit figures.

New FCC Comr. Abernathy will be FCBA lunch speaker Sept. 17 at Capital Hilton. FCBA also plans reception for all new FCC commissioners Sept. 24 at Mayflower Hotel.

LICENSE REVIEW SOUGHT: In case that could affect FCC ability to auction all types of licenses, Commission plans to ask U.S. Supreme Court to review U.S. Appeals Court, D.C., ruling that returned licenses to bankrupt wireless carrier NextWave. In meantime, Commission asked D.C. Circuit to stay results of its June remand that otherwise would take effect Aug. 13 by returning to NextWave licenses on which it had bid \$4.7 billion in 1996. D.C. Circuit in June reversed FCC decision that cancelled NextWave licenses for missed payment, throwing results of \$16.8 billion re-auction of those licenses into chaos. "High court review will protect the integrity of the FCC's auctions program, which Congress has chosen as the best method of assigning scarce and precious spectrum resources to those that will put them to their most productive use," FCC Chmn. Powell said.

Meanwhile, Commission wants D.C. Circuit to stay issuance of its mandate that would return licenses to NextWave. Circuit Court had ruled that Sec. 525 of Bankruptcy Code barred FCC from cancelling licenses of winning bidders that didn't make timely installment payments while in Chapter 11 proceedings. D.C. Circuit had said that conclusion didn't frustrate intention of Communications Act, which didn't require FCC to select particular licensing scheme.

In motion for stay, FCC for first time described how that ruling could thwart underpinnings of its auction system: "The decision interferes with the use of auctions as a practical method of spectrum allocation. Although the court has before it the case of a single licensee, the holding has far broader potential consequences."

"Through this appeal, I also hope the court will clarify how the important public policy goals of the Bankruptcy Code should interact with the equally important public policy goal of ensuring that spectrum is used for the benefit of the American people," Powell said. "If an auction winner declared bankruptcy immediately after submitting the winning bid and refused to pay the bid price, the FCC could be forbidden from denying the license," Commission argued. If bankruptcy court later reduced debt, bidder then would be able to retain its license for less than what it or others had bid, FCC said. That result "directly undermines the market-driven underpinnings of the auction regime," it said. "Even the possibility that a bidder will not ultimately be held to its bid subverts the process and turns bankruptcy into an auction strategy."

Supreme Court has turned down review of two 2nd Circuit rulings on NextWave. Last year, high court rejected company's challenge of May 2000 ruling by 2nd Circuit that concluded Commission was acting as regulator and not debtor when it cancelled carrier's license for missed payment. It also denied certiorari when NextWave sought review of earlier 2nd Circuit decision that backed FCC on value of PCS licenses.

Wall St. analysts are questioning why Viacom COO Mel Karmazin recently sold 700,000 shares in company for \$35 million. Sale was disclosed in company's latest SEC filing. Karmazin has argued that Viacom's shares actually are worth about \$100, double current level. After Viacom acquired CBS (along with Karmazin) 15 months ago, he signed 3-year contract that prevented him from selling any shares for year. After sale, which represented 7% of his holdings in company, according to analyst, he still controls 3.8 million shares. He also has vested stock options in 5 million shares.

FCC UPHOLDS YOUNG ON DBS: FCC rejected EchoStar claims that Young Bcstg. failed to negotiate in good faith for carriage of its stations by DBS provider. EchoStar had charged that Young improperly tied required carriage of KCAL-TV L.A. with deal to carry WKRN-TV Nashville and KRON-TV San Francisco. It also had charged that Young improperly delayed negotiations, failed to meet Satellite Home Viewer Improvement Act requirements for offering alternative scenarios for carriage, violated "totality of circumstances" standard.

FCC said EchoStar failed to adequately prove any of charges, and Young had offered bargaining proposals that were "presumptively consistent with competitive marketplace considerations." Commission said Young's failure to grant short-term extension of carriage approval was irrelevant.

EchoStar also received slap on wrist from Commission for "abuse of process" and lack of candor. In order, Cable Bureau said EchoStar "failed in its duty of candor to the Commission" by requesting confidentiality for documents submitted in proceeding, then making them public itself and failing to notify FCC that it had done so. "We admonish EchoStar for this abuse of process and caution EchoStar to take greater care with regard to future filings," Bureau said. Lack of candor occasionally has caused FCC to refuse to grant new licenses to applicant, or even to revoke existing licenses, but indications were that Commission wouldn't consider EchoStar actions serious enough to affect licensing.

EchoStar said decision was "disappointing" and it was "considering our options." In interim, EchoStar said it would continue to negotiate with Young in effort to resolve retransmission contract issues at center of dispute.

Newton Minow, FCC chmn. first 2 years (1961-1963) of Kennedy Administration and deliverer of "vast wasteland" speech at 1961 NAB convention, received "Lifetime Achievement Award" from FCBA — only 2nd time award has been given by communications lawyers. Presentation was Aug. 5 in Chicago during American Bar Assn. convention. He was honored for his "vision and dedication to the field of communications." Minow later served as chmn. of PBS, Carnegie and Rand Corp., trustee of Notre Dame and Northwestern Universities and on boards of CBS and Tribune Co., among others. Henry Geller, Minow's gen. counsel at FCC and former Justice Dept. and NTIA dir., received Bar Assn.'s only other lifetime award, in 1999.

Comcast, which made unsolicited \$58 billion bid for AT&T Broadband last month (TVD July 16 p2), bought Baltimore cable system from AT&T June 30 for \$518.7 million, company said in quarterly report to SEC. System has 112,000 subscribers, it said, and purchase price is subject to adjustment. Meanwhile, under agreement with Fox Entertainment, Comcast received option to acquire former's 83.2% interest in Outdoor Life Network (OLN). In connection with agreement and to enable Fox to acquire other minority interests in OLN, Comcast said it agreed to make \$400 million loan to Fox. Loan and its accrued interest may be applied against purchase price at closing, Comcast said, and if option is exercised it would own 100% of OLN.

WorldGate said it received U.S. patent for interactive TV. It said patent involved method for efficiently encoding digital image data such as Web pages for delivery via cable.

COURT SUCCESS DOUBTED: Industry analysts expressed doubt that consumer groups would be successful in their challenge to FCC rules that cap number of subscribers cable companies could reach (TVD Aug 6 p7). Analysts said it was unlikely U.S. Supreme Court would take case, but if it did, justices were likely to affirm ruling of U.S. Appeals Court, D.C., that overturned cap. Andrew Schwartzman of Media Access Project, which appealed to Supreme Court on behalf of Consumer Federation of America and Consumers Union, acknowledged high court was unlikely to take case, especially since FCC and Justice had bowed out. "We are not overly optimistic," Schwartzman said, but public's interest merited appeal.

Analyst Keith Kennebeck of Strategis Group pointed to Appeals Court's finding that FCC rules violated companies' First Amendment rights. Court also faulted Commission for not taking DBS into account. Kennebeck said DBS eventually would become major market competitor, but overbuilders weren't competitive now.

FCC and Justice chose not to challenge Appeals Court ruling, signaling Bush Administration's and FCC Chmn. Powell's previously stated interest in less govt. intervention. Analysts said "deregulatory climate" didn't bode well for cap, nor did atmosphere in marketplace, such as Comcast's recent unsolicited bid for AT&T Broadband. "The potential Comcast-AT&T Broadband merger is a sign of a new wave of consolidation. I think that this merger will most likely happen," Kennebeck said. Analysts predicted top MSOs, through mergers, would be whittled down to 4 or 5 in coming years.

Schwartzman said analysts' predictions supported MAP's argument that high court must act to ensure "diversity of opinions" in media.

Former FCC Chief of Staff Blair Levin, now analyst for Legg Mason, said one option was for Commission to renounce any cap and instead let Justice handle mergers and acquisitions under antitrust provisions. However, Congress intended in 1992 Cable Act that FCC have power to act in public interest, so that agency would be left to have "a profound impact" on future media deals, Levin said. FCC Cable Bureau Chief Kenneth Ferree has said new ownership rules would be proposed within 2 months. Senate Commerce Committee Chmn. Hollings (D-S.C.) and Democratic-controlled Senate have shown interest in pressing for new regulation, but analyst Patti Reali of Gartner Dataquest said she doubted Democrats would prevail: "With Powell and the Bush Administration, I just don't see more regulation coming."

"High-level talks" between ABC News and CNN have been under way for 2 weeks in effort to reach "strategic alliance" on newsgathering, including possible partnership, sources on both sides confirmed. Renewed talks with ABC come after possible CNN alliance with CBS News reportedly broke down over which company would be in control. Confirming talks, CNN official said its "worldwide newsgathering capability has made us an attractive partner... We are certainly open to discussing this issue with colleagues at other networks, but we will not discuss it in the press." ABC News reportedly has cut about 120 jobs, at saving of \$20 million, so far this year. Most of reductions came through attrition and failure to renew contracts of some highly paid correspondents, spokeswoman said.

MMDS MOVE LIKELY: In signal that FCC may be moving toward taking MMDS and Instructional TV Fixed Service (ITFS) out of consideration for 3rd-generation wireless (3G), Chmn. Powell pledged Commission action by end of month on those bands. While saying he would move quickly, he didn't spell out his position on whether MMDS and ITFS should be taken out of running for 3G. But Comr. Tristani said FCC should move now to remove MMDS and ITFS from consideration for potential relocation to make way for 3G services. Comr. Copps expressed "sympathy" for points raised by Tristani, and Comr. Abernathy reiterated her stance advocating need to provide certainty to those licensees by removing threat of relocation.

Speed with which Powell has teed up 3G for vote puts pressure on new NTIA Dir. Nancy Victory to deal quickly with issue, industry source said. Victory is likely to face opposition from Defense Dept. on any effort to take 2.5 GHz band out of consideration. Tristani said "it's high time to remove the cloud of uncertainty hanging" over that spectrum. Copps said those issues had been out there for more than year "and the time is ripe for a decision." Comr. Martin said he also was "concerned about the impact that our current proceedings have on the MMDS and ITFS licensees." At Wireless Communications Assn. convention this summer, Abernathy had said she was reluctant to tap MMDS and ITFS spectrum for 3G because there were "other options."

MMDS and ITFS providers had asked FCC to include language in further notice on 3G that would remove bands from debate, with operators voicing concerns about financial impact of regulatory uncertainty. Verizon Wireless has told FCC that taking MMDS and ITFS out of consideration before larger decisions were made about 3G spectrum would be "premature."

In case that could have precedent value for telecom, public advocacy groups urged U.S. Supreme Court to uphold lower court decision that would make it easier for federal govt. to "lift disadvantaged firms to a level playing field." Amicus brief was filed by Minority Media & Telecom Council and 17 other media and telecom groups in *Adarand v. Mineta*. Brief said Supreme Court should reaffirm Congress's "comprehensive remedial power" to eliminate barriers preventing minorities from receiving govt. benefits, and lower court correctly found that minority assistance program met compelling govt. interests. *Adarand* case involved minority preferences for Dept. of Transportation contracting. Brief said Communications Act derived from same basis as DoT rules, and "like DoT, the FCC contravened its mandate for decades by providing extensive and unseemly assistance to discriminators." FCC routinely assigned and renewed broadcast and telecom licenses "to segregated companies and institutions," it said, contributing to white domination of industries: "Substantial remediation will be required to overcome the natural tendency of a homogeneous group to replicate itself in successive generations." It noted that U.S. Appeals Court, D.C., recently rejected FCC efforts to set EEO rules for broadcast and cable. FCC efforts to remediate earlier discrimination have been "commendable," groups said in their brief, and court should uphold actions that would further that.

Disney will invest \$1 million in NxtWave Communications, company that's developing integrated circuits for DTV and PC video, firm said. Among other things, privately held NxtWave is working on circuits to improve ability to receive DTV signals in difficult RF environments.

GM CONSIDERING DBS OFFER: General Motors (GM) board will consider latest offer from EchoStar following board meeting last week, spokeswoman said, but company offered no clues on leanings. GM did say it was moving forward with News Corp. negotiations while considering EchoStar proposal. "If it's a serious proposal, and we think it is, we're going to take it very seriously," GM CFO John Devine said at news briefing: "We're going to evaluate it. This is an important step for us, and we're going to take the time to get it right." GM gave no timetable for resolving issue of Hughes Electronics.

EchoStar CEO Charles Ergen continued to face questions about company's ability to get regulatory approval for its \$32 billion bid for Hughes Electronics, including DirecTV. If accepted, offer would reduce number of multichannel TV competitors in most local markets to 2 from current 3 — 2 DBS providers plus cable. Ergen said merger would establish only fully competitive alternative to powerful U.S. cable providers, in era of consolidation among large cable providers: "We think this combination will receive regulatory approval in large part because it will be good for consumers."

Hughes, which has been in negotiations with Rupert Murdoch's News Corp. for 18 months, seemingly faces significantly higher hurdle if its board elects to sell to EchoStar, one analyst said. Report by Legg Mason said EchoStar bid was case of existing competitor in concentrated market seeking to purchase rival, so it would have to prove benefits of merger outweighed costs of eliminating competitor. News Corp. bid, on other hand, presents case of vertical integration in which no existing competitor would be eliminated, report said. While issues of possible discriminatory use of DirecTV distribution platform to favor News Corp.-affiliated programming would be raised, vertical mergers face significantly less govt. resistance, it said.

GM's Devine said News Corp. negotiations continued: "It's a complicated deal. There's lots of moving parts. It behooves us to get something resolved sooner rather than later." Board may be giving EchoStar proposal "courtesy" look to satisfy stockholders, industry attorney said. Officials close to negotiations said privately that EchoStar bid might be too low and had potential to cause many more regulatory problems than News Corp. offer. Hughes stockholder Debbie Warzel filed lawsuit against GM seeking to block merger with News Corp., saying GM unfairly was favoring lower offer from News Corp. because it included cash rather than all-stock transaction proposed by Ergen.

Ergen said cash payment was discussed in earlier negotiations with DirecTV management, but it wasn't met with enthusiasm by Hughes. He said if cash payment became necessary, he would consider adding it to present offer. Synergies could reach \$56 billion if a deal were struck, said EchoStar, which would provide Hughes shareholders with up to additional \$37 billion net present value (\$26 per share), making total value of EchoStar's proposal as much as \$49 per Hughes share.

C.E. Unterberg Towbin analyst Patrick Fuhrmann said potential bidding war was win-win situation for Hughes because it would drive up cost of purchase. "The negotiation with News Corp. was taking a long time to resolve," he said. "GMH stock was slipping with the added additional uncertainty." Fuhrmann also said that whichever company acquired Hughes would be under regulatory microscope, but he didn't think any antitrust hurdles were insurmountable.

"The odds are very long against" EchoStar proposal, said Washington antitrust attorney familiar with similar transactions. Another antitrust lawyer said likelihood of antitrust approval depended on how regulators defined market: "There's a difference between a product market and a geographic market." Thomas Weisel Partners analyst Ray Schleinkofer said EchoStar bid probably would "drag the process out" and in interim Hughes would be at risk of becoming "unfocused" and EchoStar could benefit by increasing market share.

Despite dominance of cable and DBS, 30.3% of all U.S. TV sets get signals only over air, NAB said in comments on FCC's video competition inquiry (CS 01-129). Total of 81 million broadcast-only sets includes 46.5 million in broadcast-only homes, it said, plus 34.5 million in households that have other TV sets hooked to cable or DBS. Filing cited estimates that 41% of all households had at least one broadcast-only TV set. NAB said figures "clearly demonstrate that millions of consumers rely... upon free over-the-air broadcast television reception." Broadcast-only homes are predominantly low-income, NAB said, and even in cable households broadcast stations remain primary source of local programming. As result, NAB said, "it would be inappropriate for the Commission to discount the important role that broadcasters play in the provision of local, diverse programming to all television households." NAB also said cable operators were requiring cable programmers to limit amount of their programming that was streamed over Internet as condition for carrying cable channel. It said such limits were impeding provision of Internet programming and demonstrated market power of cable systems.

Escalating tussle with cable operators over practice of "debt collection" fee, W.Va. Attorney Gen. (AG) issued subpoenas to cable operators seeking records of subscribers who had been charged fee. Move came after 7-month investigation of practice labeled by AG as "debt collection fees" and by cable operators as "trip fees." AG spokesman said office decided to call for consumer records after cable operators responded with "nonresponses" to offer of resolution. Issue involves fee charged by cable operators to send personnel and truck to delinquent customer's house. AG said that fee amounted to "debt collection" fee that's barred under state's consumer protection law. W.Va. Cable Assn. Exec. Dir. Mark Polen said cable attorneys were preparing formal response to subpoenas. He said cable also stood by its position that collection of trip fees was permissible under federal law as recoverable cost for service rendered.

Financials: Clear Channel lost \$230.8 million in quarter ended June 30, reversing \$31.2 million profit year ago, because of \$51 million loss related to mergers, \$400 million growth in depreciation and amortization and nearly \$70 million increase in interest expense. Revenue more than doubled to \$2.3 billion and operating profit was up 63% to \$611.4 million... LIN TV lost \$12 million in quarter ended June 30, vs. \$6.6 million loss year ago. Revenue dipped to \$73 million from \$77.8 million and operating profit to \$11.3 million from \$17.7 million... Liberty Corp. broadcast revenue increased to \$44.7 million in quarter ended June 30 from \$40.7 million year earlier, but overall operating profit slipped to \$9.2 million from \$11.7 million. Net profit was \$7.3 million, vs. \$15.4 million... Broadcast equipment maker Chyron loss plunged to \$13.5 million in quarter ended June 30 from \$1.9 million loss year ago. Revenue was \$13.2 million, down from \$16 million.

LIBERTY REGULATION QUESTIONED: Liberty Media's split from AT&T Aug. 10 could mean either heavier federal regulation or little regulation at all, industry sources said. Contradiction lies in Liberty's unique structure and shifting FCC regulatory scheme, they said, and situation has analysts scratching their heads.

Analyst Tom Wolzien of Sanford C. Bernstein & Co. raised possibility that Liberty would be in violation of SEC's Investment Act of 1940, which says business qualifies as investment company only if it doesn't control or operate 55-60% threshold of assets. Liberty filed for SEC approval under Securities Act of 1933, contending it was operating company, not investment company. In report to investors, Wolzien said Liberty had controlling interest in too many assets.

Liberty spokeswoman downplayed controversy, saying company wasn't investment company and was in compliance: "At this point in time, it's not a concern for us, and we don't foresee it being a problem in the future." She didn't offer specifics on how business structure qualified Liberty as operating company. Company has long kept particulars confidential. SEC spokesman declined comment.

If forced to register under 1940 Act, Liberty would face "extensive restrictions on operating methods, management and capital structure, rendering the company unable to operate its business as it had in the past," Wolzien said. However, analyst Scott Cleland of Precursor Group said Liberty Chmn. John Malone was making "brilliant" move that would allow company to operate without onus of certain program access and tax regulations. Cleland said that by separating from AT&T, Liberty divested itself of cable assets, thus making it content company, not cable company. That would mean Liberty could sell content at market price, rather than at regulated price applicable to cable companies, he said: "Malone bet 'content was king' and systematically transferred his wealth from his cable business to his content holdings." Cleland said Malone was escaping regulated business to unregulated entity "with AT&T footing the bill."

As of May 15, Liberty's assets included 4% of AOL Time Warner, 50% of Court TV, 49% of Discovery, 10% of E! Entertainment TV, 25% of Bravo's parent, 50% of Jupiter Programming, 67% of MacNeil/Lehrer Productions, 18% of News Corp., 43% of QVC, 100% of Starz Encore Group, 21% of USA Networks and stakes in many foreign properties and other entities. Until Aug. 10, Liberty had been tracking stock of AT&T.

If Liberty violated 1940 Act, it would be subject to fines and its contracts could be declared void by courts. However, it could apply for exemption and then would have year to come into compliance. Wolzien said options included divesting some assets in which it had largest voting rights.

Analyst Blair Levin of Legg Mason said Malone wasn't risking much, however, because regulatory scheme was shifting. Appeals court in March struck down FCC's 30% horizontal and 40% vertical ownership caps for MSOs. "It's not as much of a regulatory issue as it used to be," Levin said, because of court ruling and other challenges that restricted integration of content and conduit.

AT&T Broadband and Best Buy finalized agreement to offer broadband services at latter's stores, companies said. Beginning this month, more than 100 Best Buy stores will offer AT&T Digital Cable and Internet service AT&T@Home.

AOL-TW ACCESS CHALLENGED: FCC began reviewing complaint from Texas ISP that AOL Time Warner (AOL-TW) violated govt. order by discriminating against regional and local ISPs in favor of national ISPs seeking access to AOL-TW cable lines. Complaint alleges company violated Commission order allowing merger of AOL and TW. Jonah Yokubaitis, pres. of Texas.Net, said his company, Texas Networking Inc., was put off for more than year while it sought negotiations on access for high-speed Internet service. Filing says AOL-TW favored its own ISP, Road Runner, and national partners.

AOL-TW spokesman said its lawyers hadn't seen complaint, so it couldn't comment on specific allegations. However, he said executives were "very excited" about working with local ISPs and already had gone "above and beyond" FCC requirements. "The complaint is without merit," spokeswoman added. AOL-TW source said company had responded to Texas.Net request for access but asked it to return in "a few months" because it "cannot be in negotiations with everybody at the same time."

FTC already has approved AOL-TW access agreement with Earthlink, national provider with 4.9 million subscribers. Agreements with Juno Online Services Inc. and High Speed Access Corp. have been submitted for FTC approval.

If Texas.Net's complaint is deemed complete by FCC lawyers, agency will put it out for public comment period, official said, then decide on merits. One condition FCC put on AOL-TW's merger was that company carry competing Internet services on its cable lines. However, its merger approval contains no penalties for violations, so agency would have to examine that issue as well if it found violations.

Children's Ad Review Unit (CARU) of Council of Better Business Bureaus said it reviewed more than 1,000 TV commercials in May "in addition to patrolling" Internet and print ads. As result of its own monitoring, CARU questioned Internet ads for TeenVillage Network, finding network's Web sites "are not in compliance" with CARU guidelines. Before its inquiry, sites lacked "effective age screening" and "a comprehensive privacy policy," unit said. However, Internet firm "addressed all of CARU's concerns" and took CARU-approved measures to ensure privacy of children, it said. In 2nd case, CARU said it "found a variety of concerns" relating to Fox Entertainment Group (FEG) Web sites that, after its inquiry, were resolved satisfactorily. CARU commended FEG for measures it took to "ensure children's privacy on Web sites where pre-teens comprise only part of the audience" and come into compliance with voluntary guidelines.

U.S. spectrum policy should move away from current "piecemeal" approach, particularly on upcoming 3G decisions, CTIA Pres. Thomas Wheeler said. At media lunch, he said current 3G discussions between industry and govt. presented opportunity to craft national spectrum policy plan that would look at timelines such as 5 to 10 years and be updated periodically. With larger "pot" of spectrum on which to base decisions, policymakers would have more flexibility, he said. Asked about recent FCC decision to delay Ch. 60-69 auction and impact on 3G timelines, Wheeler said 700 MHz band was "potentially part of the solution because it provides alternatives for migration and other such developments." He said "that's beachfront property" with potential interest for Dept. of Defense.

Personals

Ardyth Diercks, Gannett TV senior vp, adds duties as gen. mgr. of group's WUSA Washington, succeeding **Richard Reingold**, who said he planned to form group of investors to buy and operate medium and small-market TV stations... **Mark Hoffman**, vp of CNBC, moves to co-owned WVIT New Britain, Conn., as pres.-gen. mgr. Promotions at Sinclair Bst. Group: **Darren Shapiro** to vp-sales; **Jeff Sleete** to vp-mktg., TV Div.

Paul Margie, senior commerce counsel for Sen. Rockefeller (D-W.Va.), joins FCC Comr. Copps's staff as spectrum and international legal adviser... Changes at FCC Comr. Martin's office: **Ginger Clark**, ex-confidential asst. to former commissioners **Harold Furchtgott-Roth** and **James Quello**, named confidential asst.; **Dolly Johnson** appointed staff asst.; **Sam Feder** named interim legal adviser; **David Brown**, ex-Mass Media Bureau, becomes interim legal adviser-mass media and cable; **Monica Desai**, ex-Wireless Bureau, interim legal adviser-wireless and international issues... **Lauren Wazer**, interim legal adviser, wireless and international issues to FCC Comr. Copps, appointed special counsel to chief of Office of Engineering & Technology.

Mark Lipford, ex-regional vp, Cablevision, named vp & gen. mgr., Cox Communications... **Bob Reid**, vp-production, appointed senior vp-gen. mgr., Discovery Health Channel... Elected to WorldGate board: **Jeff Morris**, pres., Digital Media Consulting; **Lemuel Tarshis**, dir., management technology transfer, Stevens Institute of Technology.

James Snider, ex-Texas Instruments, appointed exec. dir., 1394 Trade Assn... **Fred Schultz**, ex-Leitch Technology, named vp-news automation, Sundance Digital... **Dianne VanBeber**, ex-Gilat Satellite Networks, appointed dir., investor relations, Intelsat.

In expected swap of TV stations (TVD Aug 6 p4) that created duopolies for both, Viacom traded KTXH (Ch. 20, UPN) Houston and WDCA (Ch. 20, UPN) Washington to News Corp. for KBHK-TV (Ch. 25, UPN) San Francisco. News Corp. acquired KBHK-TV in recently closed purchase of Chris-Craft stations and Viacom-CBS owns KPIX-TV (Ch. 5) San Francisco. "Building duopolies is a key part of our strategy, and this is going to be a great one," CBS Pres. Leslie Moonves said. Deal gives Viacom-CBS 7 TV duopolies. After transaction is approved by FCC, Viacom-CBS will own 34 TV stations, 18 formerly licensed to Viacom subsidiary UPN. WTTG Washington and KRIV Houston already are owned by News Corp., providing its Fox TV Stations with duopolies in those 2 markets. Since ownership of 2 TV stations in same market doesn't count twice against FCC 35% ownership cap, CBS reduces its U.S. homes covered to 39% from 41%; News Corp.'s Fox TV stations to 39% from 40.9%. Last week, News Corp. swapped KSTU (Ch. 13, Fox) Salt Lake City (where it had duopoly after adding Chris-Craft's KTVX) (Ch. 4, ABC) Salt Lake City and KABB (Ch. 29, Fox) San Antonio to Clear Channel Communications for WFTC (Ch. 29, Fox) Minneapolis-St. Paul. FCC rules prohibited News Corp. from owning duopoly in Salt Lake City because both stations were ranked by Nielsen among top 4 in market.

Sen. Rockefeller (D-W.Va.) chose **Michael Nilsson** as telecom, science and technology policy counsel. Nilsson is attorney with Harris, Wiltshire & Grannis. He succeeds Senior Commerce Counsel **Paul Margie**, who is leaving Rockefeller's staff to become spectrum and international legal adviser to FCC Comr. Copps.



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Congressional Hispanic Caucus Institute will hold telecom and technology and arts and entertainment summits Sept. 24 during 2001 Issues Conference in Washington. Media summit, "Where Are We Today & Where Are We Going?", includes sessions: (1) "Public & Children's Network & Cable Programming." (2) "Latinos in the News: Who Chooses & Tells Our Stories?" (3) "Latinos in the Industry: How Their Experience Can Help Open the Doors For Others." Rep. Ortiz (D-Tex.) is summit chmn. — (202-543-1771).

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

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

	JULY 21- JULY 27	2000 WEEK	% CHANGE	JULY 14- JULY 20	30 WEEKS 2001	30 WEEKS 2000	% CHANGE
TOTAL COLOR TV	687,402	882,986	- 22.2	459,825	13,705,087	15,546,015	- 11.8
DIRECT-VIEW**	661,871	851,768	- 22.3	448,809	13,215,871	14,920,908	- 11.4
TV ONLY#....	524,590	679,058	- 22.7	351,398	10,936,649	12,343,418	- 11.4
TV/VCR COMBO.	137,281	172,710	- 20.5	97,411	2,279,222	2,577,490	- 11.6
PROJECTION...	25,531	31,218	- 18.2	11,016	489,216	625,107	- 21.7
TOTAL VCR**...	748,348	1,033,844	- 27.6	328,756	10,596,492	14,386,054	- 26.3
HOME DECKS...	611,067	861,134	- 29.0	231,345	8,317,270	11,808,564	- 29.6
CAMCORDERS.....	108,573	202,730	- 46.4	56,225	2,894,170	3,057,561	- 5.3
DVD PLAYERS....	350,262*	296,658	+18.1	111,637*	5,103,806*	3,238,392	+ 57.6

Direct-view TV 5-week moving average#: 2001--373,256; 2000-473,046 (down 21.1%).

Projection TV 5-week moving average: 2001-15,381; 2000-21,284 (down 27.7%).

VCR deck 5-week moving average: 2001--315,802; 2000-479,275 (down 34.1%).

TV/VCR 5-week moving average: 2001--90,353; 2000-101,266 (down 10.8%).

Camcorder 5-week moving average: 2001--90,289; 2000-126,401 (down 28.6%).

DVD player 5-week moving average: 2001--217,481*; 2000-159,434 (up 36.4%).

** Includes TV/VCR combinations. # Excludes TV/VCR combinations.

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

FLAT-SCREEN AND DTV GAIN RENTAL ATTENTION: Despite steep prices and dearth of programming, DTV sets are making inroads in rent-to-own (RTO) market as larger dealers push product previously confined to CE retailers.

Rent-a-Center (RAC) is embarking on 35-store test in Dallas, Las Vegas and L.A. later this month with Mitsubishi's 46W, while Rainbow Rentals already has rented more than 600 Zenith 50W sets and has ordered 1,000 more for fall selling season. Buy Rite also has carried Zenith's 50W. Zenith, which also is easing 32W DTV monitor into RTO market, has received potential DTV orders from 21 dealers, Group Accounts Sales Mgr. Donald Julson said.

"I think at this point we are driving it [DTV] because I don't see the huge demand yet," RB Pres. Michael Viveiros said at Assn. for Progressive Rental Organizations (APRO) convention in Las Vegas last week. "But the forward compatibility is very important to us and because the sets have a line doubler, the picture looks better now and also will work in the future."

Indeed, at this point, most rental dealers said addition of DTV set was more of technology statement than revenue driver. For example, RB has placed Zenith 50W on riser and hooked it up to progressive scan DVD player for video playback, Viveiros said. Price still remains barrier for most dealers. RAC will rent Mitsubishi set on 24-36-month contract carrying \$45 weekly fee, while RB has 50W on 24-month agreement at \$38-\$39. In comparison, RB and Aaron Rents market 60" analog rear-projection set on 24-month contract at \$28.

While DTVs remain expensive, they also enhance chances that rental customers will "stick with the product longer," APRO Exec. Dir. William Keese said. To accommodate DTVs, some dealers are considering following RAC's lead and offering 36-month contracts, including RB, which traditionally has limited agreements to maximum of 24 months.

Industrywide, 25% of customers take rental contract to term and acquire ownership of product, industry sources said. DTVs also carry higher dealer cost, underscoring need for checking credit background of potential customer, dealers said.

"There are some people in our industry that want it and are willing to take the risk, but I can't do it," American Rentals Pres. Gary McDougal said. "You better have a real good [credit] profile of the customer. If the customer has been in the store before and rented product, you'll get it for him, but if another customer comes in and you haven't see him before, you might not want to."

Also elbowing way into RTO market have been flat-screen TVs including 32W Zenith model as well as entries from Konka, Panasonic, Thomson, Toshiba. Konka's 27" has been positioned as entry-level RTO product with \$389 dealer cost and \$22 weekly charge on 18-24-month contract, said Michael Bertolani, RTO account exec. at distributor BDI-Laguna, which handles Konka product.

Addition of DTV could prove boon to TV rental business, which accounted for 11.9% of units on rent or 833,266 in 2000, flat with previous year and halting 2-year decline, Industry Insights said in survey of 57 RTO dealers with combined 4,390 stores conducted for APRO. Overall, CE represented 29.2% of total units on rent. Stereos declined to 6.7% (468,633), down from 7.2%, followed by PCS, which increased to 4.2% (293,979) from 3.2%. VCRs, which have hit hard by sharp declines in retail pricing that has brought entry-level models to \$49-\$59, fell to 4.1% (289,104) from 5.5%, while home entertainment centers were flat at 2.2% (150,763). Absent from survey were DVD players, which have become major factor in RTO market and can be had for \$9.99 weekly fee on 12-month contract. Sofas, loveseats and upholstered chairs had 2nd largest share at 11% (705,727), up from 10.2%. Total RTO revenue rose to \$5.2 billion from \$5 billion.

Vying for RTO attention with DTVs have been PCS, most of them with specs on par with retail models. Hewlett-Packard (HP) is marketing desktop unit with 950 MHz Pentium III processor, 15" monitor, 20 GB hard drive, 256 MB SDRAM and 56 kbps modem with \$729 dealer cost that typically is rented on 24-month contract with \$21 weekly fee. Step-up is 1 GHz version that adds 12x10x32 CD-RW drive that has become RTO fixture with availability of music downloads from Internet, said Frederick Dehring, sales & mktg. mgr. at Alliance Computing Technologies, which distributes HP products. Alliance also is offering 15" LCD monitor with HP desktop as option that boosts dealer price to \$1,049 (\$28 weekly fee). Compaq has countered with entry-level piece with 766 MHz Intel Celeron processor, 20 GB drive, 40x CD-ROM drive, \$599 dealer cost.

