



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

SHVIA SPEECH DEBATED before skeptical appeals court. 'Carry-one, carry-all' and nondiscriminatory pricing appeals debated. First Amendment issues highlighted. (P. 1)

NABOB STATIONS urged to fight for threatened civil liberties. Hollings seeks minority ownership opportunities. (P. 3)

NEW RADIO 'VOCABULARY' debated at NABOB. Stations said to push envelope in bid for audience, with no consensus on what to do. (P. 4)

NO RELOCATION FOR MMDS in FCC order on mobile services. Flexibility for mobile allowed. Satellite bid rejected. (P. 5)

NCTA AGREES ON PRIVACY curbs for cable Internet services. Bill is backed. Subpoenas still needed. Public interest group concerned. (P. 5)

CABLE SHOW CANCELED: East Coast show latest casualty of Sept. 11. Other events also cancelled or delayed. (P. 6)

XM KICKS OFF satellite radio service, targets 4 million subscribers in 3 years. Opposition called 'old arguments.' (P. 6)

SHVIA SPEECH RIGHTS DEBATED BY COURT: Key question in appeal of Satellite Home Viewer Improvement Act (SHVIA) "carry-one, carry-all" provision is First Amendment, not whether DBS operators have enough transponder capacity to carry all broadcast stations, judges and lawyers agreed in oral argument at 4th U.S. Appeals Court in Richmond, Va., Sept. 25. However, both DBS operators and govt. said they expected to win based on First Amendment arguments. Two related cases deal with SHVIA requirement that if DBS operator decides to carry one station in TV market it must carry all in order to qualify for compulsory copyright license, and with FCC rules that require same pricing for carriage of all broadcast stations.

"Even if satellite capacity were unlimited, I win on First Amendment grounds," DBS attorney Charles Cooper told judges. He argued that "carry-one, carry-all" clearly is content regulation because Congress's goal was to require DBS operators to carry less popular independent TV stations in addition to big network affiliates: "This compels the carriage of unpopular speech. That is content regulation." U.S. Dist. Judge Gerald Lee, Alexandria, ruled in June that SHVIA didn't violate rights of DirecTV and EchoStar (TVD June 25 p4).

Judges' questions appeared to indicate they weren't immediately convinced. Judge Paul Niemeyer asked whether "carry-one, carry-all" wasn't implemented in order to protect "the airwaves" rather than particular speech. Judge Blane Michael questioned whether DBS operators had any "baseline" right to that type of speech since they needed license before they could speak at all: "Don't you have to comply with the conditions in the order to get the right to speak?"

DBS operators aren't compelled to carry all stations in market, they just must carry them if they want to take advantage of new statute that gives them royalty-free copyright, said Mark Stern, Justice Dept. lawyer who represented govt. in

Consumer Electronics

TV GLASS MAKERS SLOW PRODUCTION again in effort to stem oversupply; weigh Dec. plant shutdowns. (P. 8)

DVD SELLTHROUGH TO DOUBLE to 13 million this year, NPD Intellect said. U.S. installed base would approach 24 million as prices plunge. (P. 9)

XM TUNER SUPPLY TIGHT at Dallas and San Diego launch for satellite radio. Dealers critical of profit margin for Sony product. (P. 10)

UMG PLANS CD COPY PREVENTION for music titles starting this quarter, but won't identify system it's using. (P. 11)

AUDIOVOX ADDS DVD PLAYERS for home market to ship in Jan. at \$99-\$200, readies handheld PCs. (P. 12)

ZENITH AND NXTWAVE TEAM UP to combine DTV technologies for E-VSB standard that's expected to be selected by spring. (P. 12)

NINTENDO STILL ON TARGET to ship 700,000 consoles for N. American GameCube rollout but can't take advantage of Xbox shortfall to ship even more. (P. 13)

case. "This is not a mandate," he told judges. "It doesn't require the DBS operators to do anything. They can do everything they did before. It only sets conditions on them if they want to take advantage of the royalty-free copyright. This is not a content-based restriction on speech."

U.S. Supreme Court has ruled in past that rules attached to a new govt.-granted right can't in themselves be unconstitutional, Cooper said. However, Stern said trade-off was appropriate because DBS operators were given something they wanted — compulsory license for broadcast signals — in exchange for carrying all local TV stations equally: "The fact that Congress didn't give them everything they want doesn't make it content-based. Their argument falls down on so many levels that it's hard to keep track of them all."

"Critical point" is that copyright license is "optional benefit," said Donald Verrilli, who represented NAB: "This is not a restriction or burden or penalty." He argued that Congress certainly had right to impose appropriate conditions in return for such benefit, as long as they weren't content-based. Verrilli compared carriage condition to Presidential campaign funding, which gives candidates option of receiving campaign funding from U.S. Treasury in return for giving up right to "speak" by spending own money on campaign.

Congress appeared to be "bundling" free copyright license with "carry-one, carry-all" requirement, Judge Niemeyer said. Judge Michael questioned whether eliminating that provision wouldn't negate entire package, which includes free copyright license: "Didn't Congress intend it to be a unified scheme?" Cooper said there was "quite strong" evidence that Congress would have approved free copyright even without "carry-one, carry-all." He noted that free copyright had been in place for 2 years before carriage provision, which isn't scheduled to take effect until Jan. 1, 2002, and "Congress was fine with that." However, Michael suggested that 2-year license was based on assumption that carriage requirement would take effect.

Parties repeatedly cited Turner Bcstg. case, in which Supreme Court upheld govt.-imposed must-carry requirement on cable. Both sides said Supreme Court decision boosted their case. "I embrace Turner," Cooper said: "With Turner, I can't lose." He said Turner decision depended on finding that cable had "bottleneck" control over cable subscribers, with more than 60% penetration, as well as vertical integration, in which cable system owners also owned programming networks that would compete with broadcast programming. As result, Cooper said, cable was "serious threat" to economic viability of broadcasters, justifying govt. decision. But, he said, "this case is plain" because DBS, with only 15% penetration and no vertical integration, doesn't provide same threat.

Even though DBS doesn't have same penetration as cable, cable "subscribers are in the same position with you as they would be with cable companies," Judge Emory Widener said in reference to DBS's "bottleneck" role: "There is no difference at all. It seems that the only question is whether the detriment is so much greater for you than for cable companies that it would be unfair." Cooper acknowledged that DBS was "gatekeeper" for its subscribers, but said "we have our own First Amendment rights." In order to justify limiting those rights, he said, govt. must show significant evidence of market disruption, but "there is none."

Verrilli said cable must-carry was subject to higher scrutiny because it was mandate, rather than option cable operators could take advantage of in return for separate benefit. Since "carry-one, carry-all" is option, he said, it should be subject to less intense scrutiny for its impact on speech. Stern said fact that Supreme Court found must-carry to be not content-based, even though it was mandate rather than option, indicated that it certainly wouldn't consider optional "carry-one, carry-all" to be content-based.

In response to question from Judge Niemeyer whether goal wasn't to preserve over-air broadcasting, Cooper said SHVIA's real goal was to protect "less popular" TV stations: "That clearly is content-based." In order to justify such content protections, he said, govt. must clearly prove harm, and there's "no evidence" of that. In response to question, Cooper said he "couldn't and wouldn't" argue that DBS operators ought to be able to choose among individual programs, as well as individual stations, because each program carried its own copyright while station's overall broadcast didn't.

On separate issue of a la carte pricing for broadcast stations, Judge Niemeyer repeatedly asked "what's wrong" with a la carte pricing, as long as it's done on nondiscriminatory basis: "People who want the less popular stations will still be able to get them." He suggested that requiring all consumers to take all stations as part of package "takes the decision away from the consumers." However, NAB lawyer said Congress wanted all stations to be part of package, rather than station-by-station decisions.

It was "eminently reasonable" for FCC to allow a la carte pricing for individual stations since there wasn't mandate that all stations be carried, FCC attorney Louis Peraertz said. Judge Michael suggested that might reduce some stations'

audiences, but Peraertz said that would be "pursuant to subscriber choice." Judge Niemeyer said a la carte pricing would be "one additional disincentive to consumers to access fringe stations. The question is whether that is reasonable."