"We're into 1 GHz processors now and if you're stuck with a 300-400 MHz machine its like a boat anchor," UHR Rents Pres. Ernest Lewallen said. "That's a problem because it gets tougher to get your money back quickly enough before you've lost the technology race and then you find yourself discounting the machine just to get rid of it." It takes RTO dealers 6-9 months to make up PC cost, industry sources said.

In attempt to wring profits from PCS, some RTO dealers are breaking up bundles that once tied CPU and monitor with scanner and printer. RB, for example, is renting external CD-RW drives at \$8.99 weekly on 12-month contract, Viveiros said. "We're unwinding the bundles because people are more sophisticated about what they want," he said.

RTO industry also is undergoing change in Internet access strategy. While NetZero landed Rent-a-Center and RB based on free service, chain's are reviewing strategy in light of ISPs' recent decision to limit users to 10 hours of free Internet access per month, down from previous 40 hours. NetZero, which recently merged with Juno, laid off 66 workers earlier this month. "That [limited free service] does change the landscape, but as long as they are providing our customers with ample hours to provide their kids with access for school and other things, we'll be all right," RB CEO Wayland Russell said.

Seeking to make inroads as Internet access market changes, Slingshot recently rolled out prepaid service chainwide with Rent-Way and is said to have had discussions with RB. It also is reported to be conducting 200-store test with RadioShack and Seven-Eleven chains. Slingshot, which uses Sprint backbone, offers prepaid service in \$10, \$20 and \$30 increments for 625, 1,300 and 2,000 min. of local access, respectively. If local access isn't available, service switches to toll-free.

APRO Notebook...

Tex. has largest number of RTO stores, with 905, that generated combined \$403.5 million in sales in 2000. It was followed by Fla., 533, \$237.6 million; Ohio, 453, \$201.9 million; Ind., 312, \$139.1 million; N.C., 308, \$137.3 million. State with fewest outlets was Alaska, 7, \$3.1 million... H.R.-1701, federal legislation that would treat rental contracts as

lease rather than credit agreement, is scheduled for markup by House Financial Affairs subcommittee Sept. 6. Bill, which is co-sponsored by Reps. Maloney (D-Conn.) and Jones (R-N.C.), is target of proposed amendments by Rep. Waters (D-Cal.). Fifty-one representatives, including 22 Democrats, have signed on in support of bill, which could come to House vote in fall, said Ronald DeMoss, gen. counsel at Rent-Way and APRO first vp... APRO convention drew 1,114 attendees and 114 companies, flat with year ago. APRO has started online training program for store staffs. It's priced at \$9.95-\$49.95 based on whether chain is member of APRO, state association or Trib Buying Group. If chain is member of all 3 it qualifies for \$9.95 price... APRO is seeking to bring Aaron Rents back into group. Chain, which operates more than 500 stores, split with Assn. several years ago. Trade group wrote to CEO Charles Loudermilk saying that "surely there are other industry associations to which you belong where you don't agree with everything, but you still belong, so why don't you come back?"

DIGITAL FM BEATS ANALOG IN ALL CRITERIA, IBIQUITY DECLARES: Declaring that "the stage is set" for commercial rollout of in-band, on-channel (IBOC) digital audio broadcasting (DAB) radio next year, iBiquity Digital last week hailed results of its digital FM tests submitted day earlier to National Radio Systems Committee (NRSC) as scoring high marks in crucial areas of audio quality, robustness of coverage and compatibility with existing FM infrastructure.

Test results "definitively establish" superiority of IBOC audio quality over analog, said iBiquity Pres.-CEO Robert Struble. He told reporters in teleconference that IBOC sound quality was better than analog across all musical genres and test conditions. Struble said: "Quite simply, digital sounds better than analog in all cases."

Lab tests were conducted at Advanced TV Technology Center in Alexandria, Va. Subjective listening tests involving 600 sound samples and 120 listeners were done at Dynastat, Austin evaluation firm. System was field-tested at 8 FM stations. Struble said NRSC was expected to take 90 days to evaluate test results and submit report to FCC. He said Commission had indicated it would act quickly once it received NRSC recommendations.

First DAB broadcast equipment is expected to be unveiled commercially and ready for sale starting at April 2002 NAB convention, after which stations in Chicago, L.A., N.Y., San Francisco, Seattle and Miami are expected to begin full-time transmissions. He said goal is to have enough stations online in each introductory market so as to reach 50% of potential listeners. Struble said first prototype receivers could be available in late 2002 but that "big rollout" of receivers would come at Jan. 2003 CES.

Struble said IBOC receivers would be introduced in "segment-by-segment" rollout. Typifying other new technology launches, he said, early-adopter products such as high-end home and car receivers would be first. OEM automotive penetration would follow "quickly after that," he said. With decline in key component prices would come products targeted to broader audiences, such as shelf systems and boombox portables, he said.

Potential market for IBOC receivers is "huge," with 70 million sold yearly and about 800 million owned, Struble said. "We're developing here the replacement for AM and FM radio. So you pick the date in 5 or 10 years. Every time you go into a car, you will only see an IBOC radio. That will be the base service." Because market for IBOC receivers is so potentially broad, he said iBiquity doesn't view satellite digital radio as competition, and in fact as supplier of compression technology, company will draw royalty revenue from sale of all XM Satellite Radio receivers. Preliminary sales of XM- and Sirius-ready head units "has been pretty good, and that's another indication that digital sells," Struble said. Success of satellite radio would also "motivate the broadcaster to move more quickly to digital," he said.

"Definitive conclusion" of test results is that iBiquity digital FM system "provides outstanding digital coverage and superior audio quality, eliminates audio impairments and maintains compatibility with the existing analog service," Struble told reporters. "We believe this test program to be the most comprehensive in U.S. broadcast history," he said. He said IBOC "has been a long time coming, but the future really is now, and we encourage both the NRSC and the FCC to act quickly to speed IBOC's rollout."

Besides audio quality, system also fared well in tests of service coverage, Struble said. Field tests conducted at 8 FM stations representing cross-section of classes, conditions and programming formats "demonstrates the extensive service area IBOC provides," he said. "Operating at only 1% of the power of analog FM, IBOC has proven to be comparable to analog FM coverage with a robust signal producing CD-quality audio in all the markets served." System also excelled on multipath performance, Struble said. For example, he said, in field tests at WNEW-FM, N.Y.C. Class B talk station, system performed "flawlessly" in Manhattan, "where multipath significantly degrades FM reception." He said "outstanding coverage" also was achieved in San Francisco, which he said was considered one of more "difficult" environments for FM reception.

In subjective listening tests, iBiquity system also received “consistently higher scores” than analog in signal robustness, Struble said: “Digital performance remained strong even as impairments became more severe, while analog performance progressively degraded. This means that digital can turn areas of subpar quality into areas of superior digital quality.” He said digital FM passed tests with flying colors in important area of compatibility: “The IBOC system will have no meaningful impact on existing analog broadcast operations,” meaning digital system causes no interference with “host” IBOC stations or their first or 2nd adjacent “neighbors.” He said system was tested in country’s most “interference-intensive” markets with no reported complaints or problems. Moreover, he said, system passed scrutiny even when “stress-tested” at power levels much higher than those that will be used commercially.

Struble said iBiquity tests were continuing on digital AM system, with results expected to be ready for submission to NRSC by Oct. or Nov. He said iBiquity wanted to give NRSC “something to chew on” in evaluating FM test results while AM evaluations were still proceeding.

ENHANCED DVD-VIDEOS COMING: Studios are pushing DVD format to extremes — and opposite ones. While Sony’s Columbia TriStar Home Entertainment (CTHE) pursues higher video resolution by eliminating bonus features, DreamWorks will stretch extras and interactive functions with 11 hours of programming on upcoming *Shrek* double-disc set.

“Superbit” DVD series from CTHE makes debut Oct. 9 with 5 titles selected to show off discs’ greater resolution. Instead of wasting disc capacity with “added value” extras such as “making-of” documentaries, Superbit uses space to double DVD’s coding rate, to 6 to 8 Mbps from average of 3 to 4 Mbps. Discs remain compatible with DVD standard, but offer enhanced video for progressive-scan players and displays. They also carry Dolby Digital and DTS soundtracks. Audio coding rates can be higher, too, because current decoder chips can handle them.

First Superbit titles will be *Airforce One*, *Crouching Tiger*, *Hidden Dragon*, *Desperado*, *The Fifth Element* and *Johnny Mnemonic*. They will be released nearly simultaneously worldwide, but at our deadline it wasn’t clear whether they would carry Regional Coding.

DreamWorks’ box-office hit *Shrek* hits DVD Nov. 2 at \$19.95. Besides usual “filmmaker’s commentary” and “behind-the-scenes” featurettes, 11-hour 2-disc set offers slew of extras, including some first-ever interactive functions.

Among specials is 15 min. of newly created animation, including exclusive footage that picks up where theatrical movie left off. Never-before-used DVD-ROM technology called “Shrek’s ReVoice Studio” lets viewers use PC to record themselves speaking characters’ lines, with viewer’s voice synched up with character’s mouth. Other interactive feature, “Character Morph,” is set-top game for TV or PC that lets viewer mix and match characters’ body parts.

Because *Shrek* will be Microsoft Xbox videogame title, 2-disc set also carries exclusive *Shrek* Xbox game-playing hints. DVD also offers DWK (DreamWorks Kids) This Way to Play section with multitude of games that can be played on TV or PC. Heavy marketing effort for title will include cross-promotions with Microsoft’s Xbox, Nintendo’s Game Boy Advance, Philips, TDK Interactive, Kia Motors, Baskin-Robbins.

COURT ‘HYPEREXTENDED’ LAW ON ACCUSED DVD HACKER — EFF: Calling it “hyperextension” of Cal. law that would give state almost limitless jurisdiction over Internet disputes involving movie and high-tech industries, Electronic Freedom Foundation (EFF) last week criticized Cal. appellate court ruling refusing to dismiss charges against defendant charged with violating trade secrets by posting information on DVD decryption.

DVD Copy Control Assn. (DVD CCA) sued Matthew Pavlovich and others in Dec. 1999, charging they had misappropriated trade secrets by making available online computer programs aimed at unlocking copyrighted movies on DVD. In Aug. 7 decision in *Pavlovich v. DVD Copy Control Assn.*, Cal. Court of Appeals, 6th Appellate Dist., upheld trial court order refusing to quash service of process on Pavlovich.

At issue is whether Cal. courts have jurisdiction over owners, publishers and operators of Web sites when they illegally post or distribute trade secrets or copyrighted material of Cal. companies, appeals court said. “The Internet as a mode of communication and a system of information delivery is new, but the rules governing the protection of property rights, and how that protection may be enforced under the new technology, need not be,” it said.

Pavlovich, pres. of technology startup, claimed that because he didn’t live in — and had no contacts with — Cal., he wasn’t subject to state’s jurisdiction. But court said evidence clearly showed that Pavlovich knew Cal. was “center of the

motion picture industry” and that Silicon Valley was one of top 3 technology “hot spots” in nation. Court said he knew or should have known that his online activities were hurting movie and computer industries in Cal. “Instant access provided by the Internet is the functional equivalent of personal presence of the person posting the material on the Web at the place from which the posted material is accessed and appropriated,” court said. It wouldn’t matter whether the decryption data were delivered by “air, land or sea transportation, or the cutting-edge technological system of cyberspace, satellites, cable and electro-magnetic waves,” court said. “California’s long-arm statute looks at the effects, not at the system that delivered and produced those effects.”

EFF said it intended to appeal decision to Cal. Supreme Court on ground that it violated U.S. Constitution’s Due Process clause. “Enjoining the publication of technical information, and stopping permissible reverse-engineering, would necessarily empower entities to use technologies like [the Content Scrambling System] to manipulate markets and bar consumer protection,” EFF said.

New RadioShack format (RS) inside Blockbuster outlets puts sharp focus on Thomson’s RCA products and less on partners Compaq and Microsoft, visit to Las Vegas test store last week showed. RS “Cool Things store” was located at front of Blockbuster outlet near entrance and new VHS and DVD releases. It featured spread of RCA products across its back including 20" and 13" TVs (\$249 and \$149 respectively), 5-disc DVD changer (\$279), CD recorder (\$299) and DirecTV receiver. It also had live DirecTV feed and promoted combo UltimateTV satellite receiver/ personal video recorder (PVR) (\$299). Small selection of RCA camcorders included VHS-C model (\$349) that was merchandised inside glass case alongside Casio handheld PC (\$199). Store also had ample selection of accessories including RS gold-plated audio/video cables in 6' (\$39.99) and 12' (\$49.99) lengths and indoor TV antennas (\$29). RS also made use of Optimus house brand for 32-min. digital and microcassette recorders (\$29 each). Compaq sampling included Ipaq Internet appliance (\$599), digital audio player (\$229), handheld PC (\$599). Store, which was staffed by 2 RS personnel, also promoted cellular phone and service sales as well as general MIDI keyboards (\$199). RS and Blockbuster are testing format at 120 outlets in 4 markets through year-end and are stocking stores with 1,000-1,500 SKUs. New format also received unusual praise from Mark Wattles, CEO of Blockbuster rival Hollywood Entertainment, who told analysts in earnings conference call that chains had done “excellent job” of merchandising product and “if it has potential to be successful, I think it will be.”

HannStar Display is working on agreement to perform back-end module assembly of low-temperature polysilicon (LTPS) TFT LADS for Toshiba, Chan. Yu-chi Chiao said at Taiwan conference for local institutional investors. Agreement being negotiated would call for HannStar to assemble 12.1", 14" and 15" LIPS TAFT LADS for Toshiba starting in Feb. HannStar would use its Kaohsiung, Taiwan, factory, which has 280,000-300,000-unit monthly capacity. At start, Toshiba factory in Japan would supply HannStar with semiprocessed LIPS panels, but after July 2002, components would be shipped from new LIPS TAFT LCD factory that Toshiba and Matsushita would operate jointly in Singapore. About 30% of HannStar’s monthly shipments of TAFT LADS are currently to Toshiba, company said.

InterTrust will provide digital rights management (DRM) technology for DataPlay’s coin-size optical disc storage devices, companies said. DRM will permit users to use DataPlay content in any DataPlay device and to transfer content to their PCs. Record labels BMG, EMI and Universal plan to release music for DataPlay platform; Samsung, Sonicblue and Toshiba plan players.

Liquid Audio (LA) was granted patent (U.S. Patent #6,266,644) for its method of encoding digital music files, Redwood City, Cal., digital media delivery service provider said last week. Company said its method applies multiple encoding techniques to different aspects of audio signal, resulting in what it said is “more optimized audio stream than if it was encoded with a single technique.” It said technique “is applicable to technology platforms such as cellphones and wireless devices that need to offer high-quality digital audio in a constrained memory and bandwidth environment.” Separately, LA board said it had adopted stockholder rights plan that called for issuing dividend of one right for each share of common stock in company held by shareholders of record as of close of business Aug. 27. LA said plan was designed to assure stockholders fair value in event of future unsolicited business combination or similar transaction involving company. But LA said plan was not adopted in response to any attempt to acquire company. LA also said it was selected by Palm to provide latter’s handheld users with solution for accessing digital music. Palm licensed LA’s Secure Portable Player Platform (SP3) and Liquid Store technology. But LA met with bad news on financial front last week as company’s loss deepened to \$14 million (-62¢ per share) in its 2nd quarter ended June 30 from \$7.7 million (-35¢) year ago. Loss included \$3.7 million restructuring charge. Revenue dropped to \$1 million from \$3.5 million year earlier.

Visteon will supply DVD rear-seat entertainment systems to Mopar, DaimlerChrysler’s parts and accessories division. System includes 7" LCD screen and in-dash DVD/CD player that augments existing VHS player and floor-mounted console. “Aux” input on rear-window trim panel can accommodate camcorder, CD player and most videogame systems. Systems will bear Mopar brand name and will be shipped directly to authorized dealerships for purchase by consumers for 2002 model Chrysler and Dodge minivans in N. America and Europe. Visteon said it would supply all hardware, systems integration expertise and installation guidelines.

Latest “underground video” is *W.I.S.O.R.*, DVD that documents development and use of “Welding and Inspection Steam Operations Robot” designed to inspect and repair century-old steam pipes that snake under streets of N.Y.C. Feature on subterranean robo-welder comes from award-winning filmmaker Michel Negroponte (*Jupiter’s Wife*) and hits street Sept. 25 at \$24.95 from New Video label Docurama (www.docurama.com).

THIS WEEK’S YEN RATE

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

RECOTON REDUCES QUARTERLY LOSS: Recoton accentuated positive in reporting ever-so-slight reduction in net loss in 2nd quarter ended June 30 despite lower overall revenue vs. same 2000 quarter.

Sales and gross margins declined in Recoton's videogame segment, where earnings before interest and taxes (EBIT) loss in quarter climbed to \$6.4 million from \$5.4 million year earlier. Nevertheless, Recoton cited "strong potential" of its videogaming segment to "capitalize on anticipated growth in light of predictions for a record year in the videogame industry."

Overall loss in quarter was reduced 1.5% to \$2.75 million (-23¢ per share) from \$2.79 million (-24¢) as sales dipped 3.2% to \$132.36 million from \$136.68 million. Pres.-CEO Robert Borchardt told financial analysts in conference call that CE accessories were on their way to "a record year," with quarter-to-quarter sales up 2%. Audio operations remained profitable, although EBIT earnings at \$2.6 million were half those of year earlier as sales fell 8.8% to \$51.8 million. However, Borchardt said audio inventories were at healthy level as audio brands closed out old models to make way for new ones. As result, he said, he expected positive sales growth in Recoton's audio sector for rest of year.

Videogaming accessories were noticeable drag on Recoton's bottom line and only one of its 3 main sectors to post EBIT loss of \$6.4 million vs. \$5.4 million year earlier as sales slid 3.7% to \$26.2 million. Borchardt said "indications are that the malaise that has gripped the videogame sector over the past year is dissipating." He said Recoton's InterAct subsidiary was "well-positioned to benefit from the expected increase in sales of videogame platforms and accessories." Borchardt said that although Recoton's gaming business had "suffered greatly" in industry's transitional period, its games operations were "poised to enter a dynamic new phase" with growing penetration of PlayStation 2 and Nov. introductions of GameCube and Xbox. With videogame industry facing its strongest growth potential in years in 4th-quarter holiday season, he said he foresaw videogaming accessories as "catalyst" for companywide turnaround this year.

Borchardt's overall assessment of Recoton's performance was that "obviously we're not happy" with quarterly and first-half losses. But he said it historically had performed best in 2nd half of year, and "I believe that we'll have the building blocks in place to produce a profitable turnaround this year."

Responding to analyst questioner, InterAct Pres. Todd Hays acknowledged that his market share "continues to decline" and was down about 1% for year to date on lower sales he blamed on competitive price erosion on accessories for legacy systems. However, he said there was some "distortion" in market-share numbers caused by decision of major retail accounts such as Wal-Mart to dispense with reporting sales figures publicly.

DTV shipments to dealers accounted for 22.7% of total TV sets shipped in June compared with 9.6% in same month year earlier, CEA reported. DTV shipments rose 89.7% in June to 159,463 from 84,057 in June 2000 as total TV shipments declined 19.8% to 701,642 from 874,605. For 6 months, DTV shipments soared 105.1% to 868,758 from 423,586 as total TV shipments fell 6.7%. DTV sets accounted for 22% of all sets shipped in first 6 months of 2001 compared with 10% in Jan.-June 2000.

CREATIVE SHIFTS STRATEGY: Creative Technology last week blamed drops in PC peripheral sales — especially in Asia and Europe — for decreased revenue and widened loss in 4th quarter and year ended June 30. Singapore company said it had "embarked on a plan to focus the company around" its core audio businesses, shifting away from storage category.

Creative reported sales of \$234.2 million in quarter, down from \$307.7 million year ago, with sales of \$1.2 billion, down from \$1.3 billion.

Creative posted loss for quarter of \$73.4 million (-94¢ per share), including \$76 million write-down of investments. Excluding charges, company said it would have had profit of \$2.5 million (3¢). It had \$17.4 million (20¢) profit same quarter year ago, including investment gain of \$19.2 million and charge against operating expenses of \$20 million.

For year, Creative posted \$130.4 million (-\$1.65) loss, including investment losses and write-downs, along with restructuring and other charges. Excluding those charges, company said it would have had \$49.1 million (61¢) profit. In comparison, it reported \$161 million (\$1.86) profit in 2000, including charge against operating expenses of \$20 million and investment gains.

Despite gloomy report, Creative Labs Pres. Craig McHugh said company "significantly reduced our inventory levels and operating expenses, and we posted positive operating income" of \$2.4 million in quarter, compared with \$1.2 million loss in same period year ago.

Explaining decision to shift focus to core audio businesses, McHugh said those areas "provide our highest margins. Looking forward to the holiday season and beyond, we believe there are opportunities to build on our already strong retail audio businesses as we add great new products which will broaden our product lines. As part of this plan, we will be forgoing significant revenues from our lower margin product categories." McHugh said that while new strategy "will significantly reduce overall revenues, we believe this strategic shift will allow us to improve gross margins and further our efforts to reduce costs and inventory risk."

In conference call with analysts last week, Creative CEO-Chmn. Sim Wong Hoo said company would be "focusing very sharply on profitability" and wouldn't sacrifice profitability for higher revenue. He also said company was particularly confident about new Sound Blaster audio platform and new line of speakers from Cambridge SoundWorks division slated to ship late next month. He said: "We believe the new Sound Blaster platform will stimulate excitement at retail for all of our audio products, providing compelling reasons for PC owners to want to upgrade."

Pirating CDs, DVDs and other optical discs has cost Ukraine duty-free status on its imports to U.S. Washington has suspended duty-free status of Ukrainian goods and may place sanctions against other products, U.S. Trade Representative (USTR) Robert Zoellick said last week. Ruling is due to failure of Ukrainian govt. to live up to June 2000 pact promising to shut down pirate production of CDs, CD-ROMs and DVDs, which long has been rampant in Ukraine as well as elsewhere. USTR has option to slam door on Ukrainian imports if country doesn't comply immediately with commitment to stamp out content piracy. RIAA, as expected, lauded USTR's stance.

CRAZY EDDIE HITS AIRWAVES: Crazy Eddie kicked off new ad campaign in N.Y. metro area last week. Campaign — complete with former Crazy Eddie pitchman Jerry Carroll — marks return of N.Y.-area CE chain known in 1970s and 80s for its “insane” low prices, but now remembered just as much for financial shenanigans of founder Eddie Antar that eventually landed him in jail.

After briefly resurfacing in form of solo, now-defunct N.J. store in late 1990s that was run by Antar’s nephews, Crazy Eddie name returned to retail scene earlier this year in its current incarnation, headed by CEO-Chmn. Dave Jones. But new company is strictly limited to phone and Web sales at this point and Jones told us last week that retailer relied on distributors now for its merchandise and had yet to form any direct relationships with manufacturers.

Jones declined to name sources of his company’s products, saying that was “a piece of proprietary information,” adding: “The competition would love to know who they are and they’d love to figure out how we get the prices we get.” He also said Crazy Eddie was having no problem getting Sony Electronics (SE) products despite fact that SE had said consistently that it used no distributors for its CE products. Sony Electronics spokesman told us Fri.: “Currently, we’re not sure how they’re getting the product.” Unclear at our deadline was what steps SE had taken to find out source (or sources) of those products.

Explaining process by which company gets its products, Jones told us last week: “We have distributors throughout the U.S. at this point... When a customer comes into our telephone call center or comes over the Internet, we look first at what the customer is looking for by way of product and then secondly... where the customer is. And we then can [figure out which of] our distributors are closest to the customer and can source the product from them or, if they perhaps don’t have it, we can go to the next-closest distributor and try to make the best match of products and locations based upon where the customer is.”

Although Crazy Eddie has yet to forge direct relationships with manufacturers, Jones said: “I expect that’ll happen. It’ll happen as we get to be a bigger and bigger blip on the radar screen. Right now we can do what we need to do by dealing with distributors. But as we get larger and larger of course it’s going to be not only in our interest to talk to manufacturers, it’s going to be in manufacturers’ interests to talk to us and we fully expect” that will happen.

There are benefits to company’s current product procurement system, Jones said, with no need now for retailer to be saddled with trucks and warehouses. Explaining role he sees company serving, Jones said: “What we want to do is be able to connect the customer to the product without having to own the product before the customer makes the order because that’s where we get the competitive edge on pricing. We don’t inventory. We don’t store. We find it once we have a need for it and what we save by not having the warehouses, the bricks and mortar and the inventory is what lets us say to the customer ‘Shop around, surf around and get your best price. Let us beat it.’”

New print, radio and TV ad campaign was conceived by Carroll, Advertising Dir. Larry Weiss and Antar, who serves as company’s dir. of mktg. and strategic relationships. Weiss, who also was Crazy Eddie’s original advertising dir. in 1970s, said new ads duplicate humor and low price theme of original ads but add contemporary touches. Although Jones said company’s

reach “extends far beyond the tristate area,” it decided to roll out campaign in that area now “because our brand recognition is strongly in place here.”

Videogame publisher and retail sources have indicated to us that many stores are not likely to have Dreamcast videogame consoles on their shelves by end of Oct. But Sega of America (SOA) has challenged that take on situation. SOA Corporate Mktg. Vp Charles Bellfield told us last week: “Sega’s transition to become a platform-agnostic 3rd party publisher, including phasing out its Dreamcast hardware to focus on content development, is right on schedule. Sega is on track to sell into retail all of the remaining Dreamcast units by the end of holiday 2001, meaning that Dreamcast will be on store shelves this holiday season. With an affordable price point, online gaming out of the box and more than 20 new titles for the system this year alone, Dreamcast continues to be a great choice for consumers.” SOA continued to underline just how strong its commitment remained to Dreamcast platform this year when it announced, early last week, availability of *Alien Front Online*, title company called “the first ever voice-chat console game.” Title comes bundled with microphone for \$29.99. SOA Product Mktg. Dir. John Golden said: “Throughout Sega’s 40-year history, we have consistently raised the bar for console game development firsts, including the first 3D fighting game, the first online multiplayer game and the first game to use voice-recognition technology. In keeping with our plans to be the top 3rd party publisher, Sega is raising the bar one notch higher with *Alien Front Online*, the first console game ever to utilize voice-over-IP technology.”

Ultimate Electronics reported sales increased 15% in 2nd quarter ended July 31 to \$117.5 million, but same-store sales fell 5%. Sales for 6 months climbed 18% to \$232.6 million, but same-store sales were down 3%. CEO Ed McEntire said company was pleased with overall sales growth in quarter “in light of moderation in consumer spending.” He said company remained “cautiously optimistic” about 3rd and 4th quarter prospects given results of its new market expansion and “continued consumer demand” for new digital products. Pres.-CEO Dave Workman said Ultimate sold 8,243 DTV sets in quarter vs. 2,916 in same quarter year earlier. As result of DTV, he said, average selling price of all TVs now exceeded record \$1,100. But Workman said higher sales of digital products were offset by declines in “more mature categories” such as home audio, PCs and mobile electronics, which he said were plagued by “the industrywide slowdown.” In light of retail economic conditions, he said Ultimate would emphasize margin growth and tighten cost controls.

Sneak peak at Japanese trailer for theatrical release of *Pokemon 4* is included on DVD version of *Pokemon 3* movie, which hits streets Aug. 21 at \$24.98 from Warner Home Video. Studio and partner Nintendo have raised ante of special features on video for kids’ movie that had lackluster box office. Those include Pokemon trading card and lenticular decoder for mysterious new “Unown” character, various other extras, rebate coupons. Warner also has dropped price of 2 previous Pokemon movie DVDs to \$19.98. Nintendo is bolstering *Pokemon 3* marketing effort by inserting \$3 rebate coupons for video in hit *Pokemon Crystal* cartridge released earlier this month for Gameboy handheld videogame.

Midway Games moved its corporate hq to 2704 W. Roscoe St., Chicago, Ill. 60618. Phone numbers, fax numbers and e-mail addresses remain unchanged.

RTO MERGERS CONTINUE: Consolidation is continuing to roll through rent-to-own market despite 2 of industry's largest chains' being sidelined as they seek to strengthen their finances.

Rent-a-Center (RAC) gobbled up 54 stores in 2nd quarter, extending its already sizable 2,275-store chain. But Rent-Way and Rainbow Rental (RB), which operate 1,130 and 111 stores, respectively, remain on hold for decidedly different reasons.

Rent-Way earlier this year was forced to restate earnings for previous 3 fiscal years after investigators uncovered \$129 million in accounting irregularities, while RB has struggled with decline in units on rent and restructured store management. Rent-Way recently reached agreement with syndicate of banks on extension of loan forbearance pact to Oct. (TVD Aug 6 p14).

"Rent-Way won't be in the game for a while and we have to show our same-store sales are growing again," RB CEO Wayland Russell said. "I think the consolidation can go on virtually forever because there are so many mom-and-pops and this would be a good pay day for them." RB is negotiating new agreement with bank syndicate that would extend its credit line in fall to \$25-\$35 million from current \$16 million and allow it to resume expansion in spring.

As RB and Rent-Way idle their expansion strategies, RAC was said to be prowling Assn. of Progressive Rental Organizations (APRO) convention in Las Vegas last week in pursuit of acquisitions. In some cases RAC was seeking store locations, in others just rental accounts. RAC has even bought some locations from Rent-Way (4) and RB (1).

When Rent-Way gets back on its feet is likely to hinge on fall selling season including outcome of major promotions with top suppliers such as Thomson, Philips and others that begin in mid-Sept. Among those products is home theater furniture designed by Progressive Furniture around Philips' analog 43" rear-projection TV.

"The question is, do you float them the kind of merchandise that is going to give equilibrium through the end of the year and are you going to get paid?" CE executive said.

Rent-Way Gen. Counsel Ronald DeMoss countered that chain had paid down \$40 million in debt and had kept pace with payments to its vendors. "We're coming around, but we have to work a deal with the banks so that we can get back in the growth mode," he said.

Ultimate Electronics (UE) has signed on to sell Qwest Communications' DSL service in Denver, Minneapolis and Phoenix as part of rollout of new communications department in early Sept. (TVD June 25 p14). UE, which will receive upfront commission and residuals from sale of DSL, also will seek providers in Oklahoma City and St. Louis market where Qwest currently doesn't have service, CEO David Workman said. DSL will carry \$29-\$39 monthly fee and Ultimate also will sell Qwest cellular and long distance services, he said. New communications unit will be located at front of UE stores and will contain handheld PCS as well as 2-way satellite-based Internet access, most likely via Hughes Network Systems' DirecPC service that's sold by Pegasus Communications and others.

RTO VIDEO GAMES CLASH: As next generation videogame systems prepare for fall debuts, rent-to-own (RTO) dealers are struggling to find profit with existing product.

Chief flash point has been distributor Fla. State Games, which supplies large percentage of RTO dealers, reliance on selling bundled systems to dealers for Nintendo's N64 and Sony's PlayStation 2 (PS2) and PSOne. Packages carry dealer costs of \$449 for PS2 console, 2 dual shock control pads, 2 games and DVD movie and \$99 for N64 that includes console, 2 control pads, games. Second PS2 bundle at \$449 adds PSOne game, while PSOne system itself is \$169 with console, 2 control pads, 3 games. Game systems typically are rented on 12-month contracts carrying \$29 weekly fee, although only small percentage are taken to term, dealers said.

"You rent that bundle out and it comes back missing software and in time all you're left with is the console," said UHR Rents Pres. Ernie Lewallen, who operates 7 stores in Cincinnati area and no longer carries videogame systems.

Other dealers say they carry systems to meet competition. "We carry them as a convenience, but they're a pain in the neck," said Wayland Russell, CEO of Rainbow Rentals, which has 111 stores. "You can't keep up with the obsolescence of the games and they cost you. But as long as your competition carries them, you have to." Indeed, Rent-a-Center, which has more than 2,000 stores, recently picked up PS2 largely to accommodate customer requests.

"I try not to put RTOs butting up against the Best Buy [in videogames] because they can't do it," Fla. State Games Senior Buyer Denis Rosen said. "What I try to do is give the RTO everything that the end user needs. The dealers need to know how to handle the system so that if a customer comes in and brings back a package without a controller they have a procedure for getting a replacement part and putting the package back out on the floor."

Meanwhile, new Microsoft Xbox and Nintendo GameCube systems aren't likely to arrive at RTO stores for 6 months following Nov. rollout, Rosen said. Allocations of hardware and software will be tight in early going and Fla. State Games hasn't finalized agreement with either company, he said. Distributor plans to continue with PSOne bundle for near term, although Rosen conceded that PS2 had "cannibalized" some sales.

More than 200 DVD sources worldwide now use Macrovision copy protection on their DVD-Video or DVD-ROM discs, company said last week. It said its copy protection was used on most DVDs issued by MPAA-affiliated studios and increasingly for special interest, educational and corporate titles. From 1997 DVD debut to date, more than 600 million discs have been encoded with Macrovision, company said. COO-Pres. Bill Krepick said average take for company now was 6 cents per disc.

In posting 2nd quarter results last week, Cablevision Systems said its N.Y. metro area CE retail division, The Wiz, had revenue of \$156.2 million, 5% increase over year ago. Meanwhile, Wiz AOCF deficit (adjusted operating cash flow before depreciation and amortization) was \$14.8 million, compared with deficit of \$13.9 million. Company said that was "primarily due to slower computer, video and audio sales as well as a lower gross margin than anticipated."

NEW BUYING GROUP: Associated Volume Buyers (AVB) has set up new rent-to-own (RTO) buying group subsidiary to rival well-established Trib organization with goal of having 200 members within 12 months, Pres. Mark Taylor said.

Home Rental Source (HRS) will be based at AVB's Anaheim, Cal., hq, but will be headed by Taylor, who owns RTO store in Ypsilanti, Mich. It will target dealers with 1-4 stores and will draw from 50 AVB members that have RTO business that, in some cases, is split with retail sales. AVB itself has 1,600 members with 2,400 storefronts and combined revenues of \$4 billion. It will promote new RTO entity at meeting Sept. 6-9 in Orlando.

Other potential targets for HRS could be Trib members as well as Aaron Rents and Rent-a-Center (RAC) Colortyme franchisees. Large percentage of estimated 8,000 RTO stores are represented by either RAC or Rent-Way, which have more than 2,000 and 1,000 outlets, respectively.

"There are so many dealers that aren't affiliated with anybody and we want to make their bottom line better," said Taylor, who is 12-year AVB member. "The rental dealer will be able to take advantage of whatever support that AVB has to offer."

Indeed, AVB will negotiate group deals with vendors for HRS that are likely to make them eligible for volume-based rebates of 1-5%, Taylor said. HRS so far has agreements with 12 vendors including Amana, Frigidaire, GE, JVC, Maytag, Thomson.

Trib members were skeptical of HRS's chances, saying their group's agreements extended beyond CE and major appliances to include prepaid local phone and tax preparation services. Trib, which has 94 members with 1,300 stores, doesn't release sales figures, but has deep roots.

"I don't know if there is room for another buying group, but it will make for good competition for vendors," said Dennis Shields, exec. dir. of 18-year-old Trib organization. "We try to add a lot more benefits than just consumer electronics and major appliances."

HRS will charge new members \$1,500 (\$1,000 through month's end) refundable initiation fee and \$200 per month thereafter, roughly similar to Trib's program, vendors said. HRS also will offer national warehousing facilities through AVB as well as product/sales training, ad programs, Web site.

Trib offers many of same services and strong volume rebate program. On CE side, program ranges from 0.5% from Commonwealth Distributors for Hewlett-Packard PC for sales of \$2.5-\$3.9 million to 4.5% from Philips through distributor O'Rourke Bros. Electronics for sales of more than \$7 million, Trib brochure says. Thomson has rebates ranging from 0.5% for sales of \$1-\$1.9 million to 2% for more than \$6 million, while Zenith has no volume commitment but 1.5% rebate.

Unclear is whether any existing AVB dealers, who also are Trib members, will make switch. Shields said "handful" of dealers belonged to both organizations.

"AVB has a lot more clout with the Maytags, Whirlpools and Thomsons just because of their size and it's going to be interesting to see what happens," said vendor executive who is reviewing HRR program.

But Trib members remained doubtful that their group would suffer any defections. "Why would anybody that joined Trib want to switch groups?" asked Ernie Lewallen, pres. of 7-store UHR Rents and Trib member. "You'd have to be crazy if you were less than 100 stores and not a member of Trib."

DVD REVENUE SHARING: Hollywood Entertainment (HE) signed DVD revenue-sharing agreement with MGM Entertainment last week and is nearing accord with several others, CEO Mark Wattles said.

Chain, which operates 1,813 stores, will continue to sign DVD revenue-sharing pacts provided it's able to "maintain current overall" combined VHS and DVD margins, he said.

While some video rental dealers have criticized VHS revenue-sharing agreements for requiring that stores carry all movie studios' offerings, "we don't have a problem assigning shelf space to titles even if they're not going to sell as long as there isn't any cost tied up," Wattles said.

HE's position on DVD revenue sharing contrasted with that of Blockbuster, which is weighing allowing some VHS pacts to expire. Blockbuster has said DVD, which can be purchased wholesale for \$15, has about 10% better margins than VHS, which has been subject to revenue sharing since 1998. Wattles conceded that DVDs had "cannibalized" VHS to point that "for every dollar spent on DVD, that's 70-75¢ less on VHS."

At same time, HE said it reversed year-earlier \$63 million 2nd quarter loss to post \$6.8 million profit as revenue increased to \$325.1 million from \$310.7 million, which didn't include sales from Reel.com online business that shut down in June 2000. Overall, same-store sales inched up 1%, but fell 7% for VHS, Wattles said. DVD represented 16.5% of revenue in quarter, up from 9% in Dec., with goal of hitting 30% by year-end, he said.

Meanwhile, HE has put expansion of its Game Crazy store-within-a-store format on hold, but is forecasting that videogames could jump to 12% of overall revenue from 8% with introduction of Microsoft's Xbox and Nintendo GameCube. While HE boosted forecast revenue for fiscal 2002 to \$1.3-\$1.4 billion from \$1.1 billion, videogames are unlikely to have much impact on current fiscal year that ends in Dec. because rental channel lags 2-3 months behind retail, Wattles said. Xbox and GameCube are due in Nov.

Game Crazy format, which packs 1,200-4,000 titles into 1,200 sq. ft. within existing 5,000-6,800-sq.-ft. HE outlet, has reduced to 67 stores from 69 Dec. 31 as chain fine-tunes merchandise mix and prepares for new game systems, Wattles said. Game Crazy format carries \$80,000 installation cost, but has potential to generate \$400,000 in annual per store incremental revenue, chain has said. Standard HE store has annual revenue of \$700,000.

Despite revenue-sharing agreements in DVD and VHS, HE has no plans to seek similar pacts for videogames, Wattles said. "That would be very challenging in the videogames business because there are multiple players who get revenue out of a game," he said.

HE has no plan to increase size in "short term" as it focuses on "internal" revenue growth, Wattles said. Year-earlier loss included \$1.3 million from Reel.com, which HE bought for \$96 million in 1998.

PEGASUS LOSS DEEPENS: Pegasus Communications reported 2nd quarter loss deepened to \$73.2 million from \$51.9 million as revenue rose 50% to \$215.4 million.

Wider loss came as Pegasus added 21,000 subscribers, down from 34,000 year ago, to end quarter with 1.46 million, up from 1.2 million.

Monthly revenue per subscriber rose to \$47.11 from \$43.11 but down from \$48.48 in first quarter on lower sales of premium services. Per-subscriber acquisition costs jumped to \$461 from \$347. DBS sales rose 53% to \$206 million, with \$25 million coming from premium services such as HBO and Showtime, down from \$26 million in first quarter. Monthly churn was 1.6%, flat with first quarter, but up from historical average of 1.2%. Earnings before interest, depreciation, taxes and amortization (EBITDA) slipped to \$8.1 million from \$10.6 million.

As Pegasus released earnings, it also moved to increase focus on program in which retailers are paid based on service activation rather than hardware sale. Latter currently accounts for 20-30% of Pegasus sales and will be eliminated in next 4-6 quarters, Chmn. Marshall Pagon said, adding that company had had discussions with national retailers on activation plan.

Shift in strategies is being made to combat piracy of service that has plagued DBS industry, as well as lower churn and subscriber acquisition costs, which are forecast to drop to low \$400 range in 2nd half, CFO Kasin Smith said. Pegasus earlier had targeted \$350 by year-end (TVD May 14 p18).

"A disproportionate amount of the churn has been based on sales model," said Pagon, whose company added 97,000 gross subscribers in quarter but netted just 21,000. "If the retailer is paid based on sales, there is absolutely no motivation to qualify a customer. The ultimate remedy to piracy is eliminating the based-on-sales model at retail."

To further tighten controls, Pegasus has implemented 3-level program for dealers, Pagon said, noting that 15% of company's retailers were responsible for 50% of churn. Dealers with annual churns of 25% or more will be paid based only on secured transaction and those that fall at 20-25% won't be eligible for installation subsidies, Pagon said. Retailers with under 20% annual churn get full program, he said. Pegasus has 4,500 dealers.

In moving to lease program, Pegasus has begun Digital One plan that offers consumers 2 DirecTV receivers along with monthly service and installation free with one-year commitment to programming package. Pegasus also has increased retail commissions for Digital One plan while cutting those based on hardware sales 50%, Pagon said. To further discourage equipment sales, Pegasus increased DirecTV receiver price to \$99 from \$49 and to \$149 from \$99 for 2 models. About 50% of sales in July and early Aug. included minimum service commitment, Pagon said.

Pegasus also is sharpening focus on direct sales with opening of Kansas City office with staff of 30. Direct sales are forecast eventually to account for 24,000 new subscribers per quarter, Pagon said. Subscriber acquisition costs for direct sales are \$100 lower than retail, company said. Combination of direct sales and those at retail based on activation are projected to rep-

resent 80% of revenue in 2nd half, he said. In 2nd quarter, 30% of new subscribers were acquired under marketing agreement with DirecTV and 10% via lease, he said.

In broadband, Pegasus has postponed full-scale rollout of Powered by DirecPC satellite-based Internet access service to 4th quarter as it works to resolve software and service issues. It has 4,000 DirecPC subscribers, including 3,000 added in 2nd quarter, it said. Goal was to have 50,000 in 2nd half. "We're pleased with the performance of the service thus far," Pagon said, "but we're not moving to a widescale national rollout until we resolve the software issues. The issues haven't been the performance of the system, but the consistency of it."

Despite Pegasus's recent success in winning FCC license for Ka-band satellite spectrum, it will take 5 years to build out service and "better part of a decade" for full implementation, Pagon said.

Blockbuster further expanded its presence in Central America by opening franchised stores in Costa Rica and Guatemala, boosting its worldwide presence to 28 countries, including U.S. Video rental chain said last year it would increase its presence in Central America via franchising. Since then, Blockbuster has entered into agreements in Costa Rica with Inmobiliaria de Videos S.A. (affiliate of Blockbuster's Panamanian franchisee, Grupo Mizbe S.A.), as well as Corporacion de Entretenimiento de Guatemala, S.A. (affiliate of current Blockbuster franchisee in El Salvador). Both franchisees opened one store in each market earlier this month and anticipate opening additional ones in those markets by year-end, company said. Blockbuster International Pres. Chris Wyatt said: "Through franchising, we are able to effectively expand our consumer reach and bring the Blockbuster brand into new markets."

Second-generation line of DVD-R and DVD-RAM recordable media was introduced by Memorex. Single packs of 4.7 GB write-once DVD-R discs will be marketed at \$19.99 each for general use and authoring applications. DVD-RAM discs, also in single packs, will be available in single-sided (4.7 GB) and double-sided (9.4 GB) at \$34.99 and \$39.99, respectively. Memorex Pres. Michael Golacinski said demand for recordable DVD was expected to "expand dramatically over the next few years," driven by recent introduction of affordably priced DVD drives, growth of streaming audio and video Internet content and competitively priced digital cameras and camcorders.

Nikon is using network services, content and support of technology provider ArcSoft for its photo-sharing Web site, NikonNet. ArcSoft, based in Fremont, Cal., already supplies Nikon with imaging software that comes bundled with Nikon consumer digital cameras in N. America. Nikon Internal Development Vp Jerry Grossman said company "chose ArcSoft because of the company's years of experience in consumer imaging software and its proven ability to customize high-quality, easy-to-use photo-sharing Web sites." NikonNet allows its members to edit, enhance, archive and share digital photos with others around world.

Macrovision and Globetrotter Div. will sponsor 7th annual Electronic Commerce for Software (EC4S) conference on electronic content distribution, Oct. 28-31 in San Diego — www.ec4s.com.

EB MAKES PUBLIC OFFERING: Electronics Boutique (EB) made public offering of 4 million shares of common stock priced on Aug. 8 at \$29 per share. Of shares, videogame retail chain said it was selling 2.5 million in offering while stockholder in company was selling other 1.5 million.

EB said that after underwriting discounts and expenses, offering would result in net proceeds to company of \$63.3 million. Selling stockholder, unnamed in EB's announcement, also granted underwriters 30-day option to buy up to additional 600,000 shares of common to cover overallocments if there were any. EB said proceeds would be used to fund its new store expansion program and for general corporate purposes.

Separately, EB said it acquired 70% stake in Italian specialty videogame and PC entertainment chain K.E.B. Italy S.r.l. Purchase represented latest step by West Chester, Pa.-based EB to strengthen its position outside U.S. market.

EB operates 790 stores, primarily under EB and EB GameWorld names in U.S., Italy, Australia, Canada, Denmark, New Zealand, Norway, S. Korea. EB Italy owns 10 specialty videogame and PC retail stores operating under name Software Universe and related distribution business. Leases for 7 of 10 locations were transferred to EB Italy at closing. Transfer of leases for remaining 3 stores is expected by end of month, EB said. It also said it had acquired option to buy remaining 30% interest in EB Italy.

EB Pres.-CEO Jeff Griffiths said: "We're excited about entering into this new partnership in Italy." EB said it expected "the acquisition will not have a material impact on its financial results for this year."

Wal-Mart and Kmart accounted for 44% and 35%, respectively, of distributor Handleman's \$1.1 billion in revenue in fiscal 2001, company said in 10K. Net income rose to \$42 million from \$38.6 million. Handleman Entertainment Resources, which handles distribution of music titles, accounted for 89% of total revenue as it posted 5% gain in sales to \$1.06 billion from \$1.01 billion year ago. Large part of gain was from addition of Asda chain in Europe in Feb., Handleman said. Subsidiary North Coast Entertainment, which oversees distribution of proprietary music and video titles, said sales edged up to \$142.7 million from \$142 million year ago. In cost-saving measure, Handleman also is negotiating sale of Tampa warehouse for \$2 million.

Audible narrowed its loss to \$8.1 million (-31¢ per share) in its first quarter ended June 30 from \$8.8 million (-32¢) in same quarter year ago as revenue jumped to \$2 million from \$840,977. Wayne, N.J.-based downloadable spoken word audio provider said it ended quarter with cash and cash equivalents of \$15.2 million. CEO-Chmn. Donald Katz said: "Seventy percent of our content revenue was recurrent, subscription-based revenue. Greater numbers of less expensive devices that play our... content come to market every few weeks. These trends — coupled with a streamlined operating plan designed to create positive cash flow by the end of 2002 using current cash — make this another quarter of which we are proud."

Long-term agreement to produce "Digital Experience" technology showcase at next 3 CES shows was announced by CEA and Pepcom, which produces Digital Focus seminars at PC Expo. First such event is set for Jan. 8 at Aladdin Hotel on opening night of 2002 Las Vegas CES.

Consumer Electronics Personals

Appointed at Good Guys: **John De Luca**, ex-Electronic Data Systems, as chief information officer; **Jeffrey Linden**, dir.-distribution & logistics, advanced to vp-logistics and service... **Mika Kelly**, ex-Infogrames, joins Bam! Entertainment as PR mgr... **David Race** resigns as CD Warehouse vp-COO, plans unknown... **Tom Petit**, ex-PartsAmerica.com and onetime Acclaim Entertainment, Nintendo and Sega, joins Vivendi Universal Publishing N. America as vp-consoles... Elected to APRO board: **Robert Briley**, Rent City Superstores; **Gary Hughes**, AAA Rent to Own; **Christopher Korst**, Rent-a-Center; **Mark Peterson**, H&H Furniture; **Shannon Strunk**, Baber's Leasing. Reelected: **Larry Carrico**, Rent One; **David David**, Full-O-Pep; **Gary Romine**, Show-Me Rent-To-Own; **Jimmy Strong**, Easy Way... **Christopher Korst** returns to Rent-a-Center as senior vp-gen. counsel.

DirecTV said it would pursue viewers who received its satellite signals illegally through purchase of access cards from hackers. Company started campaign by mailing letters to 100,000 people it suspects of accessing service illegally. List of individuals targeted was compiled from records DirecTV seized from hackers or companies it has sued, spokesman said. Letter informs recipients they could be subject to \$10,000 fine and that use of illegal equipment violates federal, state and local laws. DirecTV gave individuals option of avoiding prosecution by immediately surrendering illegal equipment, agreeing to buy one-year contract for DirecTV service, paying \$500 in restitution and providing company with information on how pirate equipment was purchased. "Many people don't know they are violating the law," spokesman said.

Bail was granted Aug. 6 to Russian computer scientist Dmitry Sklyarov, 3 weeks after his arrest on criminal count of trafficking in product designed to circumvent copyright protections under Digital Millennium Copyright Act (DMCA). Bond was \$50,000 and terms restrict his movements to Northern Cal., where case in under jurisdiction of U.S. Attorney's office in San Francisco. Moscow resident was arrested at hackers' conference in Las Vegas over software he developed that decrypted copyright protections on Adobe's eBook Reader. Adobe since has said it doesn't support arrest of individual and criminal charge, which carries \$500,000 fine, 5 years in jail. U.S. Attorney's office hasn't indicated how it will dispose of charge.

RadioShack, hampered by twin plagues of slow PC and DirecTV sales, reported July sales fell 5% to \$320.3 million from \$337.8 million on 6% slide in same-store sales. RS's PC dollar and unit sales plunged 40% due in part to elimination of Microsoft Networks (MSN) \$400 rebate that was packaged with Compaq models year ago. DirecTV sales slid 20%, attributed to "general malaise" in category and decline in units sold related to piracy of service, Senior Investor Relations Dir. James Grant said. Sales of parts, batteries and accessories, which RS has targeted as key revenue generator, rose in "low single digits," but were hampered by "weaker" performance by older SKUs, he said. Communications category, which consists largely of cellular, decreased in "low single digits" and handset sales were flat, he said.

"Rebranding effort" was begun by NARM to bolster Assn.'s image as "stronger advocacy" group for music retailers. Campaign will include new logo and tagline, "The voice of music retailing." Changes were approved by NARM board in June.



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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

CABLE HAS ENOUGH CAPACITY for digital must carry, broadcasters say. Cable companies again tell FCC rules would be too burdensome. (P. 1)

RACIAL ROLES DISPUTED by NAACP, broadcasters, actors. Boycott threatened again. Broadcasters, SAG cite gains in front of camera, in executive suites. (P. 2)

LIQUOR ADS APPEALING to more TV stations. Liquor group pressing for more, citing 'floodgate of interest.' More meetings planned. (P. 4)

PEG ADS OKAY, court says. Cable says ruling could undermine noncommercial nature of access channels. (P. 4)

STRONG BROADBAND GROWTH SEEN in NCTA study. Time Warner passes AT&T as top broadband provider. (P. 5)

STATES DOWNPLAY BROADBAND at NCSL meeting, won't seek reopening of Telecom Act. Lobbying still possible. (P. 6)

BROADCASTERS, CABLE DUEL OVER CAPACITY FOR MUST CARRY: In last-min. flurry of filings at FCC on dual DTV must carry, broadcasters argued that cable operators would have enough excess capacity to carry analog and digital signals during digital transition. However, cable and DBS industries said broadcasters weren't entitled to special rules giving them "free ride" at expense of operators or permission to violate operators' First Amendment rights to offer programming of their and their viewers' choice.

Average cable bandwidth available to subscribers will increase 16.6% by 2003, compared with 1999, according to broadcaster analysis of channel capacity data submitted to FCC by cable operators. Joint filing by NAB, MSTV and ALTV said capacity growth meant burden of DTV must carry on cable would be less than analog-only must carry was in 1993. Broadcasters also said 86% of cable subscribers had access to 750 MHz of bandwidth, based on analysis, and that would be enough for as many as 340 program services.

FCC is doing its own analysis based on cable company responses to agency's voluntary survey issued after it tentatively ruled in Jan. that dual DTV must carry would infringe too heavily on cable operators' First Amendment rights. (Editor's note: Our review of cable filings was inconclusive because vital information was redacted from publicly available versions.)

NCTA spokesman said broadcasters' analysis was based on erroneous notion that they had "government-mandated right" to cable capacity. Much of that capacity — which would come from cable-financed buildouts — already has been contractually claimed by other content providers, spokesman said. "There are other people competing for that space, and there aren't exactly a lot of people clamoring for 2 versions of *Who Wants to be a Millionaire?*" he said. In its filing,

Consumer Electronics

VOLUNTARY RETIREMENT PLAN imposed by Sony Electronics, targeted to employees 52 and older with 7 years of service. (P. 8)

FUNAI FILES TRADE COMPLAINT against Orion Electric with International Trade Commission alleging TV/VCR patent infringement. (P. 8)

COPY-PROOF CD HACKED: German magazine claims it defeated Sony's key2audio CD copy-prevention on eve of its debut. (P. 9)

CURBS OFFERED FOR FILM PIRACY by venerable Sarnoff lab, which patents keys to beating digital copying in theaters. (P. 11)

BEST BUY TO BUY FUTURE SHOP for \$377 million as it changes strategy for expanding into Canada. (P. 13)

GEMSTAR-TV GUIDE 2-WAY WIRELESS will be available for TVs by year-end using PageNet's 900 MHz network. (P. 14)

A&E argued that must carry would violate Congress's original intent of creating more diversity in programming by prescribing duplicative programming.

In addition to repeating earlier arguments for must carry, broadcasters' joint filing dismissed cable claims that cable would negotiate DTV carriage agreements as "disingenuous at best." It said cable responses to FCC survey indicated that DTV carriage was "paltry" today and there were "minimal carriage agreements for the future."

NAB Gen. Counsel Jack Goodman said cable operators' capacity would be "so huge that it can have no effect on their ability to carry whatever they want." What's more, he said, cable's 68% penetration rate in U.S. guarantees that unless cable simulcasts analog and digital signals, digital programming never will be developed.

NCTA filing said backers of dual DTV must carry had failed to "make a statutory case" for govt. imposition of broadcast signals on cable systems with limited capacity. NCTA said broadcasters didn't demonstrate that digital must-carry rule would hasten transition to digital from analog and in fact could hinder transition. As expected, NCTA advocated "market-based solutions." Commission tentatively concluded in Jan. that mandatory dual carriage of analog and digital broadcast signals during DTV transition would infringe too heavily on cable operators' First Amendment rights.

American Cable Assn. (ACA) said small cable operators didn't have capacity to meet broadcasters' demands. ACA asked FCC to begin inquiry into network owners' retransmission consent practices, saying networks used consent-tying to "drive up the costs of cable in smaller markets." Small cable systems have "substantially less capacity" than larger operators, and costs of upgrades necessary for dual carriage would impose "prohibitively high per-subscriber costs on smaller market systems," ACA filing said.

Although Consumer Electronics Assn. (CEA) supports must carry, it said "broadcasters should be discouraged from merely simulcasting a digitized upconverted version of their analog programming." CEA said upconverting provided little value to users and would "not maximize consumer demand for DTV equipment." CEA also said FCC should adopt broad definition of program-related material that must be carried, saying narrow definition would stymie market and could "prevent television receivers from operating as designed and intended, or even as required by statute."

EchoStar said govt. shouldn't impose DTV must carry on satellites or cable because they weren't part of "bargain" that gave DTV spectrum to broadcasters. "The broadcasters' [DTV] rollout obligations were part of a bargain; in exchange for receiving the digital spectrum for free, the broadcasters were charged with achieving transition to DTV within a prescribed time frame." EchoStar said broadcasters already had benefit of that bargain: "They cannot now properly argue that living up to their end of it requires imposition of onerous dual carriage requirements on a third party — multi-channel distributors." EchoStar said DTV must carry would be "enormous burden" on DBS because of nationwide nature of satellite distribution.

APTS, PBS and CPB said FCC could articulate govt. interests beyond what's enumerated in *Turner Bcstg. v. FCC* to support transitional digital carriage requirement. Any First Amendment challenge would be to Commission's rules establishing outlines for basic carriage requirement mandated by statute, they said. Courts customarily look to govt. interests set forth by Commission and don't limit First Amendment inquiry to interests expressly identified by Congress in enacting underlying statute, they said. Agency therefore is free to adopt transitional digital carriage requirement based on govt. interest of promoting transition to digital, as well as on interests identified in *Turner*. "The Commission is uniquely qualified to determine the extent to which cable carriage of digital broadcast signals is essential to the success of the digital transition, and should not abdicate the responsibility of bringing that expertise to bear simply because Congress did not anticipate every government interest in digital carriage when it adopted the 1992 Cable Act," they said.

MINORITY ROLES ON TV DISPUTED: Number of minorities in key TV roles is either improving significantly or not improving nearly fast enough, depending on whom one listened to last week. NAACP and Hispanic group each said TV networks were failing to live up to 1999 agreements to add minorities in front of and behind cameras. Screen Actors Guild and networks themselves cited major gains by minorities.

NAACP again threatened to boycott one or more TV networks because of lack of progress, with NAACP Pres. Kweisi Mfume telling reporters at L.A. news conference that decision was likely to be made at Assn.'s Oct. board meeting. Recommendations to board could include "a massive, targeted and sustained economic boycott," he said. "If history is any gauge of progress... it is clear that in all likelihood we will need to do just that." Also possibility, he said, is class action suit against networks charging discrimination against minorities.

Releasing NAACP's annual report on network hiring practices, Mfume said that while there had been "some relative progress among the networks" in hiring of minorities it wasn't nearly enough. He was particularly critical of ABC, charging it "was not even out of the starting gate" in any effort to increase diversity and that NBC had made "little or no progress." But he acknowledged that ABC TV Pres. Alex Wallau had taken some positive steps toward more diversity in recent weeks.

However, Josie Thomas, head of diversity at CBS, and her counterpart at Fox, Mitzi Wilson (all 4 networks hired diversity vps following agreements with coalition of minorities 18 months ago), attended news conference and both countered that their networks had made significant progress in employee diversity. ABC official disputed Mfume's claims, saying 1/3 of characters in network's new series were minorities and those "facts speak for themselves." ABC said NAACP "clearly did very poor research." NBC said it would start new season next month with 12% increase in minorities in series, 4% of whom are African-Americans: "Every one of our new shows has a diverse cast [and] diversity remains a top priority in front of and behind camera."

In study released before NAACP news conference, Screen Actors Guild (SAG) said blacks and Hispanics received their highest percentage of roles in prime-time TV and movies last year since SAG started keeping statistics in 1992. For year, 53,144 Guild members were cast in movie and TV roles, with 14.8% of those roles filled by blacks (up from 14.1% in 1999), 4.9% by Hispanics (up from 4.4%). Guild doesn't keep statistics on non-prime-time programs or game or reality shows. Asians received 2.6% of roles, up from 2.2% in 1999 and highest percentage ever for that group; native Americans were cast in 0.3% of roles, up from 0.2%, Guild said. "We're moving slowly but steadily toward the reality of portraying the American scene" accurately, SAG Pres. William Daniels said. "But there's no question there's still plenty of room for growth in diversity in the television and film world." Guild said that of total roles last year, 11,930 went to minorities of various nationalities. Although women outnumber men in U.S. population, males received 62% of movie-TV roles last year, Guild said, and persons under 40 received more than twice as many roles as actors over 40.

Latinos are vastly underrepresented in TV roles, National Hispanic Foundation for the Arts (NHFA) said in statement, and Latino writers, producers and executives are "almost nonexistent." NHFA said only 2% of faces in TV roles were Latino, vs. 12% of population. Figure is lower than 4.9% Latino representation reported by SAG.

FCC rejected complaint by Paxson Chicago License Inc. that sought to compel cable operators to replace analog service with digital. Commission affirmed FCC Cable Bureau ruling that TV stations that broadcast in both analog and digital, such as Paxson's WCPX (Ch. 38, Chicago) couldn't assert digital carriage rights until issue had been resolved by pending proceeding. AT&T Broadband opposed Paxson on issue. Cable Bureau is examining responses from cable operators to voluntary survey on channel capacity. Commission said that although must-carry issue was pending, no current rule entitled TV stations to mandatory carriage of both analog and digital signals or entitled stations broadcasting in both to elect mandatory carriage of digital content. "While we commend those broadcasters already on the air with digital television... we have no basis for concluding that the statute requires dual carriage," ruling said.

CBS named Paul Woodcock vp-gen. mgr. of KCBS-TV L.A., which becomes 3rd TV station he will have run in market. Woodcock was dropped by News Corp. as gen. mgr. of KCOP L.A. when News Corp. closed on purchase of Chris-Craft TV stations (TVD Aug 6 p4). Before KCOP, he was pres.-gen. mgr. of Disney's KCAL-TV there. At KCBS-TV, Woodcock succeeds John Severino, who will continue as consultant.

Former FCC Comr. James Quello officially joined Wiley, Rein & Fielding law firm as govt. relations consultant, firm said. Quello had been sharing office space with firm since leaving FCC while he wrote memoir and worked on other projects. Quello was FCC commissioner for 23 years.

FCC refused to shift burden of proof to broadcasters from multichannel video providers in cases in which complaint alleges broadcaster used unfair market power in negotiations. Acting on petition for reconsideration of its rules implementing Satellite Home Viewer Improvement Act (TVD March 20/00 p1), Commission rejected claims by U S West and Wireless Communications Assn. that burden should shift to broadcasters whenever multichannel providers alleged facts that, if proved, would establish prima facie case against broadcasters. FCC agreed with broadcasters that merely alleging facts wasn't enough to change burden, and such allegations would be included in nearly every complaint about unfair carriage negotiations. However, agency did agree to minor clarifications on one-year limit on filing complaint and said rules applied even if carriage negotiations began before effective date of rules.

DTV signals will be available to 95% of U.S. households within less than year, NAB predicted. Assn. said in figures supplied to FCC that 2/3 of all commercial TV stations would be airing DTV by May 1, 2002, deadline, reaching 95.8% of U.S. TV households. NAB Pres. Edward Fritts said that meant DTV would be available to "nearly as many" households as current analog TV. Most of stations that won't meet May 1 deadline expect to be broadcasting DTV within few months after that, NAB said, with delays attributed mainly to waiting for equipment. Some stations also face economic issues, Fritts said.

Senate Commerce Committee Chmn. Hollings (D-S.C.) plans hearing on televised violence next month. No date has been set, according to Hollings spokesman, but Newton Minow, FCC chmn. in Kennedy Administration, said he had accepted invitation to testify

LIQUOR ADS APPEALING: Many TV station groups — large and small — are taking favorable look at accepting overtures from hard liquor distillers to air commercials on their stations, according to several station executives. Out front in effort to get stations to accept spots for hard liquor (about 200 do so at present time) has been Distilled Spirits Council, which exhibited for first time at April NAB convention. As result, “a floodgate of interest has opened,” Council Senior Vp Frank Coleman said. At April 2002 NAB convention, Council plans to have booth at TV Bureau of Advertising (TvB) exhibit in Hilton Hotel where it expects to get much more traffic than it did last spring. Hard liquor ads formerly were banned voluntarily by distillers and broadcasters.

Council exhibited at June meeting of N.Y. State Bcstrs. Assn. and made presentation Aug. 16 at Tex. Assn. of Bcstrs. (TAB) convention in San Antonio. TAB official said Council was invited following “brainstorming session” where plans were being made for Aug. convention. Making pitch to Tex. broadcasters for Council were its Pres. Peter Cressy and Jodie Bernstein, who recently joined Council after being chief of FTC Bureau of Consumer Protection.

Coleman said Council had met with TvB and had had “a number of meetings with media heads” and that those meetings “were not for naught.” Council pointed out, for instance, that NBC-owned WJAR-TV Providence planned to begin airing commercials for Baileys Irish Cream (17% alcohol content) in Sept. Following May meeting with Cressy, TvB Pres. Christopher Rohrs wrote association’s members and while he didn’t specifically endorse acceptance of hard liquor commercials, he pointed out “the new revenue opportunity in this category,” adding “I’ll leave the value and philosophical judgments to you.” Rohrs wrote stations that Council had made “a thorough and interesting presentation” and probably would be contacting most of them to make pitch for acceptance of liquor ads.

In our talks with station group heads, not a single one said flat out that he would refuse hard liquor ads in future — but most also specified conditions for accepting them. “Each time there’s a request [by a distiller], we look at it,” said Robert Hubbard of Hubbard Bcstg. “Our current policy is not to accept” liquor commercials “but that may change.” CBS TV Affiliates’ Chmn. Ray Deaver of KWTX-TV Waco said: “At this point, we’re not interested in taking any liquor commercials... but we’ll continue to look at it.”

Larry Patton, gen. mgr. of KSWO-TV Lawton, Okla., said station twice had turned down overtures by distillers, “but if I’m approached again, I’ll reconsider” and probably accept liquor spots on “a very time-sensitive basis” — after 9 p.m. Michael McKinnon, who owns 2 ABC affiliates in Tex. and an independent in San Diego, said “if the [distiller’s] budget is considerable, we’d probably take it... But, I don’t want to be used as part of a PR campaign.”