STATIONS HAVE ROLE IN CIVIL LIBERTIES FIGHT: Black-owned broadcast stations were urged Sept. 28 to use their First Amendment rights and "open your airwaves" to oppose erosion of Americans' civil liberty rights that are being threatened by expected govt. actions brought on by terrorist attacks. Proposal was made by Ron Walters, prof. of African-American studies at U. of Md., at National Assn. of Black Owned Bcstrs. (NABOB) conference in Washington. Station executives in attendance had no immediate response.

In Washington Update session, panelist Paula Ford, senior Democratic counsel to Senate Commerce Committee, said main broadcast focus of Chmn. Hollings (D-S.C.) was "to assure small owners have access" to station ownership. "That is a huge concern for Senator Hollings," she said, citing his opposition to repeal or relaxation of 35% TV station ownership cap. Ford also said chmn. was looking at ways to close "loopholes" in newspaper-broadcast ownership rules. "That's an issue that's out there," she said of proposal to reinstate tax certificates for licensees who sold to minorities, but said no legislation was pending and it was highly unlikely anything would happen on certificates this year.

EEO and facilitating minority ownership of stations is a top priority of NTIA Dir. Kathleen Victory, aide Maureen Lewis said. NTIA, Lewis said, is seeking ways to foster public-private partnerships in telecom. Discussing prospects of controversial Tauzin-Dingell bill pending in House (that's backed by BOCs and opposed by AT&T), AT&T Washington Vp Broderick Johnson said: "Perhaps in the next session [of Congress] we'll see that kind of legislation."

Because of terrorist attacks, "every issue that we were pursuing before Sept. 11 has now been turned on top of its head," said Wade Henderson, exec. dir. of Leadership Conference on Civil Rights. He cited tax certificates and campaign finance reform as examples of communications issues Conference has been advocating. FCC Mass Media Bureau Chief Roy Stewart said he met individually with each commissioner at least every other week and recurring question, whatever the issue, was "why is that rule there." Commission's senior staff now is trained to be much more "proactive" and to anticipate issues rather than simply reacting as they arise, he said. FCC procedures today are "much more flexible" to benefit licensees, he said.

D.C. Congressional Delegate Norton (D) praised NABOB leadership for not canceling sparsely attended conference in reaction to terrorist attacks. "You do not go off the air when there is an emergency," she said. "People want to know how to get back to normal" and TV and radio stations are doing great job in helping.

When U.S. Supreme Court hears arguments Oct. 2 on pole attachments, justices are expected to wade into debate over open access. One hour of oral argument will pit FCC and NCTA against Gulf Power, defendant representing various utilities that filed suit around country. Question is whether Commission has authority to regulate rates utilities can charge cable companies to attach their lines to utility poles to deliver cable-based and wireless Internet service. Lower courts have ruled Commission has no authority, and Supreme Court will look at ruling by 11th U.S. Appeals Court, Atlanta, which held Commission's regulations didn't apply to Internet service. NCTA and FCC contend that same rates should apply to Internet as to video and it doesn't matter what service is provided. Utilities say FCC regulations weren't intended to protect cable companies' ability to provide advanced services such as Internet that offer increased profits.

FCC opened filing window for TV and radio station license settlements involving channels freed up after U.S. Appeals Court, D.C., invalidated Commission order subjecting noncommercial broadcast licenses to auctions (TVD July 9 p6). Opening window for settlements of mutually exclusive applications will provide opportunity for quicker start of new broadcast service, FCC said. Agency directed Mass Media Bureau to waive ban on payments exceeding reasonable and prudent expenses in order to facilitate process. FCC listed 31 groups of mutually exclusive applications that are subject to window, which closes Nov. 30.

FCC doesn't appear close to reaching decision on Northpoint-DBS issue despite intense lobbying by lawmakers and industry. Chmn. Powell promised decision in fall, but it's still unclear whether Commission will meet that deadline. Currently, one Commission seat is vacant and several other items are getting priority, staffers and sources at agency said: "We've been given some briefing on options, but we haven't been given a draft on any recommendations," FCC source said: "We've been trying to sort through technical information. The staff hasn't been given direction on the bottom line." Source said there were "other things at the front of the line," but Northpoint issue was "very important" so Commission wanted to take its time.

Working with first lady Laura Bush, Disney Channel began on-air campaign to help children cope with their emotions after terrorist attacks. Campaign focuses on themes recommended by Disney Channel childhood development and media experts, including communication and optimism. First 3 spots feature Laura Bush speaking to viewers about her own thoughts and feelings in aftermath of attacks. Future spots will feature Hollywood celebrities sharing their feelings. Disney said campaign wouldn't focus on explicit details but instead would "seek out the goodness that still exists in the world."

Advanced TV Systems Committee postponed its seminar on PSIP, data broadcasting, closed captioning, DASE. Seminar, originally Oct. 23-24 at Millennium Hotel, St. Louis, now will be Feb. 20-21, same place, panel said. Terrorist attacks were cited.

NEW VOCABULARY' ON URBAN RADIO: Using phrase "push the envelope" several times, panelists at Sept. 27 session on language now being widely used on urban radio stations were unanimous at conference of National Assn. of Black Owned Broadcasters (NABOB) in declaring that harsh language had become staple on-air fare. Radio has "a new vocabulary," said Vinny Brown, program dir. of WBLS(FM)-WLIB(AM) N.Y. "Our society has changed, and radio has changed as a result of that," said Darryl Huckaby of Radio One. Ron DeCastro of WDAS(FM) Philadelphia said what's heard on radio was same language that's heard every day on nation's schoolyards and playgrounds.

While not single word or expression panelists were talking about was uttered in 90-min. session, many in audience expressed discomfort with direction talk and hard rock radio programming was headed — most particularly NABOB Pres. James Winston. "I think NABOB needs to be heard" on issue of shock radio, he said. "We need to do something about it," was another opinion expressed from audience. None of panelists or audience members raised any concern about regulatory oversight of issue or what FCC might do in future — although Howard Stern's Infinity-produced program, among others, has been fined many times.

Moderator Tony Gray of Gray Communications said when station added "shock value" show, its ratings "all of a sudden" would jump upward. And, he said, "we have a tendency in our business of attempting to copy success." Huckaby said when competing station started airing shock jocks and its ratings grew, "you can't ignore it."

Brown said program hosts such as Stern "have really made a difference... Do I apologize for it? I don't know." As for Stern (which isn't aired on WBLS or WLIB), Brown said "what he says is not a firing offense." Listeners, he said, "want street-talking people on the air." Added DeCastro: "We're talking about making a buck" and as result stations are "trying to find cutting-edge personalities."

Winston told us after session that part of problem was that as result of industry consolidation, "more and more stations targeted to African-Americans aren't owned by African-Americans... As that trend continues, we're very concerned to see programming standards degenerate the way they have in New York." Asked how NABOB could influence situation, he said it should "speak out in every government forum that we can where these things are dealt with." Asked whether NABOB was likely to make statement on issue, Winston said: "That's a possibility."

In earlier session on subject of national advertisers' refusing to buy time on ethnic programmed stations, panelists agreed situation was better than in recent past. "Research is a critical, critical tool" in overcoming advertisers' resistance to ethnic radio, said Andrea Carpenter of Radio One: "Getting peoples' attention is three-fourths of the battle." Jeffrey Meyers of Personal Selling Principles said black radio salespeople "need to stop reacting" in order to change advertisers: "We've got to educate [advertisers] all the way up the line."

Infamous memo couple of years ago from Katz Radio executive suggesting that rep firm's clients not buy time on ethnic radio was discussed. Speaking from audience, Brian Knox, vp of Katz Dimensions, said: "There's been a lot of change, both

internally and externally, as a result of the memo... It was blasphemy that [it] occurred." Knox said he was hired by Katz because of memo and that since it became public everybody at Katz had gone through diversity training. He said some good resulted by focusing more attention on problems of black-owned stations.

Attendance at NABOB convention in Washington was down more than 50% from year ago at same site, most of it attributed to Sept. 11 terrorist attacks in Washington and N.Y., Winston said. Some of drop also probably was result of economy in general, he said.