Now-defunct NAB TV Code — which was dropped in its entirety after Justice Dept. won antitrust suit against advertising time standards only of Code — included ban on hard liquor commercials. Distillers also had their own voluntary ban, which was lifted in Nov. 1996, causing political uproar in Congress and among citizens’ groups along with predictions that liquor ads would flood airwaves. However, that didn’t happen, and still hasn’t to this day despite efforts of Council. When he became FCC chmn. in Nov. 1997, William Kennard told report-

ers that TV-radio distilled spirits commercials were “something that I’m going to be focusing on.” However, he was forced to back away from his threat to hold Commission inquiry.

PEG ADS OKAY: Ads for sale of tapes and transcripts of public access program don’t by themselves make it “commercial” program ineligible for carriage on cable’s public, educational and govt. (PEG) channels, 2nd U.S. Appeals Court, N.Y., ruled. Determination whether such ads are commercial depends on their function, court said in decision vacating Dist. Court ruling upholding Cablevision Systems’ refusal to carry program submitted in Oyster Bay, N.Y.

Calling it “brilliant” decision, plaintiff Robert Goldberg, coordinator of Public Access Movement of Long Island (PAM), said court opened doors for nonprofits — educational, religious and community groups — to “sell their material on public access channel.” Alliance for Community Media Exec. Dir. Bunnie Riedel said she was “troubled” by decision because it didn’t conclusively define “commercial” and “noncommercial” programming and for its potential for infomercials “masquerading” as access programs to exploit system.

Saying decision had broader implications for cable, NCTA Senior Vp Dan Brenner said court ruling “creates all kinds of incentives for people to test this fuzzy line” between commercial and noncommercial programming. There was no reason for court to go in that direction, he said, referring to guidelines set for determining function of ads. There are other ways such as displaying Web addresses and phone numbers for nonprofits, he said.

Court said if primary role of ad were to disseminate message contained in program more broadly or permanently, then requiring cable operator to carry it free was “fully consistent” with purpose of public access channels to contribute to diversity of information and information sources available to public. That wasn’t case, however, if principal function of ad for tapes and transcripts was to produce financial gain, court said.

Case involved Cablevision refusal in Feb. 1999 to carry program *American Defense Monitor* offered by Goldberg that was produced and distributed by Center for Defense Information (CDI) because it contained closing ad segment offering sale of tape and transcript of program. MSO agreed to carry program after disputed segment was removed. Goldberg excised segment in subsequent installments of program but filed suit in U.S. Dist. Court, Brooklyn, seeking injunctive and monetary relief. Dist. court granted summary judgment in favor of Cablevision.

However, Appeals Court rejected Goldberg’s argument that cable operator was “powerless” to prevent carriage on PEG channel of programming that “does not belong there.” N.Y. state laws made allowance for cable operator to use vacant PEG access space for paid programming, court said, and because that provided incentive for operator to exclude as much as possible from PEG channels, “we hesitate to provide carte blanche” to disqualify programs. In Goldberg’s case, court said, record of evidence on “function” of ads was inconclusive, so it was returning case to Dist. Court to decide issue.

Entravision Communications said it closed on purchase of WJAL (Ch. 68, Ind.) Hagerstown, Md., from Good Companion Bcstg. for \$10.3 million.

STRONG BROADBAND GROWTH SEEN: Despite weakening economy, cable industry reported increase in deployment of broadband services in quarter ended June 30. NCTA survey showed nation's cable operators added 920,000 new high-speed Internet cable modem subscribers, or more than 70,000 per week, and U.S. cable modem subscribers now total 5.5 million.

Separate study by Warren Communications News's Telecom Research Group said Time Warner Cable surpassed AT&T Broadband as leading supplier of high-speed data services. Figures showed TW had 1.41 million cable modem subscribers as of June 30 — 63,000 more than AT&T. TW added 226,000 in 2nd quarter, compared with 131,000 for AT&T.

AT&T Broadband spokesman called Warren research "flawed," saying its growth was offset by sales of cable systems, such as one in St. Louis to Comcast. TW Cable spokesman declined to comment on AT&T's numbers but said: "Our business is robust. It has been and it continues to be."

However, pace of growth for most providers slowed in 2nd quarter vs. first, Warren research showed. Several factors appeared to have hampered growth, including softening economy and price increases for service, study said.

Analyst Paul Glenchur of Schwab Capital Markets said part of turnabout between TW Cable and AT&T Broadband could be attributable to speed and degree to which each company was building out and upgrading its delivery systems. "The rate at which they add customers is going to be tied to the pace of the upgrades and the percentage of systems that are upgraded," he said. Glenchur said AT&T must build on older TCI systems, as well as those of MediaOne, which it acquired in 1999 by winning bidding war with Comcast.

NCTA said overall, cable gained 1.3 million new digital video customers, average of 100,000 new installations per week, increasing nationwide total to 12.2 million. Cable added more than 200,000 new residential telephone customers — 15,000 per week — to raise total to 1.3 million. Growth came despite industrywide acknowledgment that upfront cable ad revenue was down, as were purchases of large pieces of telecom equipment.

While industry celebrated gains, yet another study showed 6-month rate of residential broadband had slowed considerably. Precursor Group report said broadband growth was 34% in first half of 2001, down from 71% in 2nd half of 2000. "Overall, long-term broadband deployment outlook is much slower than anticipated," report said.

Seth Morrison, senior vp-mktg. for CTAM, said consumer demand remained strong because public no longer considered broadband luxury item but as alternative to increasingly expensive outside entertainment options, such as movies and restaurant dining. Many consumers require high-speed data to telecommute or need Internet access to perform their jobs, he said.

FCC recently reported number of high-speed Internet connections in U.S. grew 158% last year, to 7.1 million.

However, Precursor Group analyst Scott Cleland called cable telephony "ambition that has not been fulfilled." Problem, he said, is that cable lines were designed for entertainment pur-

poses, not with lifeline reliability in mind: "The telephone guys are doing an unnatural act with their architecture, and the cable guys are doing an unnatural act with theirs."

NEWS CORP., OTHERS DOWN: Declines in its broadcast group helped push News Corp. to \$265 million loss in 4th quarter ended June 30, vs. \$71 million profit year ago. Despite what News Corp. Chmn. Rupert Murdoch called "dramatic ratings improvements" at Fox, network's 4th quarter operating profit dipped to \$185 million from \$241 million year ago and TV station operating profit was down 29%. Company cited weak ad market as well as comparison with Olympics year ago. It said lower revenue was offset in part by reduced programming costs.

Overall cable network operating profit was nearly flat, compared with year ago, although Fox News Channel became profitable for first time. Filmed entertainment operating profit, including movie and TV production, jumped \$152 million in year. For BSkyB DBS operation in U.K., News Corp. share of profit was \$2 million in quarter, reversing \$31 million loss year ago. Overall, company's profit was hurt by \$410 million one-time loss in quarter on investments in One.Tel, Zee Telefilms, 360networks and epartners, although loss was partly offset by gain in sale of Golf Channel.

In other financials: **Liberty Media** reported 2nd quarter loss of \$2.1 billion on revenue of \$513 million, vs. earning \$267 million on \$382 million revenue in same period last year. Liberty officially split from AT&T last week and began trading as independent company. It has holdings in Discovery, CourtTV, Encore and other media entities. With softening of U.S. cable market, Liberty is turning its focus to its recent acquisition of 10 million subscribers from Deutsche Telekom, at least in short term, CEO Robert Bennett said. "I think it's fair to say that our attention is pretty well focused on the European opportunity," he said in conference call: "I don't know that that opportunity is available in the U.S."

United Pan-Europe Communications (UPC), Europe's largest cable operator, said it lost 863 million euros (1 euro = 90¢) in quarter vs. loss of 368 million euros year earlier. Liberty, which earlier this year made \$1 billion investment in UPC's corporate parent, United Globalcom, said it would step in to assist UPC... **Gemstar-TV Guide International** said it lost \$134.8 million in quarter ended June 30 on \$334 million revenue, compared with earning \$28.9 million on \$63.2 million revenue in same period last year... **Nexstar Bcstg.** lost \$8 million in 2nd quarter ended June 30, vs. \$1.4 million loss year ago. Revenue dipped to \$29.6 million from \$30.7 million and operating profit to \$1.5 million from \$4.6 million.

Big 3 TV network ad revenue in news, sports, daytime and children's programming was down in 2nd quarter, while advertising in prime time and late night shows was flat, Bcst. Cable Financial Management Assn. (BCFM) said. Only time period to show increase in ad dollars was morning, BCFM said. For all categories, advertising on ABC, NBC and CBS was down 5.8% in 2nd quarter from same period 2000. BCFM said it expected 3rd quarter "will be very difficult" with a "potentially devastating skew to the numbers" because Summer Olympics were aired in 3rd quarter 2000. "With an already soft ad market facing the networks, the comparisons may appear a bit frightening," BCFM Pres. Buz Buzogany said.

MODEM RESEARCH FLAWED: When broadband deployment began to accelerate in late 1990s, market research companies flooded market with predictions promising dramatic growth for DSL but declining popularity for cable modems. Some analysts forecast number of DSL subscribers would be twice as high as it actually is today. Others thought DSL would gain lead over cable by 2001, although cable modem subscribers still outnumber DSL subscribers by 2 to 1. Analysts provided many explanations for flawed predictions, but didn't acknowledge fundamental problems. One analyst claimed 34% error was "slight," while another said no one could be expected to accurately predict deployment rate of new technology, even though his company and others sold their projections for up to \$3,500 and more and relied on them to generate consulting relationships.

Jupiter acknowledged it was too bullish in its 1998 study predicting number of U.S. DSL households would hit 2.2 million in 2000. Best number we could find suggested U.S. had only 1.7 million households subscribed to DSL by year-end 2000, 23% below Jupiter prediction. Dylan Brooks, Jupiter's broadband analyst, told us it based forecast on adoption rate of related technologies "such as cable modems, VCRs and PCs." He said DSL didn't reach numbers of those other technologies because of "the lack of a killer broadband application," even though that limitation also could be applied to cable modem deployment, which actually grew faster than most analysts' predictions.

Locking in growth rate is common error made by far too many analysts, said James Alleman, prof.-dir. of research at Columbia U. "These guys guess a lot and don't do any analysis," he said: "They just take an accelerating trend and make a forecast out of it."

Forecast accuracy generally was higher in short term, although at times even few months in future proved too challenging. In Feb. 2000, TeleChoice projected expansion of U.S. DSL lines in service to 2.1 million by year-end, 10-month projection. TeleChoice numbers in May 2001 showed there were 2.3 million DSL lines at end of 2000, suggesting fairly accurate forecast. However, another report by company in Feb. 2001 projected 5.7 million DSL lines by end of year. Despite again having advantage of short 10-month projection window, TeleChoice DSL Analyst Adam Guglielmo admitted actual numbers this time were likely to fall far short of that.

Consistent error among analysts was predicting DSL would quickly close gap on cable modem service. Cahners predicted DSL subscribers would surpass cable subscribers worldwide in 2001, saying: "Signs are beginning to emerge that DSL is ready to overtake cable modems." However, FCC report on advanced services said that while U.S. DSL lines increased to 2 million by end of 2000, cable modem connections had risen to 3.6 million. Now, when there still are twice as many cable modem households as DSL homes, Cahners Senior Analyst Ernest Bergstrom has made new prediction: DSL isn't going to overtake cable until middle of 2002 worldwide and end of 2002 in U.S.

Analysts who underestimated cable modem growth didn't always acknowledge prediction's shortfalls. In 1998, Jupiter report forecast number of cable modem households would reach 2.9 million in 2000, but according to TeleChoice that figure actually reached 3.9 million, surpassing Jupiter's prediction by 34%. "Cable exceeded our expectations," Jupiter broadband

analyst Brooks admitted. However, he insisted he was satisfied with prediction: "We slightly underpredicted the broadband growth... just by one million."

There were few reports that predicted cable's continued dominance. Yankee Group in 2000 expected cable still would hold 58% of the market by 2004. Oct. 2000 Forrester report said that while cable would lose 30% of its market share by 2005, it still would lead market with 48% share, at 22.42 million households, with DSL's share reaching 38% in same year. TeleChoice's Guglielmo said he was "not sure if DSL is going to overtake cable at all. If it does, I am not sure when it will happen."

STATES OPPOSE BROADBAND REOPENING: State legislators at NCSL annual meeting in San Antonio last week wouldn't support resolution that would ask Congress to reopen Telecom Act instead of correcting problems with broadband deployment through targeted legislation. "We need to give this act time to work," Ill. State Rep. Terry Parke (R) said. Lawmakers emphasized that primary concern with legislation such as Tauzin-Dingell (HR-1542) was that it could hamper state public utility commissions' (PUC) authority to regulate telecom. Neal Osten, dir., NCSL Commerce & Communications Committee, said group still could lobby against legislation such as Tauzin-Dingell under NCSL policy that opposes federal preemption of state regulation.

State legislators examined Tauzin-Dingell, Conyers-Cannon (HR-1697) and measure by Sen. Hollings (D-S.C.) at packed session that included scores of telecom representatives. Some legislators said federal govt. shouldn't adopt piecemeal approach in addressing competition problems and instead should reopen Telecom Act.

Fairness doctrine "wars with bedrock First Amendment principles," gen. counsel for conservative group said in letter to FCC Chmn. Powell. Bruce Fein of Legal Affairs Council (LAC) said letter was partly in response to National Organization for Women (NOW) effort to convince govt. to restore fairness doctrine or something similar. Doctrine was FCC policy that required broadcast licensees to provide access for expression of divergent points of view. Fein cited recent NOW fund-raising literature attacking Rush Limbaugh and encouraging govt. to impose new public interest obligations on broadcasters. Fein, who was briefly FCC gen. counsel under former Chmn. Mark Fowler, said LAC was worried that fairness doctrine would be "crowning government with power to evaluate programming content." He also said broadcasters should have same ability to editorialize as newspapers, comparing broadcaster use of airwaves for distribution to newspaper use of "public streets and sidewalks underwritten by taxpayer dollars." Fein said spectrum scarcity no longer was justification for stricter broadcast regulation. LAC is conservative legal aid and activist group whose fund-raising activities have benefited persons such as Oliver North and Paula Jones. LAC Pres. Richard Delgaudio told us extent of group's activities on fairness doctrine would depend on how important it became to LAC contributors.

Bcstg. Board of Govs. (BBG) is stepping up efforts to develop "master plan" to implement its Middle East Bcstg. Initiative (MEBI). BBG's International Bcstg. Branch is negotiating sole-source contract with Bert Kleinman Programming, which it said had "unique capabilities" in providing ethnic- and Middle East-specific broadcast consultative services.

Personals

Gannett Bcstg. Pres. **Craig Dubow** also named CEO, succeeding **Cecil Walker**, who remains chmn... **Joseph Early** promoted to senior vp-publicity and corporate communications, Fox Bcstg... **Barry Wallach**, former exec. vp-distribution and mktg., WorldNow, named exec. vp, NBC Enterprises... **Joseph Flaherty**, senior vp-technology, CBS, elected to N. American Bcstrs. Assn. board... Appointments at Sony Ad Sales Network: **John Henderson**, ex-NBCi, vp; **David Elkins**, ex-NBCi, dir., eastern sales and sponsorships.

Roger Werner, ex-CEO, Speedvision and Outdoor Life Network, sold his interests, replaced by **Jim Liberatore** as pres., Speedvision Networks... **Bob Boden**, ex-senior vp-production & development, Dick Clark Productions, named senior vp-programming, Game Show Network... **Stephen Condon**, ex-vp-mktg., GNV Network, appointed senior vp-chief mktg. officer, Intertainer... **Mark Berlinsky** promoted to dir.-integrated sales, Rainbow Ad Sales... **Michael Hale** advanced to exec. vp-chief mktg. officer, Starz Encore Group... **Greg Braden**, exec. vp-broadband services and chief technology officer, AT&T Broadband, elected to Liberate Technologies board... Changes at BBC America: **Sarah Barnett**, ex-BBC Choice, named vp-creative services; **Bob Reedy**, ex-Discovery Communications, appointed dir.-scheduling... **Tim Duncan**, ex-Boston Media Consultants, named senior vp-ad sales and mktg., TVi Media... **Marci Rossell**, ex-Oppenheimer Funds, appointed chief economist, CNBC, replacing **Kathleen Hays**, who leaves to pursue new opportunities.

Max Wasinger promoted to senior vp, Mitsubishi Digital Electronics America... **Dennis Whippler** joins Andrew board... **Christian Bittencourt** appointed managing dir.-Europe, Middle East, Africa, L-3 Satellite Networks.

"Quite a number" of PTV stations have been rejected for retransmission consent/must-carry by EchoStar and DirecTV, according preliminary results of APTS survey. **Marilyn Mohrman-Gillis**, APTS vp-policy and legal affairs, said more stations had been rejected by EchoStar than by DirecTV.

"What we are doing is communicating with the stations and helping them sort this through," she said. As in case of commercial stations (TVD Aug 13 p1), reasons given for turning down stations included quality of signals and substantial duplication of programming with station in same market, she said. APTS staff proposed to meet with FCC Cable Bureau and other officials this week to take up issue after more data were collected, she said. However, APTS has no plans to meet with DBS operators to discuss issue, she said, considering it's better for local stations to deal directly with DBS providers.

Dept. of Defense (DoD) has started spectrum research initiative to multiply radiofrequency efficiency for use in military and commercial applications. Air Force Research Lab (AFRL) and Defense Advanced Research Projects Agency (DARPA) jointly will operate Next Generation Communications Program (XG). They said program sought to develop: (1) Capacity for "dynamic redistribution of allocated spectrum" in support of worldwide, short-notice military deployments. (2) Twentyfold increase in military radiofrequency efficiency. (3) Low-power ultrawideband sensor, access and control technologies. AFRL and DARPA said they expected formal release of broad agency announcement on program in fall or winter.



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Saying it had received multiple complaints since Jan. about TV program providers' failing to make local emergency information available to hearing-impaired viewers, FCC issued reminder that video programming distributors were required to use closed-captioning or other text messages about alerts. Requirement took effect Aug. 29, 2000. FCC said complaints had come from Cal., Colo., Fla., Ind., La., Md., Mich., Minn., Mo., N.Y., N.C., Ohio, Okla., Tex. It also said some complaints had said emergency information had been blocked by other material on screen. FCC also issued fact sheet on ways for broadcasters to comply.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Aug. 3 and year to date:

	JULY 28- AUG. 03	2000 WEEK	% CHANGE	JULY 21- JULY 27	31 WEEKS 2001	31 WEEKS 2000	% CHANGE
TOTAL COLOR TV	338,428	430,596	- 21.4	687,402	14,043,515	15,976,611	- 12.1
DIRECT-VIEW**	322,313	416,675	- 22.6	661,871	13,538,184	15,337,583	- 11.7
TV ONLY#....	268,324	359,911	- 25.4	524,590	11,204,973	12,703,329	- 11.8
TV/VCR COMBO.	53,989	56,764	- 4.9	137,281	2,333,211	2,634,254	- 11.4
PROJECTION...	16,115	13,921	+ 15.8	25,531	505,331	639,028	- 20.9
TOTAL VCR**...	268,454	446,670	- 39.9	748,348	10,864,946	14,832,724	- 26.8
HOME DECKS...	214,465	389,906	- 45.0	611,067	8,531,735	12,198,470	- 30.1
CAMCORDERS.....	42,727	73,177	- 41.6	108,573	2,936,897	3,130,738	- 6.2
DVD PLAYERS....	169,573*	132,307	+ 28.2	350,262*	5,273,379*	3,370,699	+ 56.4

Direct-view TV 5-week moving average#: 2001--296,376; 2000-392,929 (down 24.6%).

Projection TV 5-week moving average: 2001-13,229; 2000-17,780 (down 25.6%).

VCR deck 5-week moving average: 2001--263,615; 2000-410,122 (down 35.7%).

TV/VCR 5-week moving average: 2001--76,379; 2000-82,274 (down 7.2%).

Camcorder 5-week moving average: 2001--66,817; 2000-103,359 (down 35.4%).

DVD player 5-week moving average: 2001--171,608*; 2000-133,952 (up 28.1%).

** Includes TV/VCR combinations. # Excludes TV/VCR combinations.

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

DOWNTURN COSTS 300 SONY JOBS: Economic doldrums that have gripped much of CE industry haven't spared Sony Electronics, which acknowledged Fri. that it had cut 300 jobs from its N. American work force of 24,000 since April 1 start of fiscal year.

Spokesman said Sony Electronics had been exploring variety of options to weather economic storm, including realignment of unprofitable businesses, streamlining factories, reducing inventories, making more careful investments. Spokesman's wording was similar to that used in Sony's report on consolidated first-quarter results released July 26. Sony said then that ¥350 billion in capital expenditures for fiscal 12 months ending March 2002 were expected to be 25% lower than year earlier on lower expenditures in electronics business.

According to spokesman, Sony Electronics has started voluntary retirement program for N. American work force to spur additional cost savings. Eligible employees include those 52 years of age and older with 7 years at company, he said. He declined to give breakdown of where 300 jobs were cut, but indicated reductions had touched many aspects of Sony Electronics operations in U.S. and Mexico. He said rumors of massive job cuts at Park Ridge, N.J., hq were untrue and probably attributable to announcement that Sony would eliminate residential phone business based there after Christmas holiday. But that operation has fewer than dozen employees, he said.

FUNAI FILES TRADE COMPLAINT AGAINST ORION: Funai filed complaint with International Trade Commission (ITC) alleging that Orion Electric violated its patents on TV/VCR combos and other videocassette devices, and seeking order to block import of its products into U.S.

Complaint, filed Aug. 10, contained few details other than identifying products involved. Funai and Orion officials weren't available for comment, but companies are fierce competitors as suppliers of commodity-priced CE products to discount chains and warehouse clubs. Companies have similar product lines including 9", 13" and 19" TV/VCRs, although Funai has added 27" Sylvania brand TV/DVD players. Funai and Orion also have shared Emerson Radio as OEM customer, former picking up Emerson's business last Oct.

Both companies build VCRs in Far East, with Funai operating 110,000-sq.-meter plant in China that feeds assembly facilities in Malaysia and Hamburg, Germany. Funai also has assembled TV/VCRs for Philips for several years using portion of latter's plant in Mexico. Funai has 30% and 50% U.S. market shares for VCRs and TV/VCRs, respectively, if OEM business is included. Under own brand, Funai had 2.8% share of TV/VCR market in 2000, while affiliates Symphonic (18.7%) and Sylvania (4.3%) also were major factors, according to NPD Intellect. In VCRs, Funai gained 1.8% share in 2000, while Symphonic and Sylvania were at 6.9% and 2.7% respectively, Intellect said. Orion had 5.1%.

In unrelated development, Philips late last week said it would "refocus" VCR business and outsource production to Funai for European market. In connection with decision, Philips will cut 1,000 jobs at Vienna, Austria, plant including 850 related to VCRs, it said. Philips currently builds VCRs for Europe at factories in Vienna and Szekesfehervar, Hungary. Latter will continue to build TV/VCRs and DVD players, Philips said.

Philips officials, elaborating on new outsourcing strategy, told *Financial Times* it was in talks with several companies on possible sale of factories that made "mature" products including standard TVs. Philips CEO Gerard Kleisterlee has moved quickly to restructure CE division since taking post in May. CE business, which accounts for 25% of Philips' annual revenue, in some cases has posted annual growth of 4% or less. As part of new strategy, Philips has moved to trim set-top box business in U.S. and is seeking partnerships in effort to stem losses in digital networks operations (TVD July 2 p12).

Restructuring also has brought new management to U.S. operations including appointment in April of former Maytag Appliance Group Pres. Larry Blanford as pres.-CEO. Blanford is said to have since hired several former Maytag executives and instituted some changes including a renewed focus on retail buying groups. Michael Leese, vp-gen. mgr. for projection TV at Philips in U.S., is said to have been appointed to head up buying group effort. Leese wasn't available for comment.

CIRCUMVENTION CLAIMED FOR COPY-PROOF CD: Cat-and-mouse game has begun between PC hackers and companies trying to make CDs uncopyable in PCs. On eve of Popkomm show in Cologne where Sony's key2audio copy prevention was to be demonstrated last week, Internet was abuzz with report that system already had been defeated. Similar claims have been made about Macrovision's SafeAudio, which like key2audio already is in use on CDs in field tests.

Sony still isn't commenting on key2audio, which is overseen by its Digital Audio Disc Corp. (DADC) replication subsidiary in Salzburg, Austria. System not only is designed to prevent copying CDs on PC, but key2audio discs aren't supposed to play on PC at all. Since we broke story 2 weeks ago, DADC still hasn't given straight answer to our query as to whether discs can be copied in consumer home-audio CD recorders — such as those sold by Sony. Executives in Sony's CE and PC divisions seemed unaware of key2audio, which has been deployed on CDs in Europe by Sony and other labels.

Digital copying is permitted with audio CD recorder in U.S. under Audio Home Recording Act, which also levies royalty on hardware and blank CDs as compensation to content owners. This could be reason why DADC is dodging question. "Frankly speaking, we are still developing the solution for key2audio copy control for consumer home-audio CD recorders," said Dieter Daum, executive who oversees project at DADC. He told us "these are not the immediate priority for copy control as their population is still rather low."

Daum wouldn't explain how key2audio was supposed to work, although he conceded it used Serial Copy Management System (SCMS) "which is a copy control technique also used in CD Audio recorders." DADC's patent (EP 899 733) doesn't specifically address those, but claims system can be used with "all existing and future formats of CD Audio."

If key2audio uses SCMS, it's possible that prerecorded CD is pressed to resemble what's called "SCMS Original." For copyrighted discs, SCMS flag-bit is set to high state or "on" while for copyright-free discs bit is in low state or "off." When copyrighted music is recorded onto blank disc, flag on copy or "SCMS Original" is switched between on and off

states every 5 frames. That signals CD recorder not to make digital copy from this copy. So, if key2audio CDs came with alternating flag, they wouldn't be copyable on home audio CD recorder.

DADC patent describes other aspects of key2audio. System modifies timing data in disc's Q-subcode channel to make it invalid and in pattern that's recognized by software in a PC or new generation hardware. That pattern of deliberate errors designs "fingerprint" for disc, which is key that's needed to unlock encrypted data stored on CD. Patent says entire content of disc may be encrypted, or disc can store multiple language versions of program or other content that can be unlocked selectively when user pays for extra key obtained from content owner.

Unlocking works only with original key2audio CD. If CD is copied using conventional CD copying software, Q-subcode information is regenerated during copying process instead of being cloned. So, copy disc doesn't have pattern of invalid Q-subcode data and therefore lacks key needed to unlock disc's content. Without key, copy disc won't play.

DADC patent says that key2audio CDs conform to Red Book standards, whose licensing is shared by Sony and Philips. Disc "is still within the [CD] standard" because headers in main data stream allow all data to be accessed — even if it is encrypted and cannot be used without a key, DADC said.

Meanwhile, hackers last week seemed to have found key to cracking key2audio. Sept. issue of German magazine *De:Bug* (www.de-bug.com.de) describes how it cracked key2audio, which was to make debut at Popkomm.

Magazine said it purchased new album by band Nsync, released by Zomba label in Germany and carrying legend "This CD is not playable on computers." Zomba CEO Kurt Thielen also is head of Germany's record industry trade group, and label has been using key2audio for all its releases since July, *De:Bug* said. Irony is that International Federation of Phonographic Industries (IFPI) also has devised own copy protection system, as we reported Aug. 6.

When *De:Bug* tried to play CD on iMac computer, machine froze and displayed error message, then asked whether it should format disc. When staffers declined request, disc began playing. Magazine said all track-titles were displayed onscreen, played without problems and could be copied and converted to MP3 files.

Nsync disc performed same on portable Apple PC, but was more troublesome with Windows PC, *De:Bug* said. Windows wouldn't initiate disc and even application *Nero* couldn't recognize track structure. But program called *CloneCD* did trick, enabling disc to play and be copied on PC, magazine said. Copy made from original also played on PC, it said. Comment from DADC wasn't available at our deadline.

Internet chatter indicates Macrovision's SafeAudio also has been defeated, in some cases with widely available PC programs. Macrovision has said it's investigating reports and studying those programs to see whether they infringe on company's patents. So far, copy-prevention systems from Midbar Tech and SunnComm don't seem to have been hacked, and IFPI's system isn't known to be implemented on commercially available CDs.

Midbar recently claimed its Cactus Data Shield got "highest score possible" in copy protection tests run by IFPI and RIAA last Nov. DADC said key2audio was "ranked number 1" in those tests, which IFPI and RIAA refuse to acknowledge. Macrovision Pres. Bill Krepick confirmed that tests took place and that SafeAudio competed, but told us results were subject to nondisclosure agreement.

It's not known whether SunnComm's MediaCloQ was part of test. Phoenix-based company's technology is being evaluated by BMG label, whose spokesman told us company also continued to work with Midbar. MediaCloQ is different from other copy prevention methods — BMG spokesman said label preferred to call it "copy management."

Although MediaCloQ doesn't permit consumer to copy CD on PC, it does permit buyer to download copy from content owner for listening on PC. Download is locked to PC and can't be retransmitted over Internet — situation similar to Windows Media Audio digital rights management from Microsoft, which has unspecified relationship with SunnComm. For upcoming versions of MediaCloQ, SunnComm and partners are studying feasibility of letting disc buyer also transfer content to MP3-type portables and possibly making CD copy that can't be copied. It's not yet known how MediaCloQ works, but company has suggested system alters data on CD, such as its table of contents.

MediaCloQ disc can't be copied digitally on home audio CD decks, although CD recording can be made through decks' analog inputs, BMG spokesman told us. Hackers have done that with Charley Pride CD *Tribute to Jim Reeves* released by Fahrenheit Records with MediaCloQ earlier this year. They have posted slew of PC specs showing CD copy made after conversion to analog was reasonably close to original.

That's consistent with our experience making CD copies through analog process, but expressed as audio measurements. In lab tests we have published on home audio CD recorders, analog dubs weren't perfect copies of digital original — but weren't shabby, either. Distortion and frequency response remain same, while there's roughly 10 dB loss in signal-to-noise ratio, dynamic range and stereo channel-separation compared with digital original. Audio engineers believe losses won't be audible to most listeners, or even noticeable owing to limitations of some consumer hardware — especially portable equipment.

CURBS OFFERED FOR FILM PIRACY: Insatiable appetite for new hit movies nowadays means pirated films copied onto recordable media appear worldwide within day or 2 of box-office debut, usually at U.S. cinemas. Demand stems from Hollywood's practice of staggering theatrical releases, where months or as long as year can pass before title makes debut overseas. Illicit copy that can be cheaper than theater ticket price is appealing too — as well as sense of satisfaction from stiffing Hollywood moguls. Now, venerable lab at Sarnoff Corp. believes it has way to foil movie pirates.

Digital technology abets pirates' ability to steal, transmit and distribute copies quickly and cheaply. Once digital copy is obtained, it can be transmitted as compressed file (DivX or otherwise) on Internet to overseas location where it's swiftly "authored" on PC work station to create subtitles and navigation controls, then mass produced as DVD or Video CD at pennies per disc. Digital tools also have changed how first-run movie is obtained in first place.

In past, 35mm film reels would be purloined from theater or warehouse, scanned for video transfer on usually mobile telecine machines, then returned before anyone besides inside jobbers would suspect anything was amiss. Telecine method still yields best quality for pirate videos, and still is used when it's available. But theaters now keep reels under tight security, and if movie is being projected as video from digital source it's stored on encrypted hard discs.

Consequently, pirates have taken to using digital camcorders to record movie off screen during performance. Method is similar to kinescopes shot with film off TV screen in days before videotape. Audiovisual quality of such dubs can be dreadful or passable. But price is right for counterfeit discs, which sell for one buck in China or as low as \$12 in U.K. — less than half of lowest-priced DVDs sold there (see related reports, this issue).

Given hit-or-miss nature of physical surveillance in theaters or logistically impractical electronic security such as metal detectors, recent patent application (WO 01/33846) filed by Princeton-based Sarnoff offers technological countermeasures to digital kinescoping by pirates.

As described in patent, challenge is to alter on-screen image so that recordings are spoiled but not to generate artifacts that are visible to paying customers in theater. Among tricks up Sarnoff's sleeve, one exploits difference between film and video scan rates, other is forward-looking to increased use of video projection in theaters, while 3rd generates "spoiler" image using technology that inadvertently put egg on Sony's face when first deployed in that company's camcorders.

For copy prevention with film, Sarnoff said movie projectors operated at 24 frames per sec. (fps), with each frame projected 2X to create 48 fps image that reduces flicker. Meanwhile, camcorders record at 30 fps in NTSC standard, 25 fps for PAL/SECAM. Although camcorder is recording interrupted images off movie screen, they meld into smooth motion picture when viewed on video display.

To foul up video playback, Sarnoff proposes putting extra shutter in movie projector. That would make film flicker faster, and close to video picture rates. Sarnoff said speed-up wouldn't be noticeable in theaters but would generate beat effect on video recording, visibly similar to strobe effect that made wagon wheels appear stationary or seem to rotate backward in old movies. Extra shutter in projector would yield video recording that flickered at about 10 fps, making pirated product annoying to watch. Patent also suggested fluctuating speed of extra shutter to generate additional video flicker.