All 347 PBS member stations in country will be equipped soon with new encoder that automatically will set clock on viewers' VCRs and TVs in program funded by CEA. Assn. is providing more than \$633,000 to replace outdated equipment in PTV stations, said John Tollefson, PBS vp-engineering and technical services. Device will insert time signal for broadcast on PBS stations, which in turn will be used by all NTSC VCRs and some TV receivers to set internal clock automatically. Tollefson said encoders also would pass other signals in vertical blanking interval (VBI), including program content rating and multiple language closed captions. If clock isn't set correctly, VCRs can't be preprogrammed to record programs when viewer isn't at home. Saying present arrangement in PBS stations is unsatisfactory, Tollefson said not all member stations had insertion equipment. Insertion equipment now used removes other signals such as program content ratings and multiple language closed captions. He said new equipment would provide near-universal coverage of time signal to public, while still allowing stations to broadcast program content rating and other VBI information. Many commercial stations have similar equipment, he said, but most don't insert time signal, instead using it to insert other signals in VBI. PBS expects devices to be delivered, installed and in operation by end of year. CEA spokeswoman declined to provide details of deal with PBS until final agreement is released this week. Automatic clock setting function of new equipment essentially is signal sent out by Extended Data Services (XDS) encoder, she said, and it's part of closed-caption system. Current automatic clock set inserters write time-setting data on top of all other data, overriding data required for new services, she said. CEA had been working to remedy that through hardware (encoder) upgrades, she said.

House Commerce Committee Chmn. Tauzin (R-La.) was joined by 9 members from both houses in challenging connection between location of broadcast station owners and broadcasters' commitment to preserving localism. In letter Sept. 19, they pressed FCC to lift national broadcast ownership cap. Group of predominantly Republican lawmakers disputed claims by those who wanted to maintain 35% cap that localism would be harmed if cap were raised: "As the Commission undertakes careful, thoughtful review of the broadcast ownership rules — the national ownership cap specifically — we would stress that marketplace realities do not support the localism argument for retaining the national ownership cap. Quite the contrary, there appears to be no strong nexus between the location of an owner of a broadcast station and the commitment of that station to serving the needs of its local community." Tauzin was joined by House Commerce Committee Republicans Ehrlich (Md.), Norwood (Ga.), Stearns (Fla.). Reps. Breaux (La.) and Fossella (N.Y.) were Democratic signers. Senators signing letter were Commerce Committee ranking Republican McCain (Ariz.) and Sens. Ensign (Nev.), Allen (Va.), Bunning (Ky.)

NO RELOCATION FOR MMDS: FCC released long-awaited order that added mobile allocation to 2500-2690 MHz band and spared MMDS and Instructional TV Fixed Service (ITFS) licensees from relocation threat posed by 3G. Item was voted on Sept. 6 before departure of Comr. Gloria Tristani, but text wasn't released until Sept. 24. Order added mobile allocation "to provide additional near-term and long-term flexibility for use of this spectrum, thereby making this band potentially available for advanced mobile and fixed terrestrial wireless services," FCC said. Chmn. Powell and Comrs. Abernathy and Martin voted for item, with Tristani and Comr. Copps dissenting on mobile flexibility language. Order acknowledged technical difficulties of sharing between fixed and mobile services, but said upcoming service rules would address interference issues. In joint statement, Tristani and Copps raised strong objections to extent that addition of mobile allocation to band could pose harm to incumbent MMDS and ITFS users. "It is a rush to judgment that is not supported by evidence in this record," they wrote.

Order also turned down petition for reconsideration filed by Satellite Industry Assn. (SIA) asking that agency reconsider its decision not to allocate 2500-2690 and 2670-2690 MHz for mobile satellite service (MSS) use for 3G. It said reallocating band to MSS was "unwarranted because sharing between terrestrial and satellite systems would present substantial technical challenges in that band and MSS already has access to a significant amount of spectrum below 3 GHz to meet its needs in the foreseeable future."