For cinemas switching to video projection from film, Sarnoff patent exploits fact that video projectors normally display 3 separate red, green and blue (RGB) color beams in perfect synchronization. Lab said that if beams fired at slightly different speeds, it wouldn't be noticeable on cinema screen, but on camcorder recording RGB images would flicker at about 5 fps and create color bands that would roll up and down TV screen when illegal copy was viewed.

Sarnoff's 3rd-protection layer might cause tight collars and shoes at Sony if ever deployed in that company's movie theaters. Sarnoff cleverly pointed out that movie projectors could overlay screen image with "spoiler" message similar to those recorded on prerelease videos supplied to retailers and reviewers. Spoiler message identifies content as studio's property and asks viewer to contact studio if movie has been obtained by sale or rental.

Similar or more obnoxious spoiler could be projected on-screen in theater by separate infrared (IR) light source, Sarnoff patent said. IR spoiler would be invisible on movie screen, but captured and recorded by camcorders because their CCD image-sensor chips usually are more sensitive to IR light than is human eye. That essentially was principle behind Sony's first NightShot camcorders, which as first reported in our Jan. 19/98 issue, used IR beam to focus and illuminate subjects in darkness.

Sony soon learned, possibly and questionably to its chagrin, that when used in full daylight, IR beam penetrated swimsuits that enable ultraviolet rays to pass through for tanning, thereby making it possible to see and record wearer's anatomical parts.

Sony subsequently — but not immediately — modified camcorders so that "NightShot" IR beam would function only in complete darkness, as we reported Aug. 17/98. Meanwhile, 2nd black-eye and yoke-on-Sony came when it was revealed that appropriately dark, black-walled and black-draped venue chosen for NightShot's U.S. debut was popular gin mill in Chelsea section of Manhattan for metro area's sadomasochist community.

Intel has sold 423,212 shares of AMX Corp. stock, ending 2-year investment in home automation company, it said in SEC filing. Intel sold shares of AMX (formerly Panja) in 4 separate transactions April 23-Aug. 1 ranging from 25,000 shares at \$2.88 per share to 328,212 at \$3, filing said. Intel also let expire in June option to buy another 238,057 shares. It acquired AMX stake in Dec. 1999. Meanwhile, AMX narrowed first quarter loss to \$200,000 from \$700,000 year earlier despite 21% drop in revenue from residential business. Overall revenues — 80% derived from commercial market — rose 2% to \$21.7 million from \$21.2 million year earlier. Downturn in residential market for AMX's integrated remote control systems was tied to slowdown in economy and rumors on future of 4-year-old Landmark product. While Landmark is expected to be combined eventually with Netlinx, which contains Internet Control System Protocol, AMX has no plans to discontinue it, CEO Scott Miller said. AMX, which sells home automation controllers, peripherals, user interfaces and software, completed development of Netlinx product architecture last year. Total U.S. sales rose 16% and international revenue was up 2%. Among international markets, U.K. sales increased 7% and accounted for 7% of total revenue, company said. It has undergone major overhaul since Miller's return in March. It also shut down consumer broadband operations, which marketed Internet-related products including streaming media player introduced earlier this year. AMX will sharpen focus on residential business that accounted for 23% (\$21.5 million) of total revenue in fiscal year ended March 31 and may explore adding wireless technology to mix, Miller said.

Sony will phase out 2.4 GHz and 900 MHz phones by year-end in bow to fierce price competition in category. Cordless phone prices have fallen 15-20% in recent months led by Vtech, which has pushed 900 MHz retails below \$20. As it drops consumer phones, Sony said, it will increase focus on home networking products... VTech lowered profit margin forecast for its top-end cordless phone, saying it would fall more than 20% short of projected level. Company had counted on cordless phones, which represented 61.7% of \$1.3 billion in revenue in fiscal year ended March 31, to help it reverse \$215 million loss. VTech will produce 10 million cordless phones in current fiscal year, 33% of which will be 2.4 GHz models, Chmn. Allan Wong told investors at annual conference in Hong Kong. Higher frequency 2.4 GHz phones are \$60 or more, while 900 MHz models are below \$20. VTech said it remained on target to break even in current fiscal year, but that was being driven by cost-cutting measures aimed at saving \$30 million annually. As part of restructuring, Vtech has eliminated 4,500 jobs and sold one of 2 phone plants in Mexico for \$8 million, Wong said. It's negotiating potential sale of 2nd plant for \$10 million, he said.

Zany Brainy's new owner will be children's products retailer Right Start (RS). Under agreement that would allow ZB to emerge from bankruptcy protection, RS will pay \$11.7 million cash, issue 1.1 million shares, assume \$85 million in liabilities. In exchange, RS gets ZB's assets including \$115 million in cash, inventory and accounts receivable. In addition, Wharton Management, which had proposed buying ZB assets (TVD July 23 p14), will invest \$20 million in RS for 48% diluted interest in company, which operates 68 stores in 13 states. Wharton had proposed creating new ZB subsidiary. Both ZB and RS have targeted educational products, although latter specializes in developmental toys for infants and toddlers, while ZB carries items such as electronic learning aids (ELAs), videogames and PC software designed for kid 4-12 years old. ZB, which has 187 stores in 34 states, shares some states with RS including Cal., where each has 23 stores, and Tex., where ZB has 10 and RS 8. ZB, which operates 10,600-sq.-ft. stores carrying 12,500 SKUs, has struggled since merging with 60-store rival Noodle Kidoodle year ago and defaulted on credit agreement in March (TVD March 19 p22). New plans include installing 2,000-sq.-ft. RS "boutiques" within ZB stores once chain emerges from bankruptcy protection, RS CEO Jerry Welch said. Dozen ZB stores will be closed, building on ZB's earlier plans to shutter 3 in addition to single location in Hartsdale, N.Y.

Harman International said 4th quarter profit fell to \$19.36 million (58¢ per share) from year-earlier \$23.32 million (66¢) on 0.3% higher sales to \$447.74 million from \$446.41 million. With currency fluctuations factored out, sales rose 3%. Exec. Chmn. Sidney Harman said U.S. consumer operations generated 45% rise in operating income on 9% lower sales. However, he said "it has taken longer than we had hoped to reshape" consumer operations overseas, which he said had "significant losses" in fiscal 2001. Harman said company now expected those operations to reach break-even in fiscal 2002. In separate announcement, Harman said its German-based Harman/Becker group would become exclusive supplier of navigation systems to Mercedes-Benz, starting next July 1. Mercedes E-class vehicles will be supplied with integrated "infotainment" systems, while S-class vehicles will have DVD navigation systems. Harman said contract would generate incremental sales of \$150 million in fiscal 2003, \$300 million in fiscal 2004, more than \$400 million in fiscal 2005. Harman also signed separate agreements licensing its Traffic Pro hardware and software to JVC and Pioneer starting in 2003.

THIS WEEK'S YEN RATE

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

BEST BUY EYES FUTURE SHOP: Best Buy (BB), changing strategy for expanding into Canada, has proposed buying 88-store Future Shop (FS) for \$377 million.

BB, which plans to retain dozen leases it already has signed in Toronto market, would use FS as cornerstone to plans that, at one point, included opening 60-65 stores in Canada in next 3-4 years (TVD March 26 p13). BB said it would finance purchase using portion of \$850 million cash it had available.

"They're the number one [CE] retailer in Canada so it makes sense to buy them and save the expenses of looking for locations and building stores," JVC Exec. Vp Harry Elias said. "You also get rid of a competitor at the same time."

Acquisition won't be perfect fit for BB. FS's operating income represents 2.6% of sales, against 4% for BB, although gap would be narrowed within 3 years, BB said. FS also has introduced new format (TVD Feb 26 p14) that features 4 different store sizes of 20,000 to 32,000 sq. ft., while BB has settled on 45,000 sq. ft. after experimenting with outlets up to 60,000 sq. ft.

"The product mix that they have is similar to ours, but with smaller stores, and we will work together to make sure we have the optimal mix," BB Pres. Brad Anderson told analysts in conference call. "There is a great commonality between the markets, but there is a different language and the suppliers have different operating systems in Canada. The buying is going to be different and the market is much more fragmented than the U.S." FS will continue to handle product buying for Canadian market since most CE manufacturers have separate sales offices there, industry sources said.

Another difference between U.S. and Canadian markets is adoption rate of new technology including digital products in which latter is running about 6 months behind U.S., Anderson said. While big-screen TV sales have been strong in Canada, high-definition (HD) sets haven't been factor owing to lack of broadcast signal, FS has said (TVD May 21 p22). While BB sells DirecTV satellite service in U.S., FS has carried ExpressVu.

BB is likely to continue with FS' plans to add 10 stores in each of next several years with goal of reaching 120 by 2005. FS probably will tailor stores to size of markets in which they operate, Anderson said. Management of space within stores "has been one of the real opportunities" for BB, which has revamped its format several times during its history including most recently to add focus on digital products. "That strategy [space management] is one that Future Shop has not crossed and value could be added as we examine the merchandise procedures," Anderson said.

BB also will eliminate FS' commissioned sales strategy in favor of its noncommissioned approach, although timing for change hasn't been set, BB said. FS is likely to continue to handle product buying since most CE manufacturers have separate sales office in Canada.

For BB, acquisition represents most recent in string of purchases that included Musicland and Magnolia Hi-Fi late last year. FS again will set out on new approach. It burst into U.S. market in 1992 and had expanded to 16 stores by 1995 when it laid out plans for another 22 (TVD Sept 18/95 p19). But it

closed 22 stores and left U.S. 7 years later (TVD March 15/99 p14) to focus on Canadian market. Chain also purchased 7 former Computer City stores from CompUSA in 1998 (TVD Oct 28/98 p13) only to shut them earlier this year. It also emerged, but later withdrew, as unlikely white knight (TVD Jan 22 p14) to help bookseller Chapters Inc. fend off hostile takeover bid by rival Indigo Books Music & More. Indigo completed Chapters purchase earlier this month.

"Discretion took the better part of valor and it's good for us that we won't get caught up in a price war between Best Buy and Future Shop," said Intertan CEO Brian Levy, whose chain operates 880 stores in Canada under RadioShack banner. Among FS' other competitors in Canada is Sears, which has strong CE business there.

Meanwhile, Intertan reported 4th quarter net income dipped to \$4.6 million from \$4.7 million year earlier. Reduced profit came despite \$4.1 million gain on sale in April of Australian subsidiary, which has 220 company-owned and 110 dealer stores under Tandy banner. Revenue fell to \$81.2 million from \$102.4 million, which included results from Australian business. Sales in core Canadian market rose 3% to \$75 million on 2% gain in same-store sales, Levy said.

Intertan, which quit continental Europe in 1993-1994 and sold U.K. chain in 1999, divested itself of Australian operation "because of its lack of critical mass in the marketplace and geographic remoteness." Sale came despite Intertan's plans year ago to introduce new format in Australia that was to involve relocating 50-60 stores this year and opening e-commerce site. Australian stores had \$1.3 million loss in quarter on \$6 million in revenue, company said. Australian stores accounted for 25% of Intertan's fiscal 2001 revenue and 10% of operating income.

With renewed focus on Canada, Intertan will continue to roll out of new format that expands store size to 2,500-4,000 sq. ft. from 1,800 sq. ft. It opened 21 stores featuring new format last year and plans to add another 30 in fiscal 2002. Intertan also has 51 Rogers AT&T stores that sell cellular phone service as part of agreement with Rogers CanTel.

Videogame industry continued to show substantial growth in first 6 months of year, NPD Interactive Entertainment report said. It said U.S. retail sales of hardware, software and accessories climbed 28% in dollars year-to-date on 11% volume increase. Driving first half were PlayStation 2 hardware sales, debut of Game Boy Advance in June, decreased price points for Dreamcast. NPD said rebound was significant in that videogame sales for 2000 were down for first time since 1997, and it anticipated 2001 would be profitable because 50% or more of sales usually come in 4th quarter.

Discount chain Ames said it would close 47 stores and cut 2,000 jobs in 2nd major restructuring in past year. Ames, which has struggled since acquiring Hills Stores in 1999, announced plans in Nov. to shut 32 stores and trim 2,000 jobs. It currently operates 400 stores and employs 35,300.

Other 4 major studios will join Sony Pictures Entertainment in its MovieFly movies-on-demand service, Sony said. Company plans to download Hollywood films on Internet.

Deadline for entries to Innovations 2002 product design awards is Sept. 28, CEA said — www.cesweb.org.

GEMSTAR-TV GUIDE 2-WAY SERVICE: Two-way wireless service combined with Gemstar-TV Guide International's interactive program guide (IPG) will be available for TVs by year-end, Gemstar CEO Henry Yuen told analysts in conference call last week.

Yuen didn't identify TV supplier, but Gemstar, which merged with TV Guide in July 2000, formed @TV Media joint venture with Thomson (TVD Jan 31/00 p17). At the time, Thomson also extended licensing terms for Gemstar's electronic program guide (EPG) to 2010 and pledged to incorporate it into 30 million TV sets in N. America through contract period. Software development needed for 2-way service is complete, Yuen said.

Two-way interactive TV originally was designed to be based on PageNet's wireless paging transceivers. Gemstar signed agreement with PageNet in 1999 (TVD July 26/99 p21) and said it planned to distribute IPG data along with other "time-sensitive" information using 900 MHz wireless paging technology. Gemstar also will have phone line version, Yuen said. Paging device is expected to be incorporated in tiny transceiver attached to TV. Gemstar, which already is testing 2-way service in some digital cable systems, received patents for 2-way wireless communication between TVs and central processing service in 1998.

Thomson is continuing to develop technology, but current TVs lack 2-way capability owing to need for new software to accommodate it, spokesman said. Thomson is likely to opt for using transceiver first before offering TVs with built-in 2-way capability, spokesman said. While Thomson has done some transceiver testing, "there is nothing definite from a product point of view," he said. "It's in their [Gemstar's] court to add that as a feature and obviously we're beholden to the cable operators because they can strip out that signal," spokesman said, noting Gemstar's well-publicized battle with AOL-Time Warner (TVD Feb 19 p3), which had stripped its EPG from vertical blanking interval (VBI) signals of local broadcast stations in 9 cable markets. Gemstar filed, and later withdrew (TVD April 16 p4), petition with FCC for special relief in cable must-carry case after conceding that Commission was going to rule against it.

Gemstar's IPG has installed base of 8 million cable set-top boxes (STBs) and more than 5 million CE products largely consisting of Thomson-built DirecTV receivers. DirecTV has yet to sign licensing deal with Gemstar, but is in negotiations, Gemstar Co-Pres. Peter Boylan said. Company has signed series of licensing deals in recent months with cable operators as well as STB supplier Scientific-Atlanta, which at one point sued company on antitrust ground.

Still battling Gemstar is EchoStar, which also filed antitrust suit against company. International Trade Commission (ITC) has set hearing for Dec. on Gemstar-TV Guide's complaint (TVD Feb 19 p14) seeking to block import and sale of EchoStar STBs that it claims infringe on IPG patents. "If we win an injunction order it would be far more effective redress against EchoStar's blatant infringement," Yuen said. Gemstar is "extremely confident" it will "prevail and, if not, we will reassert other patents." EchoStar officials weren't available for comment.

Gemstar also could gain if News Corp. wins battle with EchoStar to buy Hughes Electronics and subsidiary DirecTV,

which has 10 million subscribers. It already supplies IPG for News Corp.'s Sky Latin America service.

Gemstar also took aim at Cablevision, which is starting digital cable service this fall in N.Y. metro area using Sony STB containing proprietary program guide. Boylan said Cablevision's IPG was "inferior" to Gemstar's and it planned to review it for possible infringement once service was unveiled.

In expanding technology portfolio, Gemstar recently has received patents for picture-in-program guide as well as method for connecting guide to Internet Web site, Boylan said. Former currently is deployed in EPG used in AOLTV, DirecTV, EchoStar and UltimateTV STBs, he said. Gemstar also has won patents for IPG embedded with real-time data and calendar feature that would allow user to set program recording times.

Trans World Entertainment (TWE) has postponed test of eWorks strategy one month to Sept. and reduced number of markets involved to 3 from 4 (TVD March 26 p16). TWE had planned to test use of in-store kiosks in 24 outlets for sampling music and DVD as well as burning CDs before deciding whether to expand to its other 900 or so mall-based and freestanding stores. TWE also has rebranded 270 mall-based stores as For Your Entertainment (FYE) and plans to do so with remaining 430 outlets by late Oct. TWE currently operates mall stores under Camelot, Disc Jockey, FYE, Record Town, Saturday Matinee and The Wall names. New branding strategy will include opening of fye.com e-commerce Web site that will replace twec.com, which has had limited success including sales of \$1.1 million in quarter ended Sept. 30 (TVD Nov 13 p14). TWE has no immediate plans to expand CE products at stores, but has broadened assortment of videogames and plans to carry Microsoft's xBox in fall, CEO Robert Higgins said. Videogames represented 3% of \$294.6 million in sales in 2nd quarter ended Aug. 4. Figure could rise to 8-9% with arrival of new videogames systems in fall, including xBox and Nintendo's GameCube, Higgins said. Overall, TWE, blaming sharp declines in CD and cassette sales, said it lost \$4 million in 2nd quarter against \$6.7 million profit year earlier. Sales were up 3% to \$294.6 million despite 4% decline in same-store sales. CD sales fell 9% in quarter, but were partly offset by video revenue that jumped more than 30%, largely on strength of DVD, which now accounts for more than 60% of TWE's sales, Higgins said.

Eiger Technology posted \$1.1 million operating loss (-3¢ per share) for 3rd quarter ended June 30 compared with \$148,000 profit (1¢) in same quarter year ago. Toronto-based electronic and computer peripheral manufacturer said net loss of \$13 million in quarter included \$11.9 million noncash write-down of investment and goodwill that would have no impact on Eiger's revenue and cash flow. Its revenue plunged 40% to \$7.8 million from \$13 million, "primarily [because of] a decrease in revenue at Eiger Net due to a weak computer peripheral marketplace." Eiger said it was "confident" it "will weather any further slowdowns in the economy" and "we are especially mindful of matching costs and expenses as we move forward and not getting ahead of ourselves in terms of investments and commitments." But it said: "We expect to keep our leadership and growth potential, so you will see us continuing to invest. Our current interest is potential acquisitions with reliable cash flow and high growth potential in a recession phase of our economy." Eiger recently completed acquisition of privately held Voice over Internet Protocol (VoIP) service provider Onlinetel, deal announced earlier this summer (TVD July 16 p16).

XBOX DELAY DENIED: Microsoft last week once again found itself in position of denying report saying Xbox game system, slated to ship Nov. 8, could be running behind schedule. Latest report to say videogame console system might be delayed came from Eric Ross, semiconductor devices analyst at Thomas Weisel Partners, N.Y.C.

In issuing report giving Xbox GPU maker nVidia "buy" rating, Ross said "multiple sources throughout Xbox supply chain have confirmed" that "a flaw in Intel's motherboard design for Xbox has likely set back the initial build date by 3-4 weeks." He added: "The potential delay was initially uncovered by Jim Savage's Electronic Supply Chain Group and later confirmed by several of our sources."

But Ross said: "This doesn't mean that Xbox will have a late delivery date. We note that our sources in the supply chain believe there is no reason to panic. They suggest that because of the slack in the production schedule for Xbox, this 3-week miss can be made up before its launch date. Other sources have noted that such delays and subsequent schedule re-accelerations are common in the PC hardware space."

Microsoft was quick to issue statement saying: "We're not commenting on specific Xbox videogame system manufacturing efforts, but we can say that there is absolutely no problem with the design of Intel's motherboard. Intel has been a fantastic partner and has delivered on everything for Xbox to date. We're still marching toward our planned Nov. 8 launch date for Xbox."

When rumors indicated last month that Xbox's U.S. debut might be delayed, Microsoft denied that was case (TVD July 30 p19). But company last month did reveal that Japanese launch, scheduled for this fall, would be delayed. Company said Japanese rollout would be "not too far behind" U.S. introduction, although it gave no promise of year-end start, according to report out of Tokyo.

Even if Xbox's U.S. bow were to be delayed, Ross didn't think situation would be catastrophe for Microsoft. That's because he said his company estimated Microsoft would lose \$100-\$150 on each Xbox unit shipped anyway. "The irony is that the fewer units Microsoft ships, the less money it loses," he said. Ross also said: "Microsoft pointed out that even if there is a slippage in the number of units available at launch, the replenishment model, restocking units available to meet holiday unit estimates (1.0-1.5 million), should be achievable."

Jupiter Media Metrix Analyst Billy Pidgeon told us last week he doubted reported production problem would translate into delay of start, although number of units shipped could be affected. But he said Microsoft was being conservative in its unit shipment numbers anyway: "It seemed like they designed the launch to be as fail-safe as possible."

But if Xbox is delayed reaching U.S. stores, system would fall further behind Sony's PlayStation 2 and Nintendo's GameCube — if latter system ships according to plan on Nov. 5, of course. Missing Nov. 8 date also would mean Microsoft would miss out on at least some holiday gift-giving sales.

Meanwhile, Ross, said his company believed "nVidia can grow revenues 50%" even without Xbox because nVidia "is not including potential sales from Xbox in its guidance for 50%

year-over-year revenue growth." That was echoed in comments by nVidia Investor Relations-Communications Vp Michael Hara last week when company provided its 2nd quarter results. NVidia said revenue increased to \$260.3 million from \$170.4 million year ago. It posted profit of \$33.6 million (39¢ per diluted share), compared with \$22.5 million (28¢) year earlier.

Kenwood plans CEDIA Expo introduction and first public demonstrations of Entre home entertainment component and 400 disc DVD megachanger with Faroudja enhancement technology to be marketed as part of Kenwood's Sovereign series. Entre has 20 GB hard drive and CD player-recorder for storing, streaming and recording music. Component can play MP3 or WAV audio files either by providing decoded files to receiver or streaming digital audio over phone lines. Built-in modem provides direct access to Internet radio and data services through OpenGlobe. Kenwood spokesman said company was referring to Entre component as "entertainment hub." As such, he said, it was "entirely new product category" for "no-new-wires" whole-house audio distribution. He declined to identify supplier of 20 GB hard drive, but said Entre "is not intended to compete in any way" with personal video recorders. Entre's target price is \$1,800, with deliveries set for Sept.

Sirius Satellite Radio said its 2nd-quarter loss widened to \$72.5 million (-\$1.35) from year-earlier \$45 million (-\$1.11) on no revenue. CFO John Scelfo said company had more than \$400 million cash on hand, enough to fund operations through 2002's 3rd quarter. Chmn.-CEO David Margolese said Sirius "will deliver on the full promise of satellite radio" when it rolls out nationally in 4th quarter, meaning "a pristine, uninterrupted, quality signal across every square inch of the country." Reference was competitive dig at rival XM Satellite Radio, which has announced plans for region-by-region service debut starting Sept. 12 in Dallas and San Diego.

Japanese market share for TVs and minicomponent stereo found Aiwa among top 5 in each category last year. Troubled company held top spot in minicomponent stereos (21.4%) but slipped 2.7% from 1999, *Nihon Keizai Shinbun survey found*. Other 4 category leaders were Kenwood (19%), Pioneer (14.1%), Aiwa parent Sony (14%), Matsushita (12%). Overall, category rose 2.5% last year with 3.03 million systems sold. In TV, Japan market increased 2.9% last year to 9.87 million sets, with Matsushita top seller with 18.3% share. Runners-up were Sony (17.8%), Toshiba (13.6%), Sharp (13%), Aiwa (7.6%).

Six Nuon peripherals for DVD players have been designed by Hot Products Inc., company said in annual report. Among them is Pro-Elite controller that supports optional vibration and memory cards and is compatible with all products containing VM Labs' Nuon technology, it said. Current line is priced at \$17.99-\$49.99 and 3 other models are expected in 6-12 months, Hot Products said. Samsung and Toshiba currently market Nuon-equipped DVD players.

Mitsubishi will sponsor CBS's HDTV coverage of semifinals and finals of U.S. Open Tennis Championship. HDTV coverage will include women's final on Sat. evening, Sept. 8, first time match is being telecast in prime time.

Planned acquisition of Stream Machine was announced by Cirrus Logic. Stream developed proprietary video and audio compression that operates at slower bit rates but maintains compatibility with MPEG-2, MP3, Dolby Digital.

BOSE UNVEILS DVD PLAYERS: As Bose took wraps off its first-ever DVD players last week (TVD April 16 p11), it also provided hint of future product series with introduction of 3-2-1 home entertainment system.

New system, which includes DVD player and Acoustimass bass module, features 2 speakers that use Bose's VideoStage technology to deliver surround sound, but concept could be expanded easily to include multiple loudspeakers, company said. New system, at \$999, has 2 speakers, each with two 2.5" drivers capable of delivering 25 w and Acoustimass 5 1/4" bass module that's rated at 50 w. System, whose DVD player has 3 audio inputs and is capable passing through S and composite video, uses VideoStage 5 (May 31/99 p17) decoding that creates discrete 5-channel output from PCM linear stereo or 2-channel signal.

"We've chosen to continue with VideoStage because it does some things that we like better than other technologies," said Home Audio Mktg. Dir. Mitchell Nollman, who said systems remained compatible with Dolby Digital and DTS.

Bose also is discontinuing Lifestyle 25 and 30 CD-based home entertainment systems to make way for models 28 (\$2,499) and 35 (\$2,999) with AM/FM tuner and DVD player. Units can play back DVD-video, CD, CD-RW, CD-R, DTS, Dolby Digital and MP3, step-up system adding Bose's 4-1/2" Jewel Cube speakers (TVD May 14 p17). Remaining in Lifestyle home theater line are models 8, 12 and 50, last with 6-disc CD changer.

"We wanted to make sure that this Lifestyle category was easier for people and if we had gone in earlier we have had to ignore a lot of things that were important for us," Nollman said. "We probably lost a little bit" by not having DVD player sooner, but "I don't think anybody could have predicted the way that DVD has taken off."

New Lifestyle systems are packaged with RF remote, but also offer option of other branded universal remote, marking first time Bose has made product codes available to other companies, it said.

While Bose continues to make push into home theater market, it has no plans to add video products to line and has limited OEM business. Bose once was speaker supplier for Zenith TVs as well as IBM PCs (TVD May 19/97 p15). "To just put somebody's name on our product without doing anything distinctive wouldn't be in keeping with our philosophy," Nollman said.

As it introduces Lifestyle systems, Bose also is readying new 701 Series 2 (\$999) and 601 (\$600) tower speakers, former with integrated amplifier. Both speakers are rated around 200 w.

Bose has opened 90 company-owned stores in last several year split equally between factory outlets and full-line operations, Nollman said. Bose outlets also serve as referral service for local retailers in some markets, including Mich. and Cal., and largely have targeted regions of U.S. where brand may be underrepresented, Nollman said. "We didn't start the business to be a retailer," he said, but opened stores in attempt to better "manage the value" of Bose products.

Webvan started soliciting bids for purchase of its business units, technology platforms, other assets. E-tailer based in Foster City, Cal., also announced completion of its postbankruptcy auction. Webvan, which sold electronics and other products, announced in July it had ceased operations and had filed for bankruptcy (TVD July 16 p15). Parties interested in acquiring parts of now-defunct business have been asked to submit offers to Webvan by Aug. 27. Webvan said it already had contacted more than 60 potential parties and anticipated "several" of them would submit offers by deadline. Company said "centerpiece" of assets up for sale was Webvan's technology platform that it said was capable of range of functions from completely integrated e-commerce platform to supporting warehouse management and delivery options. Webvan also said last week that it "did not expect to have any funds available to distribute to its stockholders." Spokesman said: "Based on our preliminary analysis of the likely recoveries on our assets versus the expected claims against those assets, we do expect to have funds available for distribution to our unsecured creditors. We do not expect, however, to have any funds available for distribution to our equity holders."

Iomega started shipping Peerless drive system with FireWire interface for Macintosh and Windows computers. New interface gives drive system sustained transfer rate of up to 15 MB per sec. with computer equipped with FireWire 1394 PCI card, Iomega said. Company is marketing 10 GB drive bundle at \$359 and 20 GB at \$399. Drive system with USB 1.1 interface starts shipping in May. Macintosh-only version of drive with FireWire interface began shipping in July. Announcement came less than week after company revealed restructuring would cost it \$55-\$65 million in 3rd quarter. As part of restructuring, company is cutting 40% of staff — 1,250 of 3,300 employees. Iomega said it also was shutting facilities and shifting sales force in attempt to control costs and reverse falling revenue. It also is looking to drop some of its money-losing products including HipZip digital audio player to better focus on its core Zip storage media.

June shipments of audio equipment fell 8.4% to \$666.37 million from \$727.73 million in same month year earlier, CEA reported. Declines were recorded in all 4 of CEA's broadbased categories. Month's hardest-hit category was portable audio, with shipments falling 14.5% to \$193.05 million from \$225.83 million. Components, aftermarket autosound and systems dropped 11.5%, 5% and 1.8%, respectively. For year's first 6 months, cumulative shipments were down 6.1% to \$3.62 billion from \$3.85 billion, with declines of 13.3% in components, 10.1% in portable audio, 1.7% in systems. Despite dismal report, CEA headlines declared that audio's long-term outlook was strong on home theater's "rising star." "Particularly encouraging is the strong growth in speaker packages, which is compelling evidence that today's audio consumers are demanding a better sound experience," CEA Pres. Gary Shapiro said.

Shintom scrapped effort for court mediation in Japan on request for waiver of \$91.47 million in loans from Sumitomo Mitsui Banking Corp. (SMBC). Shintom, which had negative net worth of \$111.5 million at end of March, has sought to restructure ailing business, and said waiver was central to plan. Shintom has been low-end supplier of VCRs, among other products, to U.S. market. It built stacked dual-deck VCR that Sensory Science sold under Go-Video brand, but latter dropped product year ago. Thomson continues to market Samsung-built stacked dual-deck VCR. Shintom also had joint venture with Audiovox to produce cellular phones.

FRY'S TO BUY EGGHEAD.COM ASSETS: Fry's Electronics, having abandoned bid to buy Cyberian Outpost (CO), signed agreement instead to buy assets of Egghead.com, which filed for bankruptcy protection last week. Sale is expected to close by late Sept.

Fry's, which operates 18 retail stores, has been searching for way to start e-commerce business. It made 70¢-per-share offer in July (TVD July 23 p18) to buy Cyberian, move that threatened to set up showdown with PC Connection, which had made own bid in May (TVD June 4 p12) and expected to close deal by Oct.

In letter to CO CEO Darryl Peck dated Aug. 9, Fry's Exec. Vp Kathryn Kolder said chain, which retains 10.9% (3.4 million shares) stake in Cyberian, "remains interested in the future" of e-tailer and "values the talents and skills" of its employees and management. Apparently already in works was deal to buy Egghead.com, which generated more revenue (\$478.8 million in fiscal 2000 vs. \$335 million for CO) and had 3.9 million registered users as of March 31.

Fry's didn't disclose value of assets, but in SEC filing Egghead listed \$51.8 million as of March 31, down from \$71.9 million in Dec. Largest assets were cash (\$14.4 million) and accounts receivable (\$13.6 million). Among other assets is 100,000-sq.-ft. warehouse in Vancouver, Wash. Fry's also will inherit e-tailer that had accumulated deficit of \$338.9 million and never quite recovered after merging with OnSale.com in \$400 million deal in late 1999 (TVD Nov 22/99 p14). Egghead shed 255 jobs in spring in effort to turn profit by 4th quarter and signed one-year \$20 million inventory financing credit agreement with IBM Credit Corp. in Feb. that also imposed restrictions on sales of assets or potential mergers with other companies.

Egghead has been struggling to reinvent itself for years. Chain, which was among early retailers of PC software and operated 200 stores at peak, shut its remaining 80 outlets in 1998 (Feb 2/98 p19) in bid to reemerge as e-commerce business. It met modest success as e-tailer before joining forces with OnSale, which had made its mark as seller of closeout and discounted products. Combination targeted small and medium-size businesses with new products (48% of revenue) and closeouts (52%).

Egghead.com relied heavily on distributors for products, with Tech Data accounting for 36% of revenue in year ended Dec. 31. But it also had direct sales agreements with Compaq, Eastman Kodak, Sony, others.

As Fry's shifted e-commerce strategy, Cyberian began promotion offering free shipping and T-shirt to former Egghead.com or Buy.com customers. Promotion is available only to new Outpost.com customers, who place order via toll-free number. It also applies only to ground shipping and doesn't include 2nd day air or overnight deliveries.

Pirated DVDs are coming faster and cheaper in Hong Kong, source there told us last week. Recent U.S. movies not yet available legitimately on DVD but peddled nonetheless in Hong Kong included *Atlantis*, *Lara Croft: Tomb Raider*, *Shrek* and *Swordfish* — each reportedly of good quality at one buck each.

"Superbit" high-resolution DVDs from Sony's Columbia TriStar Home Entertainment (CTHE) won't carry Regional Coding, spokesman told us last week. Move is significant in that discs will be marketed nearly simultaneously worldwide. Superbit DVDs dispense with extra features and use capacity for higher resolution video and audio, at double data transfer rate of usual 3 to 4 Mbps for regular DVDs. They carry Dolby Digital and DTS soundtracks. Discs are compatible with all DVD players but extra resolution is best exploited on players with component video and progressive scan output, and display on high-end or DTV-ready sets. Packaging and discs themselves will be differentiated from regular DVDs, spokesman said. Discs will have red coloration on playing surface, much as Sony's PSone and PlayStation 2 videogame discs have black and blue playing surface, respectively. Superbit packages will have silver frame surrounding cover art and carry Superbit logo, he said. Series makes debut Oct. 23 with 5 titles and will be continuing project, with 5 more due in Nov. and Dec. and similar monthly releases thereafter.

Counterfeit DVDs seized in U.K. have quadrupled in first 6 months of this year compared with all of 2000, according to figures released last week by Federation Against Copyright Theft (FACT) there. Group said it had seized 36,000 pirate DVDs so far this year compared with 9,124 last year. Tally doesn't include seizures by U.K. Customs — increasingly common this year as pirates from Southeast Asia airfreight bulk shipments of counterfeits. In other categories, FACT impounded 80,000 pirated videotapes through June, down from 92,705 last year, 20,000 illicit Video CDs, 50,000 CD-ROMs, 17,000 videogame discs. Group it instigated participated in 450 searches this year, including 207 seizures with airport customs. U.K. retailers have been demanding action against availability of counterfeits that are cutting into legitimate sales and rentals. Typical pirated DVD goes for about \$12 in U.K. — less than half price of authentic discs. Other booming if illicit businesses FACT has tackled is traffic in counterfeit smart cards for cellular phones and satellite receivers.

Palm Inc. has acquired assets of Be Inc., move that's likely to add multimedia to its handheld PC software. Palm agreed to buy intellectual property and assets of Be for \$11 million. Sale followed Be's disclosure in March that it was running out of cash. Earlier this month, Be, developer of BeOS software systems for Internet appliances and digital media applications, cut 32% of work force. Palm said it planned to offer jobs to about 50 Be engineers. Deal spells end of software company founded by former Apple Computer executive Jean-Louis Gasse in 1990. Be almost played major role in Apple's history when PC maker considered buying it for \$125-\$300 million in 1997, only to switch gears and purchase Steve Job's NeXT business.

Zenith has cut price of 60W plasma to \$24,999 from \$27,999 as it delivers first shipments to dealers this month. Display has 1,280x720p resolution, 330:1 contrast ratio, 180 candelas. LG Electronics is building display at plant in S. Korea. Zenith's price move came in its effort to meet competition and achieve better yields, spokesman said. It also came as retail prices for smaller sizes declined. Pioneer has brought its 50W into \$15,000 range and Sony priced 42W monitor at \$7,999. Zenith spokesman said new price also reflected company's "commitment" to having impact in market. "We felt this was the right price to achieve some volume," spokesman said.

Valley Media, despite sharp downturn in e-commerce fulfillment business, said first quarter loss narrowed to \$2.5 million from \$6.9 million year ago. Net sales plunged to \$142.9 million from \$181.3 million that included video rental distribution business that Valley shut down in April. Distribution to video rental chains generated revenue of \$135 million in fiscal year ended June 30. Valley, whose e-commerce business has suffered with closing of CDWorld.com, Family Wonder and Express.com, received waiver from banks in May after violating covenants on revolving credit facility, which was lowered to \$175 million from \$240 million. It also was distributor of Video Update and Zany Brainy, both of which are operating under bankruptcy protection. Valley's biggest customer in fiscal year ended June 30 was Amazon.com, which accounted for 77% of its revenue — \$108.7 million — down from \$125.5 million. Sales to CDNow, which represented 74% of revenue in previous fiscal year, fell to \$68.4 million from \$94.6 million.

Noteworthy DVDs to be released in next month include 7-disc boxed set of *New York*, Emmy-winning PBS documentary on city's history by Ric Burns. Set will be available at \$139.98 from Warner Home Video Sept. 25 and includes 2 new episodes set to air Sept. 30 and Oct. 1. Sony's Columbia TriStar Home Entertainment will release John Le Carre spy-thriller *The Tailor of Panama* Sept. 11 (\$24.95). Movie, starring Pierce Brosnan, received critical acclaim but little box-office attention this spring. On same date, CTHE will offer camp horror-classic *13 Ghosts* by director William Castle. Disc (\$19.95) will carry 2 presentations of movie including version with "Illusion-O" special effects and comes with special viewer for them. Release is timed for Oct. theatrical debut of remake of 1960 original.

Good Guys, citing slowdown in U.S. economy, has revised forecast profit for fiscal 2002 and will have \$4-\$7 million operating loss, improvement on \$17.2 million loss year earlier. Same-store sales for fiscal year ending Feb. 28 are expected to dip 2-4% and gross margin to fall in lower end of 27-29% range, CEO Ronald Unkefer said. For 2nd quarter ending Aug. 31, GG is forecasting 6-8% decrease in same-store sales that will result in \$4.5-\$6.5 million net loss. Based on projected profit of \$10-\$20 million in fiscal 2003, GG said it would lift 3-year moratorium on expansion next fall and open 8 stores in next 2 fiscal years in existing markets. Two stores will open in fall 2002, 6 more in 2003.

Emerson Radio, citing earlier product purchases by retailers year ago, said first quarter profit narrowed to \$2.1 million from \$3 million year earlier as revenue fell to \$77 million from \$113.3 million. CE sales declined to \$49.1 million from \$82.5 million as subsidiary Sports Supply Group slid to \$27.9 million from \$30.7 million. Year ago, "disproportionate" number of CE orders from retailers arrived in first quarter as hedge against product shortages that hampered industry in 1999 holiday selling season. Licensing revenue increased to \$1.3 million from \$1.2 million. Emerson said it had "significant increases" in products sold under licensing agreements in quarter, due largely to signing new 3-year deal last fall with Funai for video.

SDMI hackers gave long-awaited presentation last week on how they beat Secure Digital Music Initiative watermarks. Despite presentation at Usenix conference in Washington, group and Electronic Frontier Foundation said they would persist in lawsuit against RIAA and SDMI in order to secure rights to academic freedom they believe are threatened by Digital Millennium Copyright Act (DMCA). Trade groups had asked computer scientists not to divulge how watermarks could be circumvented, citing DMCA taboo on such actions.

Consumer Electronics Personals

Max Wasinger promoted to Mitsubishi Digital Electronics senior sales & mktg. vp... Departures from RadioShack: **Henry Chiarelli**, vp, Emerging Channels Div.; **Chuck Thompson**, vp-mdsg.; **David Martella**, vp-strategic development... **Rey Roque**, ex-Mitsubishi and Princeton Graphics, joins Samsung as vp-mktg. for display products, replacing **Frederick Garcia**, plans unknown... **Robert Russell**, ex-Thomson Lifelong Learning, named Ravisent chmn.-CEO, replacing Chmn. **Peter Blumenwitz** and CEO **Frank Wilde**, respectively... **Alan Kessler** resigns as Palm Platform Solutions Group gen. mgr., replaced by Chmn. **Eric Benhamou**, who will serve as chief executive on interim basis... **Barbara San Vicente**, ex-Liberty Wire & Cable, joins Sonance as eastern regional sales mgr... **Rep. Buyer (R-Ind.)** to give legislative keynote Sept. 8 at CEDIA Expo in Indianapolis... **Archana (Archie) Elwell**, ex-Fox Family Worldwide Interactive, joins Sony-affiliated Metreon as vp-business development and sponsorship... **Joe Vos**, Metafore Corp. chmn. and Intellitactics dir., elected to Eiger Technology board.

Borders opened new version of its e-commerce Web site, which now is co-branded with Amazon.com and offers Borders customers access to Amazon's full line of products. Amazon also is handling transactions at www.borders.com, including customer service, product fulfillment, shipping. On brick-and-mortar side, Borders announced special deal for consumers who buy *Snow White and the Seven Dwarfs* DVD from one of its stores. It said customers who preordered DVD and place \$10 deposit on title would receive exclusive collectible *Snow White* book from Disney while supplies last. DVD is to ship Oct. 9 at \$24.99, but Borders will sell it for \$19.99.

Singing Machine Co. (SMC), blaming month delay in shipment of new MTV-brand karaoke products, said it lost \$26,000 in first quarter loss vs. \$408,000 profit year earlier as revenues dropped to \$5.5 million from \$6 million. SMC, which is marketing 2 MTV karaoke machines, one of them with built-in mono TV, had planned to deliver product in June. It said it had \$53 million in orders from, among others, Best Buy and Sears. Selling, general and administrative expenses rose in quarter to \$1.9 million from \$1 million due, in part, to opening of new office in Hong Kong, company said.

Gamestop posted strong results for July, with comparable-store sales leaping 47.8% from year ago. Videogame specialty retailer said "the better-than-planned sales were due to continued strong sales of Game Boy Advance and PlayStation 2 software, as well as general growth trends in the industry." Company said it expected 33.1% jump in comparable-store sales in 2nd quarter when full results are announced by parent Barnes & Noble (B&N) on Aug. 23.

Case Logic has bought H&L Products, which markets accessories under Samsonite, World Wireless and World Link Wireless brands, terms not disclosed. H&L, based in Rancho Cucamonga, Cal., sells rapid chargers and cellular phone accessories including faceplate covers and cases.

Macrovision signed worldwide reseller agreement with Sonopress to market its SafeAudio CD copy protection system.

Total of 180 DVD titles were available from 20th Century Fox Home Entertainment as of this month, studio said.



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TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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SDARS REQUESTS OPPOSED by NAB, others. Terrestrial repeaters for XM, Sirius said to threaten local radio stations. (P. 2)

NETWORKS 'STIFLE' AFFILIATES, NASA tells FCC. Stations say networks is getting more control, affecting local programming. (P. 4)

SATELLITE MINORITIES LACKING in ownership ranks. Raising capital is issue, but equivalents of broadcast tax credits aren't available. (P. 5)

TAUZIN-DINGELL COMPROMISE on broadband deregulation said to be moving. Talks with Rep. Pickering reported under way. (P. 6)

STUDIOS THREATEN CABLE pay-per-view future with Internet-based delivery, officials say. Project would avoid revenue split. (P. 6)

AFFILIATES ATTACK ABC ON 2 FRONTS: What ABC TV Network is telling FCC in fight against Network Affiliated Stations Alliance (NASA) (see separate story) is far different from way it actually treats its affiliates, said KEZI (Ch. 9) Eugene, Ore., Gen. Mgr. John Prevedello. He raised issue with FCC Chmn. Powell in Aug. 17 letter detailing station's attempt to time-shift ABC's prime time on West Coast to 7-10 p.m. so it could air local news at 10.

Meanwhile in Mont., station owner James Colla complained that he was forced to pay ABC \$2.4 million for network to transfer affiliations for 2 fulltime stations and 2 LPTVs to new owner. In letter to then Senate Communications Subcommittee Chmn. Burns (R-Mont.), Colla said FCC should require networks to "live by the rules and regulations" so small-market TVs "may be able to survive."

In what Prevedello described as "frustrating situation," he wrote that ABC had denied request to move prime-time programming up one hour while "making it clear that the network's entertainment interests were dominant over the interests of the residents of Eugene... The statements ABC makes about the NASA petition [TVD Aug 6 p2] are very different from the actual practices in which ABC is engaged with its affiliates." ABC didn't respond to request for comment.

Eugene market, 121 among Nielsen's Designated Market Areas, currently has no 10 p.m. local news on its 4 commercial TV stations, and Prevedello said ABC denied KEZI's request despite independent research by affiliate that found that prime-time shift of network programming for 10 p.m. local news would benefit ABC ratings in market: "ABC claims it is interested in local stations' providing local programs and in particular local news programs. Our recent experience with ABC in this regard, however, proves that is not the case."

Consumer Electronics

DVD+RW DECKS TO SELL after Berlin show. Philips showcasing DVD recorders at European dealers, will ship decks to U.S. by Oct at \$1,999 and \$2,999. (P. 8)

CIRCUIT CITY, AMAZON SIGN DEAL in which retail chain will sell thousands of its CE products at e-tailer's Web site starting in Nov. (P. 9)

PVRs STRUGGLING FOR MARKET as manufacturers push for subsidy-free \$199 models to jump-start mainstream business. (P. 10)

GAMECUBE DELAYED IN U.S. until Nov. 18 from Nov. 5. Nintendo to ship 700,000 consoles for debut in N. America. (P. 12)

PHILIPS PLANS MAGNAVOX REVIVAL as 'value-conscious' brand targeting discounters, national CE chains. (P. 12)

RADIOSHACK HIT WITH LAYOFFS as chain cuts 197 corporate jobs in wake of sales and profit declines. (P. 13)

Prevedello said he and William Nagy, COO of KEZI owner Chambers Communications, on May 3 asked for meeting with John Rouse, senior vp for ABC affiliate relations, and told network of its plan to start 10 p.m. newscast Aug. 6. However, they weren't able to meet with ABC officials until June 18, Prevedello said, when they were promised answer to request within week. For next 3 weeks, "we heard repeatedly from ABC that the network research is still analyzing the numbers." Then, on July 16, he said, ABC called, denying request. July 31 letter from Rouse to Prevedello formally denied request because of "obvious importance to the network... of maintaining a consistent national pattern of distribution for our programming." KEZI essentially was asking ABC "to agree to a fundamental restructuring" of its affiliation contract, Rouse wrote.

KEZI then asked ABC to participate in "test case" of undetermined length for trial of 10 p.m. news. After test, affiliate and ABC jointly would review ratings, advertiser response and viewer feedback to determine whether time shift was favorable to both parties. "ABC said no," Prevedello told Powell.

Prevedello cited other instances where KEZI met "great resistance and grief from ABC" in station's efforts to preempt network programming, mostly for U. of Ore. sports and hour special in April on west coast power shortage. In one "absurd response" he cited, ABC "tried to refuse permission" for station to air Ore. women's game in NCAA tournament "on the grounds that we failed to notify the network before the season started... How could we have known about the tournament game before the season started?"

KEZI said it's "at a crossroads of cutting back news coverage if we do not add a 10 p.m. newscast..." We have increased our investment significantly over the last 18 months in newsgathering resources" — including \$12 million in digital production equipment and increasing staff to 34 — so it could carry more local stories and less regional and national "feed stories," Prevedello said. He said reduced network compensation and decreased revenues from advertisers were "making it difficult for us to continue to support our relatively large news investment." By adding 10 p.m. newscast, "we know we will reach new viewers," he said, with expectations of more ad revenue from local businesses.

In letter, Prevedello said ABC was requiring KEZI to schedule local news "when ABC executives in Los Angeles want it scheduled and not at a time when our local viewers want it scheduled..." Our first obligation is to our viewers and when ABC attempts to interfere with our efforts to honor that obligation... we have no choice but to request assistance from the FCC."

KEZI CEO Scott Chambers told us station was in 2nd year of 5-year affiliation contract with ABC under which compensation decreased 20% each year. He said KEZI had been under same ownership (Chambers Communications) and ABC affiliate for 42 years. Chambers also owns ABC affiliates KDKF Klamath Falls and KDRV Medford, both Ore.

SDARS REQUESTS OPPOSED BY NAB, OTHERS: NAB, AT&T Wireless and BellSouth are among those urging FCC to deny requests of satellite radio companies XM Radio and Sirius Satellite Radio for special temporary authority (STA) to operate high-powered terrestrial repeaters. NAB Pres. Edward Fritts said "the time for subterfuge by XM Radio and Sirius Radio is over... These companies must come clean with regulators and the American people on their true intentions for making satellite radio a viable business." In FCC filing, NAB said intent of satellite digital audio radio service (SDARS) applications was "undisputed — terrestrial repeaters should be used only to reach areas where a satellite signal cannot reach." Citing concerns of interference to Wireless Communications Service (WCS) operations, BellSouth (BS) told FCC that XM and Sirius hadn't met burden of proof to demonstrate that there were "extraordinary circumstances" warranting grants of STAs and that grants would serve public interest.

NAB said instant applications "by their sheer numbers and power levels appear to be designed to blanket metropolitan areas, not fill in isolated gaps in coverage." XM and Sirius requests for temporary authority "do not demonstrate any need for such a large number of high-power terrestrial repeaters," NAB said. Because applicants "have been less than forthcoming" about use of repeaters, NAB said, Commission should "at a minimum require the satellite radio licensees to justify their sudden and marked increased need for so many high-powered terrestrial repeaters."

Extensive repeater networks "represent a disturbing and potential threat" to radio stations, NAB said, and "have the potential to operate totally divorced of the satellite transmission systems that they supposedly complement." To permit such systems would result in "totally circumventing" FCC intentions in establishing DBS radio service, NAB said: "The Commission here should ensure that SDARS terrestrial repeaters... are used only to transmit the complete signal from the primary station [and] repeaters must be explicitly prohibited from transmitting any locally originated programming... This is the only way the Commission can prevent this technology from being what it was never intended to be — a terrestrial digital radio network."

BellSouth said XM and Sirius failed to make showing that either extraordinary circumstances or public interest warranted grant of STAs. BS said that especially was case "when one considers the known and proven adverse impact on the WCS licensees that will be caused if the STA applicants are permitted to operate their SDARS terrestrial repeater network at greater than 2 kw power." WCS licensees are worried about potential interference to their operations if SDARS licensees are allowed to operate terrestrial repeaters at more than 2 kw. XM and Sirius responded that SDARS operators shouldn't have to bear costs of engineering oversights of WCS licensees, which they said improperly designed front end of their receivers to tune to entire 2320-2345 MHz band.

Officials of AT&T Wireless, BellSouth, Metricom, Verizon Wireless, Wireless Communications Assn. and Metricom met with FCC staffers and raised possibility of imposing 2 kw power limitation on SDARS repeaters. They also discussed potential for transition period, during which repeaters at higher power levels might be allowed on temporary and non-interfering basis with WCS deployments.

AT&T said SDARS had: (1) Not demonstrated "extraordinary" circumstances and public interest needed for STA grant. (2) Not provided full information for all transmitters that would be operated under STA. (3) Proposed repeaters that would cause harmful interference to lifeline services. While STAs typically cover "discrete transmitter at a single location," proposals by XM and Sirius are for "hundreds of transmitters" across U.S., AT&T said: "AWS is aware of no case in which the Commission has ever before granted an STA for a nationwide network of terrestrial transmitters."

National Hockey League, PGA Tour and Comr. of Major League Baseball said in reply comments to FCC that enhanced coverage of sports broadcast should be subject to must-carry rules. Sports event programmers said digital content used to enhance coverage of sports broadcasts, including various camera angles, graphics, statistics and video highlights, was program-related material and should be considered must-carry elements during transition to digital from analog. Sports programmers said material was must-carry regardless of whether it was advertiser-supported, Internet-enhanced or multicast. They cited FCC's WGN-based standard because broadcaster intended material to be seen by same viewers, in same time frame, and was "an integral part of the video program." NFL is among entities that have concurred on issue. Sports programmers specifically replied to comments by AT&T and NCTA that such material wasn't program-related and therefore wasn't subject to mandatory carriage. Sports programmers interpreted FCC rules to mean that broadcast material provided at no direct charge to viewers wasn't ancillary or supplementary. Under WGN standard, sports programmers said, mandatory carriage applied to any material "intrinsically related" to programs.

Viacom's UPN is considering product placements in its fall shows in exchange for multimillion-dollar advertising deal with McDonald's, State Farm Insurance, Cingular Wireless and others, industry sources said. Negotiations between UPN and Omnicom Group, which represents ad clients, are continuing, UPN source said. FCC and FTC officials said they had no jurisdiction unless advertisers made misleading statements about products during shows or product placements involved children's programming. Both agencies cited First Amendment concerns and noted that consumer groups had yet to file complaint. UPN declined public comment, but acknowledged that industry was struggling with soft advertising market. Nevertheless, source said UPN wasn't "giving away the store just to get an advertiser through the door." Several ideas for deals are being bandied about, including show sponsorships, as well as product placements, source said: "It's not like they paid something and then we're throwing in a bunch of freebies in order to get them to advertise with us. They paid a premium and for that premium, they're getting ad time plus value-added." *Wall St. Journal* reported deal would be worth \$30 million. Omnicom spokeswoman declined to comment.

Federal court in Ark. rejected appeal by Advanced Communications Aug. 23 in case in which defunct DBS startup attempted to sue MCI for "tortious interference" with FCC in 1995 decision that led to auction of spectrum it lost because of failure to meet milestones. MCI mailed letter to then-FCC Chmn. Reed Hundt that urged Commission to auction Advanced orbital locations and channels and said it would be willing to pay \$175 million. Hundt subsequently sent copies of letter to other commissioners while Advanced was appealing decision to deny extension of milestone requirements. Advanced lost appeal on 3-2 decision, with 8th U.S. Appeals Court, Little Rock, ruling company had failed to meet necessary due-diligence standards. As result of failure, FCC cancelled permit and reclaimed orbital locations and channels. Commission eventually received \$735 million at auction for locations and channels it reclaimed from Advanced, with MCI one of successful bidders.

FCC said individual subscribers have no standing in must-carry issue and therefore rejected petition by Conn. Attorney Gen. to act on their behalf. Commission ruling affirmed that of its Cable Bureau, which had limited legal standing to broadcast stations and cable systems. Conn. Attorney Gen. Richard Blumenthal contended that, although there was no specific provision in 1992 Cable Act, he should have standing because of important public interest in matter. Subscriber John Wiegand was trying to ensure that Post-Newsweek Pacifica Cable TV carried WFSB, CBS affiliate in Hartford, as well as WVIT, local NBC affiliate. Consumer Federation of America joined Wiegand's case. Since application was filed, cable system has changed hands and now is owned by AT&T. FCC said it didn't agree that Congress intended entities other than broadcasters or cable operators to file must-carry complaints or to make requests for market modifications.

Nielsen upped its estimate of U.S. TV households by 3.3 million — to 105.5 million — for 2001-2002 prime-time season. New estimate will become effective Aug. 28, Nielsen said, and means each rating point will represent 1.055 million homes. Nielsen said there were 269.8 million people in U.S., of whom 107 million were women 18 and older (up from 103.7 for 2000-2001 season), 98.5 million men (up from 95.4 million), 23.5 million teens (up from 22.6 million), 40.7 million children 2-11 (up from 39.8 million). Nielsen said new totals incorporated 2000 census figures, accounting for "atypically large increase" from 2000.

NETWORKS 'STIFLE' AFFILIATES: TV networks have based assertions that they don't dominate their affiliates on "outdated studies and other documents that do not effectively reflect the marketplace," Network Affiliated Stations Alliance (NASA) said. In response to Big 4 networks (TVD Aug 6 p2) filed at FCC last week, NASA said their argument that growth in media marketplace had decreased network dominance over stations not only was false, but "in fact, the opposite is true." Networks now have "a new level of dominance and control" because of their ownership of "the nation's most lucrative television stations" in major markets, affiliates' alliance said. Stations also raised separate specific charges against networks (see separate story).

Three principal issues are before Commission, NASA said: (1) Whether affiliation agreements improperly "impinge" on licensees' programming discretion. (2) Whether network rights to terminate affiliation when station is sold "unduly derogate from the principle of licensee control." (3) Whether control Fox has sought over affiliates' digital spectrum "contravenes the same bedrock principles of station programming discretion and licensee control." While NASA said CBS welcomed clarification of existing law, "the pleadings of the other networks — because they bespeak a radically different view of what existing law means — cry out for declaratory resolution of the disputes in question." NASA urged FCC to move promptly to resolve issues "because of the damage being done every day to the American public."

NASA argued that its reply to networks "exposes the inherent lawlessness of the networks' argument that these issues... should be abandoned [by government] to network/affiliate negotiations and are purely a business matter." Except for CBS (which was excluded from affiliates' charges in some other instances), networks "distort" NASA's position as seeking entirely new set of rules "rather than interpretation and application of existing legal principles."

Filing disputed networks' contentions that Alliance had altered its position in subsequent filings since it first asked FCC to conduct inquiry (TVD March 12 p1), saying it had "faithfully and consistently adhered to" 3 issues listed above: "The networks focus much of their energies on rejecting positions that NASA never took." But, "despite the competitive pressures that have strained it," network-affiliate partnership "continues to be a strong and effective force" in American system of broadcasting, NASA said. However, if Commission doesn't enforce its existing rules, it will have "serious implications... for the digital future."

Networks agree that localism is of vital importance and "licensee control is the key to localism," NASA told FCC: "Control over the appropriate mix of programming... control over the management and operation of the licensee's station and control over the station's fate from construction to sale." Local affiliate, said NASA, "has only one interest: Providing programming that is responsive to the interests of the local community."

In contracts now being negotiated, NBC permits affiliates to preempt only 5 hours per year, Fox only 2 hours, NASA said, which it said constituted huge detriment to localism. On preemptions, filing said, NASA "has simply asked the Commission to uphold existing law in the face of network provisions [in contracts] that limit affiliate programming discretion to the extreme... NASA seeks to protect affiliates from becoming passive conduits... not to devastate networks by widespread and wholesale nonclearances."

EXCITE@HOME FUTURE: Possible failure of Excite@Home wouldn't significantly hamper govt. goal of open access for ISP over cable, experts and industry insiders say. Excite@Home Corp. said in its annual report to SEC that its own auditors were raising "substantial doubt about our ability to continue as a going concern." Ernst & Young, which Excite later fired, said broadband services provider had had operating losses and negative cash flows since its inception. Company said buildout of network, combined with weakened demand for Internet advertising, had hurt its media operations. Excite has cut 300 jobs and doesn't rule out further restructuring, including possibility of selling its media operations.

Excite spokeswoman said there was no connection between open access and cable ISP's financial woes. Excite connects more than 3.4 million subscribers to Internet through high-speed cable lines. AT&T owns 23% of Excite's shares and controls almost 75% of voting stock. Cox and Comcast also have significant holdings in Excite. Each has been working on tests of open access in hope that trials would convince regulators that market would sort out issues without govt. intervention.

Excite executives had ex parte meeting with FCC officials, including Cable Bureau Chief Ken Ferree and advisers to Chmn. Powell, to discuss engineering and operational hurdles related to supporting multiple ISPs over cable networks. One FCC official privy to talks said Commission never had mandated open access, but acknowledged cable industry was taking its cues from open access conditions that FTC placed on AOL takeover of Time Warner.

Analyst Jonathan Gaw of IDC said Excite's possible demise would remove major proponent of open access but said another company could easily "step into the breach." Excite's difficulties come as AT&T has made no secret of its intention to spin off its cable unit, which hasn't been performing as well as other cable companies. Comcast last month made unsolicited \$44.5 billion offer, which AT&T rejected. Since then, AT&T has been talking with other companies, including Disney, on possible deals. If AT&T were to dispose of its investment or decide against rescuing Excite, writing it off could mean "clean break" from poor investment, Gaw said. At same time, loss of Excite assets would mean some devaluation of broadband unit, he said.

Excite's SEC filing prompted speculation it might file for bankruptcy. Spokeswoman declined to comment, but Excite auditors warned that company might be delisted by Nasdaq because its shares had fallen below \$3. Standard & Poor's downgraded its credit rating of company to triple-C from single-B minus. Company is considering reverse stock split as possible way to boost share value.

Representatives of AT&T and Cox said they were committed to uninterrupted service for their cable ISP customers in event Excite failed. However, both refused to speculate on Excite's future. Comcast spokeswoman also declined to comment.

More than 60% of U.S. TV stations expect to use datacasting revenue to help pay for DTV conversion, survey by SCRI International found. It also said 24% expected revenue from leasing out multichannel capacity. Nearly 71% of stations anticipated at least some new ad revenue from DTV, 5.1% expected some govt. grants and only 1.3% predicted pay-per-view revenue, survey said.

SATELLITE MINORITIES LACKING: Satellite industry and FCC lack minority ownership plan for satellites specifically geared for women and African-Americans, after years of developing diversity programs in other areas of broadcasting, minority officials said. Topic isn't widely discussed, industry leaders admitted: Focus has been more on recruiting, training and encouraging minorities to apply for industry jobs that require highly technical skills in engineering, science, aerospace.

Unlike satellites, broadcast and telecom industries have several funds such as Broadcap and Telecom Development Fund to encourage and help minority ownership in those industries. FCC also has set up tax credit programs in past to improve number of minority owners of broadcast properties, though no credits are currently available. Satellite industry never has had similar program. Issue of broadcast ownership diversity was raised by Senate Commerce Committee Chmn. Hollings (D-S.C.) (TVD July 23 p1), but it hasn't officially spread to satellites. Black Entertainment & Telecom Assn. Pres. Talib Karim said it's "time for the issue to be addressed. With the privatization of Intelsat, it's something we need to examine. Why can't minorities own satellite companies just like they do broadcast properties?"

Worldspace is only company known to have minority owner, Noah Samara, who is of African descent. No African-Americans or women are owners of U.S. satellite company, but Minority Media & Telecom Council Exec. Dir. David Honig said there was one African-American DBS owner, "who was way ahead of his time," that never got company off ground. He also said there was Hispanic teleport operator in Miami and other minorities who marketed use of transponders on satellites. Iridium has minority principals in Washington attorney Tyrone Brown and Syd Com venture capitalist Herbert Wilkins, who are putting together group to establish satellite telephony service in 3rd World markets.

Women and minorities do hold important executive positions and work as subcontractors for satellite companies and federal agencies. Odie Donnell was pres. of DirecTV until resigning to pursue other interests earlier this summer.

FCC Comr. Abernathy said minority ownership was something she "envisioned happening." She said in interview that BET was perfect example of possibilities. "If there are opportunities, we are hopeful minorities and women will take advantage of them." She said it's "absolutely a capital issue," not racial or gender one: "It's not something that's going to happen quickly, but eventually." Satellite projects, including launch and service, cost minimum of \$200 million each and can reach billions of dollars with "great possibility" for failure, analysts said. Abernathy said few minorities would invest that kind of money in financial venture they knew little about.

Unlike TV, where Robert Johnson developed BET, satellite companies require highly technical background in engineering and science, so goal has been to introduce talented minority students to opportunities available, said Arianespace Pres. Clayton Mowry. "You have to get people working and leading in the industry before you can address the issue of ownership." Still, minority ownership isn't something "widely discussed" in satellite industry because of difficulties companies have had in developing diversity throughout ranks, Mowry said.

Honing said minorities had been shut out of ownership opportunities because satellite industry lacked "opportunities" in

"numerosity of service. This isn't an industry where there are 12,000 radio stations or 1,400 TV stations." He said satellite industry always had been seen as "distribution mechanism" rather than "broadcast medium" and industry wasn't covered by 1978-1995 tax credit intended to increase minority ownership.

"Minority ownership is an issue that should be addressed," Roz Parker, member of NASA Minority Resource Advisory Committee and partner at TEC Law, said. "The industry is struggling on a lot of levels," she said. "It's not an attractive business. What can minorities look to in satellite industry that's doing well? My frustration has been how to make some money. I go to space-related conferences and all I hear is the same old, same old."

National Assn. of Black Owned Bcstrs. Exec. Dir. James Winston agreed money was "biggest barrier" to satellite ownership by minorities: "It's extremely capital intensive. You have to invest a lot of money before you see a return." He told us DBS wasn't business that had "traditionally been open for investment by small businesses, nonminority or minority. That hasn't shown any signs of changing." Winston said some govt. role was "appropriate and there needs to be a minority presence in delivering information from every form of media by which American public receives its information."

Federal magistrate ruled Cablevision Systems must disclose personal information about cable ISP subscriber to govt. investigators without notifying customer, we learned. Ruling by U.S. Magistrate Gabriel Gorenstein of U.S. Dist. Court, Manhattan, on privacy issue is to be published today (Aug. 27). Cablevision sought ruling because it was unsure whether cable ISP or situation was governed by Cable Act or Electronic Communication Privacy Act (ECPA). Cablevision wanted indemnity from customer lawsuits alleging privacy violations. Under Cable Act, company must disclose customers' personal information to inquiring law enforcement agencies but also must notify clients of that action. No such disclosure to consumer is required under ECPA. Govt. sought information on subscriber to Cablevision's Optimum Online high-speed service because individual was believed to be involved in criminal activity, we're told. Cablevision wanted clarification on whether it could release information without giving notice to customer. Magistrate Gorenstein is said to have found that Cable Act section governing privacy didn't apply to "other services" as defined by Cable Act amendments and that ECPA rules applied in this situation.

Qwest told 29 Ore. cities it would withhold payment of municipal fees that exceeded actual costs of management of rights-of-way pending final decision of U.S. Dist. Court, Portland, where it has sought declaratory judgment that franchise fee charged by Portland in excess of actual cost of use of rights-of-way violated Telecom Act. Action follows 9th U.S. Appeals Court, San Francisco, ruling in *Auburn* case that municipalities had "very limited and proscribed" role in managing rights-of-way and that franchise fees that exceeded actual cost of managing rights-of-way violated Act. In letter to cities, company said dispute wasn't whether cities could regulate their rights-of-way, but amount of fee they could charge. If court determines company is obliged to pay franchise fees in Portland case, all fees withheld will be paid, Qwest said.

Fiber-to-the-Home Council met for first time last week to begin initiatives to promote fiber broadband access throughout N. America. Meeting in Rochester, N.Y., included service providers, equipment manufacturers, others.

STUDIOS THREATEN CABLE? Clearband CEO issued “wake-up call” to cable industry on decision by movie studios to build Internet-based on-demand service for U.S. broadband users. Clearband, which channels TV and video programming to broadband-connected PCs, said 5 studios were “tunneling under cable’s walled garden” and cable industry must fight back. “I wonder what it feels like to have your pocket picked?” CEO James Faust asked.

MGM, Paramount, Sony Pictures, Universal and Warner announced they would attempt to deploy open access Internet Protocol-based system with movies supplied via Internet on nonexclusive basis. Companies are trying to develop copyright protections. If successful, venture appears likely to make end run around cable’s traditional pay-per-view (PPV) or video-on-demand services or, separately, DSL business, they said.

One industry insider said movie companies were trying to circumvent cable’s 50-50 profit split on PPV: “This basically extends and perpetuates the stiff-arm the studios have been giving cable operators all along.” However, several insiders said studios would be forced to transmit movies over cable broadband at some point, making it impossible to avoid dealing with cable. Successful deployment also would negate studios’ claims that they couldn’t offer first-run movies to cable, insiders said.

AT&T Broadband spokesman said he didn’t see immediate threat because studios wouldn’t have capability of providing true on-demand service, only downloads that could take hours, depending on visual complexity of movie. “You’re still not talking about instant gratification,” he said. To achieve immediacy, studios will have to go through cable, he said. Cable wouldn’t lose revenue in long run because loss of PPV would be made up by customers’ being driven more heavily toward cable modem business, he said.

New report predicts shift to Internet TV will affect global home PC market. Report from C.A. Ingley & Co. forecasts Internet TV and Internet access set-top box markets will reach 110 million households and total Internet households will grow to more than 260 million around world by 2008 from current 103 million. Report, *Global Broadband Multimedia Review*, says 3 types of residential Internet homes will emerge: PC access, PC/Internet TV home, Internet TV. Study says there are more than 900 million TV households worldwide today, compared with 100 million PC online homes. TV Internet access will start to come online in large numbers beginning in 2003, report says, giving consumers dual feed of Internet and entertainment TV. Forecast also says 80% of U.S. households will have PC or PC and TV online by 2008.

Citizens for Independent Public Bcstg. (CIPB) called on commercial broadcasters to pay “fair fee” for their use of public’s airwaves into fund to finance “truly independent, noncommercial public broadcasting.” Charging that noncommercial TV had been “infected by commercialism,” CIPB Exec. Dir. Jerold Starr said PTV, long considered to be above commercial interests and influence, now was little better than for-profit TV. CIPB proposed creating Public Bcstg. Trust to free PTV from “political and commercial dominance,” he said, and said 2% license fee for commercial broadcasters would generate \$1 billion for public broadcasting fund.

TAUZIN-DINGELL COMPROMISE MOVING: Possible compromise on disputed provisions of Tauzin-Dingell broadband deregulation bill (HR-1542) is subject of negotiations between Rep. Pickering (R-Miss.) and House Commerce Committee Chmn. Tauzin (R-La.), sources said. Observers believe HR-1542 could go to House floor in fall, but see little chance Senate will move bill in current form. Progress toward compromise is seen as changing dynamics of controversial deregulatory bill.

Tauzin spokesman Ken Johnson acknowledged negotiations between Tauzin and other committee members were continuing, but wouldn’t confirm whether Pickering was involved. He said Tauzin-Dingell would remain “base bill” in any discussions in full House, and said new legislation wasn’t being crafted: “Chairman Tauzin has been reaching out to a number of members in hopes of reaching a compromise before we move this bill to the House floor. We’re making some progress. We have the votes to pass this bill now. The only question is by how wide a margin. Obviously, if we can bring on board several of the members who have criticized the bill in the past, it will improve our chances in the Senate.”

Details of negotiations and possible revisions in bill weren’t clear. Supporters said bill would encourage broadband infrastructure deployment by providing more certainty for potential investors while preserving competitive access to voice telephony market. Meanwhile, Verizon Senior Vp Thomas Tauke signaled last week that Verizon would be open to alternate approach to broadband deregulation.

Pickering’s office declined comment on whether negotiations with Tauzin and bill’s co-author Rep. Dingell (D-Mich.) were taking place. Dingell spokesman wasn’t available for comment.

Cable Act doesn’t require owners of apartment complexes to give cable company access to individual units in multiple dwelling units through owner-provided easements to other cable operators, 9th U.S. Appeals Court, San Francisco, ruled. Court upheld U.S. Dist. Court, Phoenix, decision that Act allows right of access only to easements dedicated to public use. Suit was brought by CableAmerica against Feiga Partners (owner of 3 apartment complexes in Mesa, Ariz.) and CoxCom Inc. (Cox company) over Feiga’s refusal to allow it to provide service to apartments where Cox already was offering service.

Daniels & Assoc. said it completed 47 transactions valued at \$8.4 billion in first half of year despite sluggish economy. By comparison, it had 66 transactions in first half of 2000 worth almost \$9.7 billion. Transactions this year included 37 mergers and acquisitions and 10 corporate financing and financial advisories. Deals involved Adelphia, AT&T Broadband, Charter and MediaCom, among others in media, Internet and telecom industries. In AT&T deal, Denver-based Daniels advised on sale of cable systems for 1.5 million basic subscribers in 9 states.

General Service Administration’s Federal Technology Service is looking for potential sources of digital TV (DTV) programming for its Atlanta facilities. It seeks DTV service package that provides, at minimum, local broadcast news and govt. programming. Provider must offer optional service package that includes digital music channel. Service would be for estimated 4 buildings with 96 digital tuners. Statements of interest are due Aug. 31. — 404-331-1860.

Personals


Alan Braverman, exec. vp-gen. counsel of ABC, adds title of deputy gen. counsel of parent Walt Disney Co... Karen Mateo, CBS Sports, appointed WCBS-TV N.Y. dir.-communications... Eric Lerner, ex-WLS-TV Chicago, named KFSN-TV Fresno pres.-gen. mgr... New members of Spanish Bcstg. System board: Carl Parmer, ex-pres. Heftel Bcstg.; Castor Fernandez, Castor Advertising... Univision Network Pres. Ray Rodriguez adds COO title... Steven Brant, ex-Sinclair Bcst., appointed Dielectric Communications dir.-RF system sales.

Jim Samples promoted to exec. vp-gen. mgr., Cartoon Network Worldwide... Ann Blakey, ex-PBS, named National Geographic Channel vp-business development... Cindy McConkey, ex-Ackermann Public Relations, joins Scripps Networks as vp-communications... John Maxwell, ex-Motorola, named High Speed Net Solutions vp-mktg.

Named to FCC Comr. Copps' permanent staff: Interim adviser Jordan Goldstein as senior legal adviser; interim aide Susanna Zwerling as adviser-media & consumer protection; Carolyn Conyers as confidential asst... Barbara Douglas, ex-America's Promise, named FCC Consumer Information Bureau assoc. chief for program coordination & management... New board members, Bcst. Cable Financial Management Assn.: Edward Delchman, Media General; Mark Fratrack, BIA Financial Network; Ronald Gertz Music Reports Inc.; Leslie Harmann, Radio One.

CEA released new research that said potential for broadband-based commerce was vast if industries were willing to bridge "last mile" between homes and Internet backbone with high-speed access. "The situation is similar to that of an unpaved country road leading from the home to a superhighway of information," CEA Pres. Gary Shapiro said. "We need to solidify that last connection." Paper said problem with overall Internet infrastructure was between ISPs and homes. "Most households connect at speeds of 56 kbps or lower, barely enabling them to perform basic tasks on the Internet." Study encouraged cable and DSL industry leaders to increase deployment by working to expand high-speed access, provide consumers with reasons to upgrade and pushing frontiers of technology. "For now, cable is winning the installed base war, but DSL is gaining speed. Waiting in the wings as a final solution are the wireless options, able to reach the most remote users," paper said. For consumers, cable options are limited primarily to 2 cable ISPs, Road Runner and Excite@Home, while heavy competition among DSL providers has "left DSL struggling to keep up," research said. Govt. must regulate imbalance between cable and DSL, paper urged. Shapiro presented research, titled *100 Mbps and Beyond*, at Progress & Freedom Foundation's Aspen (Colo.) Summit.

Key European broadcast officials endorsed migration of digital TV to Multimedia Home Platform (MHP) standard, European Bcstg. Union (EBU) said. Endorsements were by EBU Pres. Arne Wessberg, European Commission member Erkii Liikanen and German Public Bcstg. Organization Chmn. Fritz Pleitgen. Wessberg said MHP would "facilitate access to the information society for all households to avoid a digital divide in our societies." European Digital Video Bcstg. organization has announced DVB-MHP open standard for digital broadcasting.



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Cable companies shouldn't be allowed to pass through to basic tier subscribers expenses for sales of ads, National Assn. of Telecom Officers & Advisers (NATOA) and Montgomery County, Md., said in ex parte presentation to FCC officials. Original petition filed by Pasadena, Cal., seeks FCC ruling that federal law and Commission rules don't allow passthrough to subscribers of cable operators' franchise fee on revenue from nonsubscriber sources. Permitting passthrough of expenses for competitive cable services would "unfairly disadvantage competitors" to cable operators, NATOA and county said.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA for week ending Aug. 10 and year to date:

	AUG. 4- AUG. 10	2000 WEEK	% CHANGE	JULY 28- AUG. 3	32 WEEKS 2001	32 WEEKS 2000	% CHANGE
TOTAL COLOR TV	333,525	481,337	- 30.7	338,428	14,377,040	16,457,948	- 12.6
DIRECT-VIEW**	320,194	461,886	- 30.7	322,313	13,858,378	15,799,469	- 12.3
TV ONLY#....	267,889	394,448	- 32.1	268,324	11,472,862	13,097,777	- 12.4
TV/VCR COMBO.	52,305	67,438	- 22.4	53,989	2,385,516	2,701,692	- 11.7
PROJECTION...	13,331	19,451	- 31.5	16,115	518,662	658,479	- 21.2
TOTAL VCR**...	277,135	443,142	- 37.5	268,454	11,142,081	15,275,866	- 27.1
HOME DECKS...	224,830	375,704	- 40.2	214,465	8,756,565	12,574,174	- 30.4
CAMCORDERS.....	89,532	74,499	+ 20.2	42,727	3,026,429	3,205,237	- 5.6
DVD PLAYERS....	115,414	110,046	+ 4.9	169,573*	5,388,793*	3,480,745	+ 54.8

Direct-view TV 5-week moving average#: 2001--323,162; 2000-433,324 (down 25.4%).

Projection TV 5-week moving average: 2001-14,815; 2000-20,078 (down 26.2%).

VCR deck 5-week moving average: 2001--283,609; 2000-438,755 (down 35.4%).

TV/VCR 5-week moving average: 2001--80,818; 2000-88,794 (down 9.1%).

Camcorder 5-week moving average: 2001--72,475; 2000-105,964 (down 31.3%).

DVD player 5-week moving average: 2001--172,692*; 2000-146,843 (up 17.6%).

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

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

DVD+RW RECORDERS TO SELL AFTER BERLIN SHOW: One of 3 incompatible formats for DVD recording has appeared in European stores and will arrive at retail in U.S. by Oct. On eve of Internationale Funkausstellung (IFA) show in Berlin last week, DVD+RW pointman Philips announced shipping and pricing while revealing other details about recorder's operation.

"Now it is a reality and on sale," said Guy Demuynck, alluding to showcase unveiling at European specialty dealers for DVD+RW recorder that isn't among standards approved by DVD Forum, such as DVD-RAM and DVD-RW. Those formats have been available in Japan and U.S., respectively, since last year.

Philips DVDR1000 recorder will hit stores at \$1,999 by Oct., followed shortly by \$2,999 DVDR1500, company told reporters at Berlin briefing. DVDR2000 model adds new ProntoPro advanced multiroom RF controller and will be previewed at CEDIA show in Indianapolis next month.

As disclosed earlier, DVD+RW decks will have digital input — but only for camcorders equipped with IEEE-1394 based connector. Other inputs remain analog owing to copy protection concerns of Hollywood studios, and include composite, S- and component video. Decks have same analog outputs, as well as progressive component output based on Faroudja system. Addition comes after Macrovision copy protection system has been extended to progressive component output in NTSC models, Philips said. Similar protection for PAL/SECAM standards is near completion, Optical Recording Products Mgr. Chris Buma told us. Maximum resolution for component input to recorders is 480i, Philips said.

Murky point to date has been need to finalize DVD+RW recordings and under what conditions this would be necessary and how long it would take. In CD recording, disc must be “finalized” — 2-min. procedure that creates table of contents that enables other CD players to read it.

In past, Philips has said DVD+RW recordings didn't need to be finalized for compatible playback with installed base of DVD-Video players. Exception to rule was revealed last week in response to our questions.

It turns out all write-once DVD-R recordings must be finalized in order to run in DVD-Video players. Philips said process “takes a couple of minutes” — and time isn't proportional to 2 min. for 650 MB CD-R compared with 4.7 GB DVD blank.

Rewritable DVD-RW recordings are another story. They need be finalized only if program recorded has been edited by consumer, Philips said. Example would be camcorder home movie transferred to DVD+RW, then edited to create playlist that marks only desired segments for viewing while skipping over unwanted footage.

In that case, if disc is to be compatible with regular DVD-Video players, it would have to be finalized so other machines could read playlist markers. Time for finalization process depends on number of edit markers that user has created — up to 249, Philips executives said. If maximum were used, finalization process could be as long as disc's 2-hour capacity. For record, finalization time also is variable for rival DVD-RW format.

Philips said DVD+RW editing feature was linear only — user couldn't do so-called assembly editing that changes sequence of scenes from original footage.

That's possible with DVD+RW recording on PCs, where original footage would be dumped to PC's hard drive for assembly editing, and desired sequence then transferred to DVD. Philips will offer combination DVD+RW/CD-RW drive to PC aftermarket as DVD+RW200 series in Oct. Last week in Europe, DVD+RW backer Hewlett-Packard (H-P) also announced availability of combi DVD/CD recorder for PCs. Its HP DVD-Writer dvd100i is available now at £549 (about \$799). Company said drive also will be integrated in some HP Pavilion PCs in Europe later this year — announcements for U.S. are pending. Like Philips DVD+RW drives, H-P's won't copy prerecorded DVD movies coded with Content Scrambling System.

At our Fri. deadline, rival DVD-RW and DVD-RAM camps hadn't held Berlin news conferences. But DVD-RAM champion Panasonic announced that it and 65 other companies had created Recordable DVD Council to promote DVD Forum-sanctioned DVD-RAM, DVD-RW and DVD-R video and data recording formats.

“The main work of the Recordable DVD Council will be to encourage widespread acceptance of the 3 DVD Forum-specified standards,” said Council's Chmn. Bon-Guk Koo, Samsung senior corporate adviser and former exec. vp of Samsung Electronics. He said group would promote formats at trade shows and through Web site (www.rdvdm.org — group formerly was known as Recordable DVD Meeting). Council's 8 executive members include primary DVD-RAM developers Hitachi, Panasonic and Toshiba — but not DVD-RW developer Pioneer. At our deadline, it couldn't be learned whether Pioneer, Sony or Thomson were among 58 general members. Last 2 also are members of DVD-RW and DVD+RW groups

CIRCUIT CITY AND AMAZON SIGN REVENUE-SHARING DEAL: Circuit City will be offering several thousand of its CE products for sale at Amazon.com starting in Nov. — just in time for busy holiday season — as part of agreement companies announced last week.

Products from Circuit City that are purchased via Amazon's site can be picked up immediately at retail chain's stores, companies said. While Circuit will be handling fulfillment and product-related customer service on items it offers through Amazon, e-tailer will be responsible for processing transactions. Specific financial terms of deal weren't disclosed last week, but companies said Circuit City would pay Amazon percentage of revenue on merchandise purchased through Amazon site.

Circuit City Pres.-CEO Alan McCollough said he believed agreement “will serve as a revenue generator for both companies.” Circuit spokesman said agreement would give Amazon shoppers access to his company's in-store pickup for first time. But he sidestepped our questions whether company was satisfied with volume of

business done over CircuitCity.com or whether move was meant to invigorate in-store pickup volume of products sold over site. He said only that roughly 50% of those who bought gear through CircuitCity.com opted for in-store pickup option, but that company didn't break out sales via e-commerce, just as it didn't break out sales figures for individual stores or markets.

Amazon Electronics Vp Carl Gish was quick to indicate that it shouldn't be inferred from deal that his company saw desperate need to align itself with established brick-and-mortar retailer to succeed on CE front. Quite to contrary, he said, "our consumer electronics business is doing fabulously well" and is "2nd biggest business at Amazon today," right behind books — position e-tailer said CE category had claimed since last year. Echoing Circuit City spokesman, Gish told us one primary reason Amazon decided to align itself with Circuit City was that instant gratification created by ability to pick up product right away was "probably the only major thing about buying online that is different than the physical experience" of buying product at store. "Because [Amazon's electronics] business has been so successful and has gotten as large as it has and because there's a partner like Circuit City that can offer this service to our customers," he said, "we think it's the right time to offer this in-store service to customers. We really see it more as an incremental offering for our existing very strong, very healthy business."

As part of deal, items offered by Circuit City at Amazon site that can be picked up at Circuit store also can be returned to Circuit City store. But Gish said he didn't see ability for customers to return item to store as major advantage for Amazon clients. To contrary, he said: "I think a lot of people's perception is that doing online returns is more of a hassle than the physical world returns model. And, in fact, what we've heard from customers is they'd prefer the ability to do returns through us because all they have to do is have the postman or the UPS driver — [or] whoever — come and pick it up from their home."

As for product assortment Circuit City will be offering at Amazon, Gish told us "the intent is for it to be relatively broad." But Amazon said Circuit City offerings at Amazon site wouldn't include big-screen TVs, CDs and DVDs, wireless products and services. Unclear last week was whether products offered by Circuit City would include items such as Sony's core CE line that e-tailer currently isn't authorized to sell. Gish said only: "I can say that [the deal] will allow us to expand our selections because Circuit City will have products that they carry that we may or may not carry. Beyond that, I really can't comment except to say in November, when we launch the joint service, it will be evident then." However, he said, "we are very focused on having direct relationships with all the manufacturers of all the products that we sell. We continue to make strides in that direction every month and have discussions with all of the key vendors in the space. What exactly our status will be in November with regard to direct and nondirect relationships I can't really comment on."

Amazon said agreement with Circuit City was latest in series of alliances with companies that wanted to use its online retail platform for varying aspects of their businesses. Those alliances have included retail chains Borders Group and Toys "R" Us. But with those deals, Borders and Toys opted to stop running their own separate e-commerce Web sites after Amazon deals were finalized. New deal is decidedly different in that Circuit has offered no such suggestion that it will be shutting down CircuitCity.com. Therefore, Amazon and Circuit City remain major competitors in online CE space. Gish said: "While we clearly compete [with Circuit City], there's elements of their business model and our business model where there are mutually beneficial opportunities and opportunities that ultimately can be helpful to customers. And that nexus... where those components come together is what this relationship is all about. So, yeah, in one dimension we'll be competing, [but] on another dimension we'll sort of be partnering to mutually provide customers with the benefits."

Deal comes 5 months after reports surfaced that Amazon was in talks with Best Buy on forming some form of strategic alliance (TVD March 26 p12). Amazon and Best Buy never have commented on that issue. Gish would say only that Circuit City deal was nonexclusive. He sidestepped commenting on talks with specific partners, but said: "We are interested in extending our platform for our customers and partners... and we have discussions to that end."

PVRs, STRUGGLING FOR MARKET, AIM FOR LOWER PRICING: As manufacturers struggle to establish market for personal video recorders (PVRs), push is being made for subsidy-free \$199 model that industry officials say is needed attract consumer interest.

Achieving lower price — which some say could be reached in 2002 — would require integration of components, something that may not be fully achieved for several years. But some companies, including Seagate-Thomson joint venture (TVD July 17/00 p9) and Cachevision, say they have been able to reduce PVR module cost under \$199. Current

generation of TiVo PVRs has been priced at \$199-\$299, but has been heavily subsidized by TiVo, which is scheduled to release earnings report Aug. 30. "The economics of the standalone product are fairly tight and I think to hit the real volume it has to be \$200 exclusive of a subsidy," said Philips Home Access Solutions Vp John Strobel, whose company markets TiVo PVRs in 20, 30 and 60 GB capacity configurations using Maxtor drives.

Besides price, selection of PVRs needs to be narrowed to models that start at 40 GB, industry sources said. Sony also has 30 GB TiVo, while Panasonic markets 30 GB ShowStopper model for ReplayTV. Changes appear close at hand. Retailers have reported selling Showstopper at \$249 close-out price, while ReplayTV's hard drive supplier Maxtor unveiled 100 GB drive and hinted at plans for expanding it from PCs to PVRs.

"There will probably be fewer models," Strobel said. "There is not enough shelf space because there is not enough volume. We haven't made a decision yet, but as we move to the next generation, my guess is that we won't have 3 different models."

Emergence of hard drives with ever-larger capacities may result in models designed specifically for PVR applications possibly as soon as next year, said Cachevision Pres.-CEO Richard Johnson, whose company was expected to unveil alliance with European cable operator at Internationale Funkausstellung trade fair that opened in Berlin this past weekend. Seagate has produced prototype versions of 40 GB drive that will be at heart of test with European cable operator in fall and plans to ramp up production in first quarter 2002, Johnson said. Still missing is commitment from Thomson to introduce PVR based on Cachevision platform. Thomson currently markets combo DirecTV/UltimateTV receiver in U.S. and TiVo product in Europe.

"The CE-specific hard drives will focus on acoustics and more efficient firmware as far as how they access files and manage the content of the drives," Johnson said. He said improved acoustics could lower noise level in CE products to under 28 dB from 32 dB.

ReplayTV Mktg. Vp Steve Shannon countered that market hadn't yet grown large enough to warrant CE-specific drives. About 360,000 PVRs have been sold since category was introduced in late 1990s. "I would expect that someday that will happen and initially it will be more marketing than technology," Shannon said. "I think it will be 2 years before there are consumer-specific drives."

Next wave of PVR drives is expected to include faster processing speeds and an increase in memory. Showstopper currently has 4 MB of DRAM and 40 MHz processor. ReplayTV and Cachevision also are expected to switch to Wind River's VxWorks embedded software. Choice represents change for Cachevision, which earlier had indicated interest in Linux. "Linux is still a thought, but it's not something we have embraced because there are still some real time elements that have to be worked out," Johnson said. In addition to VxWorks, Cachevision PVR module will contain embedded Risc processor at start, but company also will consider offerings from Arm Holdings, Mktg. Vp Steve Eidson said.

Cachevision also is planning to market side-car PVR module for use with entry-level digital cable set-top boxes (STBs), while also maintaining integrated approach for standalone consumer products. Cachevision's strategy for lowering PVR prices involves client-server approach in which it provides "enabling technologies that allow people to build services" into STB such as t-commerce, targeted advertising and interactive TV. Cachevision uses Sun Microsystems' JavaScript for application development. "It will be something where the module would have the ability to run the t-commerce application, which would stand alone inside the set-top box," Eidson said.

Ritz Camera has agreed to buy rival Wolf Camera for \$84.7 million in deal that would create chain with 1,300 stores in 48 states. There are no plans to close Wolf's more than 400 stores in 20 states. Name will be retained in certain markets such as chain's home base of Atlanta, where Ritz stores will switch to Wolf's. Acquisition combines top 2 photo specialty retailers in U.S. and paves way for Wolf to emerge from bankruptcy protection, which it sought in June. Wolf founder-CEO Chuck Wolf will become Ritz chmn. while David Ritz continues as chmn., pres., CEO. Privately held Ritz had 900 stores in 47 states and \$163 million in revenue in 2000, while Wolf had \$82 million. Wolf's downfall proved to be acquisition of CPI/Fox Photo and Proex chains from Eastman Kodak in 1998, which Wolf has conceded chain was "never able to digest."

Samsung will spend \$131.4 million in next 5 years building up production of plasma display panels, Digitimes.com reported. Samsung is producing 42" and 63W panels this year, replacing several TV and PC monitor lines at Suwon, S. Korea factory with PDP facilities, eventually will move manufacturing to other facilities worldwide including plant in Tijuana, Mexico, Digitimes said. Samsung will focus on larger PDPs at start, then shift to smaller sizes including 32W by 2003.

THIS WEEK'S YEN RATE

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

GAMECUBE DEBUT DELAYED: After weeks of rumors — and denials by Microsoft — that Xbox videogame console rollout would be delayed in U.S. (TVD Aug 20 p15), there was degree of irony to be found in competitor Nintendo's announcement last week that GameCube's N. American debut had been delayed until Nov. 18.

However, on positive side, Nintendo said it would be boosting its first hardware shipment for N. America to 700,000 on day one and 1.1 million by Dec. 31, with 90% of those units to be shipped into U.S.

In conference call with analysts and reporters on eve of SpaceWorld videogame exhibition in Japan, Nintendo of America (NOA) Sales & Mktg. Exec. Vp Peter Main said company decided to delay start "to better serve both our players and, in fact, our retail partners. A primary reason for doing this is to iron out what was promising to be the first wrinkle in the supply pipeline had we adhered to our previous ship date." Main said change would help Nintendo avoid repeat of mass shortages when PlayStation 2 (PS2) was introduced year ago (TVD Oct 30/00 p10).

New date for GameCube will make console available to U.S. consumers just days before key Thanksgiving shopping weekend — which Main called better day to unveil system, anyway: "By marshaling our launch marketing resources in that critical week, we feel we have chosen the optimal time to unleash Nintendo GameCube in America."

NOA never said officially before last week just how many GameCube hardware units it originally planned to ship for N. American start. But Main said in conference call that by holding off until Nov. 18, company would be able to ship "almost 25% more" hardware units on day one "than would have been previously available if we stayed with the original schedule and, likewise, software supplies also promise to be more plentiful by then." New number of hardware units, Main said, also should allow Nintendo to "come close to meeting total demand at launch" and "also assure a virtually uninterrupted restocking through the holiday season." Toys "R" Us Vp-Divisional Merchandise Mgr. Wayne Yodzio said there was "still no guarantee supplies will fully meet demand" but "at least we can promise [customers] we'll effectively be restocking Nintendo's new console on a constant basis through the holiday season and beyond."

Main also said difference from previously announced Nov. 5 date actually was even less than 13 days because original was "ship" date, so system wouldn't have been available at most stores until Nov. 8 or 9. In contrast, Nov. 18 is actual "street" date so there should be systems available in stores on that day, he said.

If Microsoft indeed makes its Xbox available in N. America on time, U.S. software giant would be in position of making its console available to public 10 days before Nintendo instead of 3 days later as originally expected. But when asked whether Nintendo believed Microsoft now had any sort of advantage, Main said: "No, we don't. This question of a week or 2 weeks at this time of year is immaterial." Nintendo also is confident it will get much wider head start over Microsoft in Japan. While Microsoft has not guaranteed Xbox will ship there by year-end, Nintendo Corporate Planning Div. Gen. Mgr.-Dir. Satoru Iwata said last week he

doubted Xbox would hit market there by end of year: "With Sony's PlayStation 2 now almost 2 years old in Japan and Microsoft not appearing in our market this year, we believe we have an open field to make a strong first impression in Japan."

Nintendo said GameCube still was "on track" for rollouts in Japan Sept. 14 and Europe early next year.

PHILIPS TO REVIVE MAGNAVOX AGAIN: Philips will seek to pump life into Magnavox brand again, this time to meet competition at national retailers including CE chains and mass merchant discounters.

Andrew Mintz, who until recently was gen. mgr. for Philips Audio Group in U.S., has been given responsibility for Magnavox with eye toward appealing to "value conscious" consumers as "premium value brand," he said. Philips currently markets Magnavox-branded 13-36" TVs, DVD players and VCRs largely through discount chains, but is weighing expansion into audio and possibly projection TV, Mintz said.

Philips has sold co-branded Philips-Magnavox gear in U.S. for 5 years, but now will market brands separately, Mintz said. "The 2 brands will be kept separate and they're not going to do battle with each other," he said. "Philips is obviously our lead brand and the one that we're going to push our digital technologies with. Where Magnavox will stop [price-wise], Philips will begin."

Magnavox products will be "selectively" distributed in 2002, while Philips gear will be "more widespread," Mintz said. That's reversal of brands' positioning under previous marketing models, when Magnavox was mass-market label and Philips was reserved for prestige gear and as vehicle for introduction of new technologies. Mintz wouldn't say how many retail accounts would be targeted for Magnavox as distribution strategy still was being finalized. "It will be a brand that we're going to target with some retailers that have a lot of storefronts," Mintz said. "But it also could be a brand used both in large national discounters and tactically used in selling floors."

Philips has sold off much of its co-branded product as it works to establish 2 separate lines, Mintz said. It began to shed co-brand strategy in 1999 with debut of PC peripherals (TVD Nov 22/99 p16) and continued on that course through 2000 with TVs. Plan then was to transition PC and CE products to Philips brand and use Magnavox for promotional items.

Borders Group reported \$8.4 million profit for its Borders segment in 2nd quarter ended July 29 — up 25.4% from \$6.7 million in same quarter year ago. Sales for Borders segment were in line with analyst expectations at \$511.1 million — 10.1% gain over \$464.1 million last year. But consolidated earnings for company only broke even in quarter as Waldenbooks Div. sales dropped 5.7%. Company said category management initiatives in quarter continued to create double-digit comparable-store sales increases in categories including DVD. As for 2001 results, Borders Pres.-CEO Greg Josefowicz said: "A consistent program of building on the strength of our core business while exercising strong expense discipline will help Borders Group deliver solid sales and earnings growth for 2001."

ULTIMATE EARNINGS DROP: Ultimate Electronics, suffering slowdown in audio and mobile electronics, reported 2nd quarter profit declined to \$1.7 million from \$2.2 million despite increase in sales to \$117.6 million from \$101.9 million on 5% drop in same-store sales.

Strong sales of speakers and DVD shelf systems weren't enough to overcome downturn in other audio categories including A/V receivers, which "don't seem to be catching on as much as they should," Pres. David Workman said. While A/V receivers were expected to benefit from increased sales of digital TVs requiring enhanced audio, category has yet to receive lift, he said.

Digital products accounted for more than 60% of Ultimate's overall sales, led by DTV, rear-projection models with average selling price (ASP) in \$3,200 range, Workman said. DTV pulled up overall TV ASP to more than \$1,100 and helped boost gross margin to 32.7% from 32.4%.

TVs accounted for 35% of revenue in quarter, up from 30% year ago, but audio declined to 20% from 22%. Mobile electronics fell to 12% from 13%, video/DVD to 16% from 17%, home office to 4% from 5%. Slight dip in Video/DVD came despite increases of 40% and 37% in unit sales of DVD players and DirecTV equipment, respectively, company said.

Inventories rose 24% in quarter to \$77.3 million from \$67.5 million as chain opened new stores in Oklahoma City. However, rise pushed Ultimate to push plan to reduce overall inventory 5-10% by end of 3rd quarter with focus on eliminating "redundancies" in merchandise mix such as in analog camcorders or VCRs, CFO Alan Kessock said. Inventory review is 50% complete, Workman said.

At same time, Ultimate plans to expand Phoenix market test of Sony's PlayStation 2 (PS2) chainwide within 60 days, Kessock said. PS2 selection, including console and assortment of 150 titles, could generate \$50,000-\$100,000 incremental revenue per store by year-end and account for about 1% of Ultimate's overall annual sales, company said. Videogame hardware and software will replace some products that are being trimmed, Kessock said. Workman said Ultimate had no immediate plans to carry Xbox or GameCube, which are to come on market in Nov.

DVD hardware unit shipments climbed 43.8% in 2nd quarter to 2,315,978 from 1,610,730 in same 2000 quarter, CEA reported. Shipments of standalone DVD decks rose 34.1% to 2,034,264 from 1,517,314. Quarter's largest recorded increase was in systems with DVD players, which rose 128.8% to 213,774 from 93,416. CEA said industry shipped 67,940 mobile and portable DVD players in 2nd quarter, but figures for same 2000 quarter weren't available. However, for year's first 6 months, industry shipped 100,320 mobile and portable DVD decks, up from 17,605 units year ago. Total unit shipments for 2001's first half soared 74.2% to 4,866,554 from 2,794,355, with DVD systems up 348.5% and standalone decks up 62% to 4,347,258 from 2,683,334. CEA said total DVD dollar shipments increased 27.4% in 2nd quarter to \$451.68 million and 49.3% year to date to \$957.81 million. But CEA advised interpreting some percentage changes "with caution" because data were not available for some periods of 2000.

RADIOSHACK HIT WITH LAYOFFS: With little fanfare, RadioShack, which has struggled with declining sales and profits in recent months (TVD Aug 13 p18), cut 197 corporate jobs earlier this month.

About 140 of positions eliminated were in Ft. Worth area where RadioShack has 4,400 employees at hq, manufacturing, distribution and repair facilities. Layoffs followed decision earlier this month to cut number of vps to 62 from 73, many of whom had been promoted during tenure of CEO Leonard Roberts. Among them was Exec. Vp Henry Chiarelli.

Layoffs became effective Aug. 9. RadioShack has 36,000 employees worldwide including 2,600 in downtown Ft. Worth where it has hq in Charles D. Tandy Center towers. Retailer had been growing so rapidly that it decided earlier this year to buy downtown public housing project for \$20 million to provide space for future expansion, *Ft. Worth Star-Telegram* reported. Purchase since has been put on hold, newspaper said.

At time that executives were dismissed, Roberts said in e-mail to employees that "now is the time for us to strengthen our focus as an organization... to improve our performance... reduce our costs... and ultimately, enhance shareholder value."

Indeed, RadioShack shares have declined more than 40% since Jan. 1, but closed week up \$1.70 at \$23.32. Second quarter net income dropped 46% to \$40 million as company battled slow sales of PCs and DirecTV. July same-store sales fell 5%.

RadioShack's previous rounds of layoffs occurred when it sold Computer City to CompUSA and shut Incredible Universe (TVD Feb 24/97 p11), latter resulting in loss of 600 jobs.

Arraignment of software programmer accused of violating U.S. digital copyright law was postponed to Aug. 30 after defense attorney said he was talking with federal prosecutors about dropping case. Dmitry Sklyarov had been scheduled to be arraigned in U.S. Dist. Court, San Jose, Aug. 23. Joseph Burton, Sklyarov's attorney, said he wasn't interested in plea agreement, but wouldn't rule it out. Sklyarov wrote program for his company, ElcomSoft Co., that's designed to allow people using Adobe Systems' eBook Reader software to make copies of digital books and transfer them to PC. He was arrested on July 16 after giving talk at DefCon hack convention in Las Vegas on security flaws in Adobe software. Sklyarov has been free on \$50,000 bail since Aug. 6.

RIAA said first-half recording industry shipments fell 9.4% to 442.7 million from 488.7 million in Jan.-June 2000. Dollar volume was down 4.4% in year's first 6 months to \$5.9 billion from \$6.2 billion. Album-length CDs remained industry's mainstay format, accounting for nearly 90% of all units shipped, but unit volume fell 5.3%. Cassette albums slid further toward oblivion, declining 42.9% in units, 41.9% in dollars. RIAA Pres.-CEO Hilary Rosen said "consumer loyalty to the physical product still dominates and we are committed to providing the quality product listeners desire." She said RIAA and its member companies were "confident that our year-end numbers will be strong."

SpeakerCraft will use next month's CEDIA Expo in Indianapolis to introduce its new Proficient Audio Systems brand for residential custom installers. First Proficient product line will have 3 in-wall and 5 ceiling-mounted speakers at \$200-\$475 per pair.

TOYS 'R' US POSTS LOSS: Toys "R" Us last week reported \$29 million loss (-15¢ per share) for its 2nd quarter ended Aug. 4, compared with a \$3 million profit (1¢) year ago.

Chain's sales were essentially flat — \$2.02 billion, up from \$1.99 billion year earlier. Putting positive spin on sales results, company said it "achieved flat comparable-store sales in its U.S. toy stores" in quarter "in spite of the poor retail environment." It cited videogames — Game Boy Advance (GBA) in particular — as major factor.

In conference call with analysts, Toys "R" Us CEO-Chmn. John Eyler said "we had a very, very solid quarter in videogames." He said GBA results were "right in line with what our expectations were," noting company pretty much sold every system it was able to get its hands on. At this point, he said, "Game Boy Advance [continues] to sell very well. We have some inventories now. If [system is] not in at 10 in the morning and out by 11 in the morning — we're past that initial surge — it's still selling through at an extraordinarily fast rate." But he said: "I think, just practically speaking, the demand for this new technology is such that it is unlikely that the marketplace can be satisfied" any time soon.

As for software-to-hardware tie ratios for GBA, Eyler didn't offer specific numbers but said: "Historically [we] have had — if not *the* — certainly amongst the highest tie ratios of anybody. And we and Nintendo were very pleased by the performance of our company, both in bricks and mortar and in dot-com, to generate very, very strong tie ratios [for GBA]." On PlayStation 2 (PS2) front, he said: "If you go back and look at PlayStation One we were the largest seller of hardware and the largest seller of software. [We] had a very high tie ratio. We are now, as we are seeing a larger installation base of the PlayStation 2, experiencing the same trend and we're very enthusiastic about holiday this year for PlayStation 2. Even though there are new platforms out there, this will be the first full season where there are ample supplies of product and it'll be the 2nd year that the product's been out there, so we will see a steady rise in the software to hardware ratio."

Despite rumors that Nov. 8 Xbox launch will be delayed (TVD Aug 20 p15), Eyler said: "We have a very close [relationship] with Microsoft and so we are in contact with them nonstop. And we believe that our launch dates remain intact. They have put a lot of time and energy [into Xbox] and they have assembled a very good team for this project. And while rumors fly all over, at this juncture we see no validity to those rumors. Secondly, in terms of overall [Xbox] units available and allocations within those, we know what our allocations are and have worked very closely with Microsoft to make sure their allocations are appropriate."

Eyler also said he expected videogame sales to reach 19% of his company's overall sales by year-end, with category averaging in "15% range" last year.

Philips said at Internationale Funkausstellung (IFA) show in Berlin Fri. that it would manufacture CE devices designed to play back Kodak Picture CDs. First of those devices will ship in 2002 and include DVD-Video players and portable CD player, Philips said. Example of Picture CD product was shown at "Innovation Corner" of Philips booth at IFA. But company said first devices supporting Picture CD wouldn't be "formally introduced" until CES in Jan.

SALES UP AT ELECTRONICS BOUTIQUE: Electronics Boutique, riding sales surge fueled by popularity of PlayStation 2 (PS2) and Game Boy Advance, reduced its 2nd-quarter loss on substantially higher same-store sales compared with same year-earlier quarter.

Company posted \$1.53 million net loss (-7¢ per share) compared with \$2 million loss (-9¢) year earlier as revenue jumped 39.1% to \$175.43 million from \$126.13 million. Same-store sales for 13-week quarter ended Aug. 4 were up 24.8% from year earlier, spurred by strong PS2 hardware, software and accessories sales and June debut of Game Boy Advance. Pres.-CEO Jeffrey Griffiths said quarter was first financial reporting period that consumers could walk into store seeking PS2 console and not be put on back-order list. As result, he said, PS2 software sales were very strong in quarter, particularly in June and July, with business spurred by "steady flow" of new releases. PS2 software "tie" ratios were 8.7 for quarter, 6.2 for year to date.

Griffiths, echoing sentiment expressed by other industry watchers on impact of Nintendo's GameCube delay (see separate report, this issue), told analysts that new Nov. 18 introduction date "should be fine." He said that "in some ways" delay was good news because it would spread out 4th-quarter benefits of Xbox and GameCube rollouts. He also said he was encouraged by Nintendo's announcement that delay would give it opportunity to boost hardware allocations. But he said "the only danger" would be if GameCube date slipped again, in which case it would come too close to Christmas holiday to allow industry to reap expected financial benefits.

Efforts by VM Labs to sign agreement with Electronic Arts (EA) apparently hit have dead end — for now, at least. VM had been hoping to sign on EA as another game maker willing to introduce titles with VM's Nuon disc enhancement technology. Privately held VM signed deal to do just that with Activision last month (TVD July 23 p12). VM COO Paul Culberg told us then that his company "had discussions in theory" with EA but hadn't reached any agreement yet. However, EA spokesman told us last week: "EA had a preliminary agreement with Nuon which was never completed. At this time, there are no plans for licensing EA games with Nuon." Culberg last week confirmed EA spokesman's take on where companies now stood, saying deal was on hold for at least time being. He told us likelihood that VM would be getting additional funding soon "looks promising."

DataPlay has postponed rollout of 500 MB quarter-size optical discs to early 2002 from Oct. Company based in Boulder, Colo., cited delays in establishing mass production of engine that writes and reads data to discs as reason for postponement. DataPlay said that since fall debut was designed to test format with audio products, delay shouldn't affect future of technology. Toshiba and Samsung (digital audio players, PDAs and DataPlay PC reader card) are among companies that have announced plans for technology.

Best Buy Fun Zone Mobile Technology Truck is making "a cross-country tour," appearing at company-sponsored events throughout year, company said. Retail chain described truck as "a mobile marketing and entertainment destination" featuring interactive game and digital music kiosks as well as latest technology offered at Best Buy stores.

RENT-WAY POSTS LOSS: Rent-Way (RW), taking \$5.6 million charge for store closings and costs of accounting scandal, reported \$8.6 million 3rd quarter loss against \$473,000 profit year ago. Revenue rose to \$164.9 million from \$150.9 million.

RW, which has delayed filing quarterly reports since investigation revealed accounting irregularities last fall, also reported losses for first quarter (\$25.7 million) and 2nd (\$4 million) ended Dec. 31 and March 31, respectively. Revenues in those periods rose to \$128.2 million and \$141 million from \$119.9 million and \$127 million, respectively. It reduced debt \$44 million in 9 months to \$344 million at June 30 and had trimmed it further to \$323 million as of last week.

In wake of losses, RW will close, sell or merge 30-40 stores in fall in addition to 39 that already had been dispensed with, CEO William Morgenstern said. RW spent \$11.7 million on closing, selling or merging stores in 9 months ended June 30, Finance Vp-CFO William McDonnell said. Stores affected by strategy are in several markets and involve those that generate less than \$30,000 in monthly revenue, have 250-300 customer accounts and are within 5-6 miles of existing RW outlets, Morgenstern said. Among stores being reviewed are those acquired in purchases of Rentavision and Home Choice chains, he said. RW will spend \$1 million in 3rd quarter converting signs of 200 Home Choice stores to own name, he said.

In addition to pruning some of its 1,132 stores, RW will eliminate less profitable merchandise by year-end with goal of boosting gross margins 6-8% and boosting operating margins to 14% by March from current sub-10%, Morgenstern said. For example, 13" TVs, which carry \$7.99 weekly fee, will be trimmed in favor of focusing on 27" and 32" models that rent for \$12.99 and \$13.99, respectively, he said. Moves are aimed at boosting average weekly fee back to \$18.85 from low of \$17.78, he said. "These are not price directions that will chase people out of the stores," he said. "By changing the product mix and giving them a better selection of better quality merchandise, our customers will get a lot more."

RW forecast gain of 35,000 new customer accounts through year-end, down from 56,000 year ago. It also said it planned to make 600,000 product deliveries between now and Dec., although Morgenstern conceded that deliveries had been down 10,000-15,000 from forecast this summer.

Chain also expects to complete negotiations on amendments in existing credit agreement by late Sept., McDonnell said. RW, which has violated some covenants of credit agreements and has received extension on loan forbearance pact to Oct. (TVD Aug 6 p14), also seeks to increase credit line to \$25-\$35 million from current \$16 million (TVD Aug 13 p15).

RW has struggled since accounting irregularities were revealed last Nov. It was forced to restate earnings for previous 3 fiscal years (TVD July 2 p17) after investigators uncovered \$129 million in accounting irregularities.

As RW seeks recovery, rival **Rent-a-Center (RAC)** said in quarterly report that it paid \$30.9 million for 74 stores in 9 transactions in 2nd quarter ended June 30 and opened another 20 stores of its own. RAC, which has 2,270 stores, also said that as of Aug. 10, it had acquired another 5 in 2 separate deals for \$1.6 million.

Jupiter Media Metrix Analyst Billy Pidgeon told us last week he didn't think delay of GameCube (see separate report, this issue) would be significant blow to Nintendo or prove to be major advantage for Microsoft and its Xbox. Although he said he "was a little bit surprised" by Nintendo announcement, "this stuff always happens" in videogame industry. He said: "The most shocking thing I think so far to happen was the shortages that were announced by Sony last year [with PlayStation 2]. That is something that will hurt sales." He cautioned that new Nov. 18 date for GameCube meant "we are getting mighty close to Christmas here [and] we're shaving that window pretty tight. It would probably be better to have [GameCube] out there in October, but with the amount that they're planning on moving, they can probably achieve that before Christmas." As for whether Microsoft had gained advantage over Nintendo, Pidgeon said: "I really don't think it's going to make much of a difference. It may give [Microsoft] a little PR advantage. They may be able to spin something out of it. But [Microsoft has] their own problems, too." For example, he said Xbox "prebuys are all bundles — that's asking people to spend \$500 a pop." He added: "Nintendo's price point [\$199.95 compared to Xbox's \$299] and availability and the games will pretty much wipe away any advantage Microsoft gets from having a couple of weeks head start on Nintendo." Echoing Pidgeon, Gerard Klauer Mattison Senior Vp Edward Williams told us: "I don't think [the delay] really materially affects the sellthrough that we should see for GameCube or for Xbox in the [upcoming] holiday season."

Ames Dept. Stores has filed for bankruptcy protection for 2nd time in 11 years. Filing last week followed move earlier this month to close 47 stores and lay off 2,000 workers. Ames said it had \$2 billion assets and \$1.56 billion in liabilities. Largest creditor is Chase National Corporate Services, with \$200 million in unsecured claims. Ames said it completed 2 agreements for debtor-in-possession (DIP) financing totaling \$755 million, with \$700 million coming from GE Capital, \$55 million from Kimco Realty Co. Ames, which has struggled since acquiring Hills Stores in 1999, last filed for bankruptcy in 1990 shortly after buying Zayre Corp. It emerged from bankruptcy protection in 1992.

Video Display Corp. (VDC) signed agreement to be Chunghwa Picture Tubes exclusive distributor for monochrome and color display tubes as well as projection CRTs in Canada, Caribbean, Europe, Mexico, U.S. Excluded are Chunghwa CDTs sold in Italy and to several high-volume OEM accounts that have operations in VDC's territories and manufacturing in Far East. VDC said agreement would "accrue sizable volume increases" for company by tapping into Chunghwa's customer and product base. VDC also said it would "substantially reduce" manufacturing operations in Monterrey, Mexico. Chunghwa's main plant is in Fujian, China.

Toysrus.com sales "almost quadrupled to \$35 million" in 2nd quarter from \$9 million year ago, Toys "R" Us said last week. But online division continued to hurt retail chain, ending quarter with operating loss of \$18 million — down only slightly from its \$20 million loss year ago. Company said "the fixed costs associated" with its Amazon.com alliance "have a much higher impact on operating expenses in the lower revenue generating first 3 quarters of the year," adding: "The company expects to see this trend decrease dramatically beginning in the 3rd quarter of this year... as its revenue stream increases."

SEGA CUTS DREAMCAST PRICE: Sega of America (SOA) dropped price of its Dreamcast videogame console \$20 to \$79.95. News didn't come as shock in light of widespread rumors that started circulating last month (TVD July 30 p22).

Explaining reasoning behind price shift, SOA Sales, Mktg. & Operations Exec. Vp Chris Gilbert said: "We are on track with our previously announced plans to sell through all the remaining Dreamcast units, with our primary focus moving toward multiplatform game development. Sega's strength is game content and the lower price point makes it even easier for consumers to enjoy the Sega experience with over 200 games already available for the system."

SOA said price change was "in line with the company's strategy to become a platform-agnostic 3rd party publisher and to develop its world-renowned content and franchises for all next-generation videogame consoles, as well as handheld, mobile and other devices." It said that "while Sega's focus is to develop games for multiple platforms, the company continues to support Dreamcast with more than 20 titles this year."

Company announced earlier this year that it was abandoning Dreamcast hardware production to concentrate on being 3rd party game publisher (TVD Feb 5 p11). Although publishing and retail sources have told us at least some retailers were likely to have dropped Dreamcast systems from their shelves by end of Oct., SOA disputed that this month (TVD Aug 13 p14) with Corporate Mktg. Vp Charles Bellfield telling us system indeed would "be on store shelves this holiday season." If Dreamcast still is available on shelves this holiday season, it will be competing not only against Nintendo 64 and Sony PS One and PlayStation 2 consoles, but also against new Microsoft Xbox and Nintendo GameCube if those systems appear on time in Nov.

SOA also said it was cutting price of its Dreamcast controller to \$14.95, visual memory unit (VMU) to \$9.95, Sonic Hardware Bundle to \$99.95. Last includes console, Sonic blue VMU, games *Sonic Adventure* and *Sonic Shuffle*.

Separately, SOA announced availability of new \$99.95 Sega Sports AEE Bundle 2K1 that includes console and games *Sega Sports AEE NFL 2K1*, *Sega Sports AEE World Series Baseball 2K1*, *Sega Sports NBA 2K1*. Product Mktg. Dir. John Golden said: "Sega Sports has a reputation for incredible content, so by combining games from the... Sega Sports 2K1 lineup with the Dreamcast makes the Sega Sports Bundle 2K1 a terrific value for every sports videogame fan." *NBA 2K1* and *NFL 2K1* recently were given "All Star 2K1" status by SOA, priced at \$19.95.

However, SOA still didn't confirm another report, from July, that it would be dropping console's price again to \$49.95 around Christmas or early next year, depending upon inventory levels. Spokeswoman told us SOA had nothing to report on another possible price change.

BMW will offer Sirius Satellite Radio feature to new-car buyers starting in 2002's 2nd quarter, Sirius announced. It said sets will be available in select BMW 3 Series, 5 Series and X5 vehicles. BMW also will offer subscription activation services for customers who buy Sirius receivers, it said.

Barnes & Noble (B&N) wants to take its GameStop Videogame Div. public by spinning off minority stake in it. Retail chain said last week it reached that decision "as a result of the strong performance of GameStop and of the present conditions in the videogame marketplace." It said it "anticipates using a portion of the proceeds to reduce intercompany debt and the remainder to capitalize GameStop for future growth." News came as B&N said GameStop sales in 2nd quarter ended Aug. 4 were \$206.8 million — 62.6% jump over \$127.3 million in same quarter year ago — and comparable-store sales climbed 33.1%. GameStop was driven by strong sales of Game Boy Advance (GBA) and PlayStation 2 (PS2) software, company said. B&N said it expected same-store sales of GameStop to rise 8-10% in 3rd quarter. In conference call with analysts, B&N CEO-Chmn. Leonard Riggio said company expected to make filing early this week: "If market conditions are good, we'll do the offering this fall. If market conditions are not good, we'll hold it back until perhaps the spring of next year." As for 4th quarter, Riggio said company was "not at all concerned" about possible Xbox delay because of strong sales other platforms were experiencing. Company said, for example, that it was continuing to sell every GBA hardware unit it got and sales for that platform should only accelerate. Riggio said that even without Xbox, "we've got 5 strong platforms out there sending customers into our stores." B&N had overall net loss of \$1.7 million (-3¢ per share) in quarter compared with \$8.6 million (-13¢) loss in same quarter year ago.

Electronic Entertainment Expo (E3Expo) for first time will be from Wed. (May 22) to Fri. (May 24) next year, Interactive Digital Software Assn. (IDSA), which runs annual videogame event, said last week. Show usually is Thurs.-Sat. Explaining reasoning behind scheduling, IDSA Pres. Douglas Lowenstein said: "Because the 2002 show falls just before the Memorial Day weekend, we've changed the dates to make it a Wednesday-through-Friday event. This will make the show more convenient for attendees who want to enjoy the long weekend and more cost effective for exhibitors who will not incur premium labor rates." Announcement came as welcome news to at least one company planning to attend show. Nintendo of America Design Vp and IDSA Trade Show Committee Chmn. Don James said: "As an exhibitor at E3Expo 2002, we are delighted that the E3Expo organization is taking this step. We appreciate the fact that show management is proactively addressing the needs of its exhibitors by moving the dates to reduce additional costs which would have been incurred moving out on a holiday weekend." Lowenstein said rebook for 2002 event was under way and early indications were that top exhibitors were contracting for as much as or more space than they did in 2001 — something that, as we have reported, didn't happen in many cases at this year's show (TVD April 9 p11).

Handspring, continuing freefall in retail market, last week slashed prices on line of handheld PCS. Visor dropped \$20 to \$129, 8 MB Visor Deluxe \$30 to \$169, high-performance 8 MB Visor Platinum to \$199 from \$249, Visor Edge \$100 to \$299. Handspring and Palm have waged price war this summer as they moved to free buildup of inventory... Taiwan-based Asustek will build 20,000-30,000 handheld PCS based on Microsoft's Pocket PC software for NEC by year-end. NEC is expected to ship first units in Japan in Sept.

Panasonic set Sept. deliveries of its first combination CD/MP3 player-receiver for cars. CQ-DP171U, \$300 list, has removable faceplate, infrared remote, floating antishock suspension system.

POLAROID MICRODISPLAY PRODUCT: Polaroid, seeking to right itself after being pushed out of filmless digital photography business, has unveiled digital printing camera featuring liquid crystal on silicon (LCoS)-based viewfinder.

Camera uses 240x320 resolution mono 0.47" LCoS display from Zight to display images in electronic viewfinder. By using novel new design, same display then can be used to print image on instant film inside camera. Polaroid made investment in Zight late last year.

"To print film, the viewfinder optics move so that the image that was going to the viewfinder now goes to the film for printing," Polaroid's Stewart Spitzer said. "We then use a 4X jog to slightly shift the image in printing so that the final print has a 640x480 pixel resolution." Printing takes one sec. to produce 3x4" print.

New digital printing camera comes as Polaroid again tries to reinvent itself after decade of restructuring and flops of new product. It's pinning hopes on its Opal and Onyx printing technologies that are designed to deliver high-resolution digital images at competitive prices. High-end Opal, retailing for around \$25,000, will be sold to photography minilabs, drug stores and other sites with photo kiosks. Onyx is handheld device that produces high-quality mono prints and is aimed at wireless market.

Much will be riding on printing technologies as Polaroid struggles under \$940 million of debt. It defaulted on payments to bondholders and operates under waivers from its banks that last through Nov. 15. It reported \$109 million 2nd quarter loss as revenue fell 31% to \$333.5 million. Polaroid had moderate success in last year with I-Zone Pocket Camera and digital cameras, latter having sold 1.3 million units in 2000. But both products carried low margins and Polaroid is expected to have slashed 6,500 jobs by year-end.

Polaroid introduced its digital printing camera at recent microdisplay conference in Westminster, Colo. Market for microdisplay modules, which are being deployed in everything from digital cameras and camcorders to rear-projection TV, is projected to grow to \$5 billion by 2005 from current \$1 billion, Insight Media forecast.

Microdisplay Corp. used conference to unveil single 0.9" LCoS display with 1,280x1,024 resolution. It's designed to operate at 450 Hz refresh rate so it can support traditional sequential-color illumination schemes or newer scrolling color concepts. Device contrast was reported at 1200:1 in f/2.8 optical system.

Despite plethora of new microdisplays, challenges remain. Nearly 1/3 of conference was devoted to test and measurement issues that are affecting move into high-volume production, particularly for tougher-to-produce projection panels. Much of testing isn't automated and requires human operators to make image quality decisions, so industry sources said there was need to improve test and inspection systems.

In parallel with advances in testing, industry also is pushing for standardizing microdisplay packaging. Single standard would reduce number of company- or application-specific solutions now being used, industry sources said. Silicon Bandwidth, for example, introduced "pluggable" package that sim-

plifies building and testing of microdisplay as well as easing integration into customer solutions.

Another round of job cuts was announced by e-tailer Buy.com. Aliso Viejo, Cal., company said it was eliminating 50 full-time positions — 40% of its staff — in move designed to create \$4.3 million annual saving. Earlier this year it announced restructuring plan that called for elimination of 125 jobs at hq (TVD March 12 p17). New round of job cuts came as Buy.com posted loss dropped to \$5.7 million (-4¢ per share) in 2nd quarter ended June 30 from \$33.6 million loss (-26¢) year ago. But revenue slid to \$94.9 million from \$193.2 million and average order fell to \$167 from \$192. Gross profit dipped to \$11.1 million from \$11.8 million. Among other bad news for e-tailer was word that shipped orders fell to 537,000 from 949,000 and new customers to 161,000 from 362,000 in year. Cumulative customer accounts increased 43% to 4 million from 2.8 million year ago. Gross margin, including fulfillment expenses, widened to 11.7% from 6.1% year but was only slight improvement from 11.6% in first quarter this year. Buy.com sells electronics, computers, videogames and other product categories. Separately, in growing trend, class action lawsuit was filed on behalf of those who bought stock in Buy.com Feb. 7-Dec. 6, 2000. Complaint, filed by Emerson Firm in U.S. Dist. Court, Houston, alleged that prospectus Buy.com included in its registration statement for IPO "was materially false and misleading."

Despite loss of \$29 million in its 2nd quarter last week (see separate report, this issue), Toys "R" Us offered hopeful prediction for its 4th quarter. Retail chain said its strategic initiatives were "on track to deliver significant benefits beginning" in that quarter. Initiatives include company's plan to retrofit 250 of its core U.S. toy stores to its "Mission Possible" (MP) format in fiscal 2001. It said it "will have up to 70 stores under construction at any point in time through the end of the 3rd quarter." In conference call with analysts, Toys "R" Us CEO-Chmn. John Eyster said that by year-end company would complete transition to MP format in its top 20 markets. He said 165 stores that were transformed into MP format last year outperformed rest of company's outlets by 7% in last quarter and new format helped increase size of average purchase in those stores. Remodeling to transform Toys "R" Us into MP format is costly, averaging \$250,000-\$300,000 per store, Eyster said, and has been disrupting sales in those stores but he said long-term benefits of change will outweigh losses now. MP, along with expected strong videogame results, start of major new marketing campaign in fall and opening of new flagship store in Times Square in N.Y.C. in "late October" are expected to yield positive results in 4th quarter, Eyster said. He said company was "comfortable with current consensus estimates for the year." Analysts are predicting \$1.10-\$1.30 per-share profit for Toys "R" Us.

New flagship keyboard from Logitech is Cordless Freedom Optical at \$99.95. Model features company's Zero Degree Tilt design that Logitech said keeps key-plane parallel to desk's surface. Design helps to increase comfort by allowing wrists to remain in neutral position while typing, it said. Logitech's fall keyboard line also includes Cordless Freedom iTouch at \$79.95 and Internet Navigator at \$29.95. Company last week also said it signed deal with Web search engine Google. As part of agreement, Logitech's iTouch products now enable instant access to Google Web site. Financial terms of deal weren't announced.

Spatialight expects to have sample quantities of 0.71W liquid crystal-on-silicon (LCoS) microdisplay by 4th quarter and 0.77" version is likely to find its way into rear-projection sets for Asian market in early 2002, company said. Widescreen microdisplay and standard model have resolutions of 1,280x1024 and 1,280x768, respectively, with 350:1 contrast ratio. Hong Kong TV maker Skyworth is said to be among potential customers for 0.77" display given its recent LCoS/HDTV alliance with Varitronix, which is building LCoS panels for Spatialight. Spatialight Engineering & Mfg. Vp Miles Scott declined comment, but said company also had been in discussions with top 5 TV manufacturers in China. Varitronix, which has built 25,000-sq.-ft. clean room for OEM production of microdisplays, eventually will have capacity for 100,000-200,000 displays per month, Scott said. Fuji Photo Optical also is expected to start production this fall of light engines for Spatialight displays, Scott said, and is expected to hit volumes of 10,000 units per month by 2nd half 2002. Also on drawing boards is 0.97" with 1,280x1,024 resolution and 300:1 contrast that has been in development for several years and is likely to target front projectors, he said. "It clearly has a home in the front-projection market if the market consolidates a little bit and figures out where it's going," he said. Separately, Spatialight reported first quarter loss grew to \$4 million from \$1.9 million year ago as revenues sank to \$10,000 from \$16,710. Despite ending quarter with \$21,000 cash and negative working capital of \$610,000, Chmn. Larry Matteson said company "will have no trouble at all raising additional funds necessary to be successful."... **Universal Display**, Organic light emitting diode (OLED) developer, said it had completed \$25 million private placement with institutional investors. New preferred stock is convertible into common at \$12.70. Purchase of \$5 million of preferred was funded Aug. 22.

Microsoft Canada said Xbox videogame console would ship there Nov. 8 at about \$299 — same date and pricing as in U.S. Company said it "anticipates its launch library of 15 to 20 games will contribute significantly to building consumer excitement and driving sales of 1 to 1.5 million units across North America by the end of the holiday season." Commenting on impending rollout, Future Shop COO-Pres. Kevin Layden said: "We expect Xbox to be one of the must-have items for the holiday season based on heavy consumer demand for cutting-edge gaming technology." James Tyo, recently appointed Canadian operations vp for Electronics Boutique, said: "We are overwhelmed by the interest from our consumers who have been eagerly awaiting the launch of Xbox in Canada." Despite doubts of analysts in U.S. about Microsoft's chances for success with system, many retailers have expressed confidence. Salesman at Funcoland store in Staten Island, N.Y., recently told us store had stopped taking orders from consumers 3 months ago and interest among customers was strong for Xbox as well as competing GameCube from Nintendo, slated to ship Nov. 5.

Total U.S. dollars spent online in CE product category increased to \$191.88 million in July from \$176.77 million in June, Forrester Online Retail Index said. Computer hardware soared to \$335.78 million from \$232.26 million, computer software to \$112.76 million from \$101.29 million, music to \$118.32 million from \$107.48 million, toys/videogames to \$162.45 million from \$87.19 million, video to \$109.81 million from \$91.21 million. July index also said overall U.S. spending online increased to \$3.98 billion from June's \$3.20 billion. Number of overall online shoppers increased to 14.72 million from 13.06 million and average spent per consumer to \$270.27 from \$246.62. Index is based on 5,000 responses in first 9 business days of month from online panel developed by Greenfield. July's results were fielded in early Aug., companies said.

Consumer Electronics Personals

Changes at Philips Consumer Electronics: **Mark Buss**, ex-Maytag, joins as chief mktg. officer, replacing **Michael Lang**, who becomes gen. mgr. of newly combined Audio/Video Group; **Andy Mintz**, head of Audio Group, shifts to gen. mgr. of Magnavox AV business... **Francis Yu**, former pres.-managing dir., Quantum's Asia Pacific operations, joins Zoran as vp-worldwide sales... **Douglas Andrea** resigns as Andrea Electronics CEO, but remains chmn., replaced as CEO by Pres.-COO **Christopher Sauvigne**; Chief Technology Officer **Joseph Marash** and CFO **Richard Maue** promoted to exec. vps... **Naresh Sharma**, Tripath Technology, advanced to vp-operations, replaced as vp-engineering by **Korhan Titizer**, ex-C-Cube Microsystems. They become members of new Tripath executive management group... **Raymond Karrenbauer** resigns as Outpost.com chief technology officer to join ING Groep NV in Netherlands; his duties will be split between **Robert Lagerman**, vp-information technology, and **Ken Isaacson**, vp-technical services, until permanent replacement is found.

Philip Schiller, Apple vp-worldwide product mktg., will give keynote speech at Seybold conference Sept. 25 in San Francisco... Changes at Buy.com: CFO **Robert Price** advanced to pres.; **Kevin Baxter**, senior vp-corporate development, appointed to new Office of Pres; **James Roszak** ends role as interim CEO and resumes position as member of board and audit committee... **Anita Frazier**, ex-Sony Pictures Consumer Products, named vp-children's sales, Vivendi Universal Interactive Publishing N. America... **Patrick Hutchins**, ex-Chloride Systems, appointed vp-operations, Cal. Amplifier... **Stanley Scheufler**, ex-Motorola and Nokia, named vp-product management & mktg., Kyocera Wireless... **Robert Willey**, Best Buy's Musicland Group acquisition vp, advanced to vp-allocation & planning... **Russell Simmons**, Def Jam Entertainment pres., elected to Brilliant Digital Entertainment board.

At least one more class action lawsuit was filed against Morgan Stanley Dean Witter & Co. (MS) and its Internet analyst, Mary Meeker, by disgruntled Amazon.com investors. Sued by law firm Stull, Stull & Brody in U.S. Dist. Court, N.Y.C., joined similar one recently filed by Schifffrin & Barroway, law firm based in Bala-Cynwyd, Pa. (TVD Aug 6 p20). Latest suit was on behalf of buyers of Amazon common stock July 30, 1998-May 14, 2001. Complaint, like earlier one, alleged defendants "violated the federal securities laws by issuing materially false and misleading statements" designed to encourage purchase of Amazon stock "based not on objective analyses, but rather on defendants' desire to attract and retain Amazon's investment banking business." Also like earlier suit, latest one charged that Meeker was "improperly influenced by her desire to increase her undisclosed personal compensation, which depended in large part upon the amount of investment banking business she generated for defendants" and she "knowingly issued inflated ratings... benefitting herself and Morgan Stanley." After first suit was filed, along with another one on behalf of disgruntled eBay investors, MS disputed charges, saying: "From the media reports, we believe that the claims against Morgan Stanley and Mary Meeker are without merit, and that both cases should and will be dismissed." MS spokesman told us he was "not familiar with" Stull suit and said "we have not issued any new statements regarding Amazon.com-related lawsuits."