In partial dissent, Copps and Tristani said record didn't support flexible allocation in 2.5 GHz based on "rigorous analysis" required by Communications Act. Copps said costs of undermining services delivered by ITFS licensees "would be high." They said no educational users of 2.5 GHz had expressed support for adding mobile allocation. "Absent evidence that mobility will assist educational users, we risk the unintentional consequence of undermining the mission of the ITFS."

Abernathy defended majority's decision: "I do not believe that government is better positioned than these licensees to assess what is in their interest or how best to deliver their services." She expressed regret that it took FCC nearly 6 months to come to decision after it released 3G report that concluded MMDS relocation for 3G would be extremely difficult. Statutory requirements compel FCC to reach such decision based on public interest, "not solely the 'incumbents' interests," she said. Had FCC followed that line of reasoning 5 years ago, decision might not have been made to allow one-way analog video services to upgrade to 2-way offerings in those bands, she said. "Our interests must be broader than those of any one set of licensees; our interests must encompass the totality of the public interest."

FCC said that in service rules for 746-764 MHz and 776-794 MHz, agency struck balance with rules that would allow licensees flexibility to provide either fixed or mobile services and certain broadcast-type services on noninterference basis.

Wireless Communications Assn. (WCA) praised order, with Pres. Andrew Kreig saying that "until now, MDS broadband wireless licensees and their ITFS educational partners have seen their deployment plans stalled by a disagreement that is essentially between licensees in other bands."

NCTA AGREES ON PRIVACY CURBS: NCTA said it agreed with proposed legislation that would give law enforcement agencies access to personal records of subscribers and exempt cable companies from notifying those customers, as long as agencies produced search warrant. Spokesman said cable companies had been torn over apparent contradictions between 1984 Cable Act and 1986 Electronic Communications Privacy Act (ECPA). Issue came to fore in recent days following Sept. 11 terrorist attacks, as Attorney Gen. John Ashcroft called for new legislation that would curtail some privacy rights in effort to aid FBI and other law enforcement agencies in pursuit of criminals, particularly terrorists.

Proposed Antiterrorism Act of 2001 would amend Cable Act to clarify that when cable company acts as Internet service provider (ISP) it must comply with same laws on interception and disclosure of wire and electronic communications as apply to telephone companies and ISPs. Cable Act didn't "take into account the changes in technology that have occurred over the last 17 years," accompanying draft analysis says. Amended Cable Act would entitle law enforcement to access virtually all consumer records except those revealing cable viewing habits. Under current Cable Act, companies must disclose customers' personal information to law enforcement agencies producing search warrant but also must notify those subscribers of that action immediately, giving them right to contest move in court. Amended Act would require cable companies to withhold notification to customers for 90 days. No disclosure to subscribers is required under ECPA. Violations of Cable Act can carry punitive damages and other penalties, and companies want protection from liability, NCTA spokesman said.

Privacy advocates said proposal would allow cable companies to use personal information unscrupulously for commercial purposes. Jeff Chester of Center for Digital Democracy said that while he would welcome govt. intervention to equalize cable industry with phone companies in terms of open access requirements, he believed cable was endorsing Ashcroft's proposal for "less than patriotic reasons." He said allowing cable to disclose personal details "sets the stage for all kinds of commercial eavesdropping, which we will have a hard time turning back."

NCTA responded angrily to Chester's assertion, calling his statements "cynicism at its worst." Assn. stressed that its members wouldn't arbitrarily hand over information to authorities, but were willing to do so if law enforcement agencies produced criminal search warrants approved by judge. Cable companies would relinquish personal information about customer, as well as Internet surfing habits, but not cable TV viewing habits, NCTA said. Ashcroft's legislation simply would rectify conflicting requirements for cable companies set forth in Cable Act and ECPA, NCTA said. "There is nothing in here that takes away any commercial protections," spokesman said.

ASCAP signed long-term agreement with Viacom on fees for music performing rights on all of Viacom's cable networks, resolving all problems on issues. Terms weren't disclosed. Among networks affected are BET, CMT, MTV, MTV2, Nickelodeon, Nick at Nite, Showtime, Sundance Channel, TNN, TV Land, VH1. ASCAP and cable networks have been involved since 1989 in court proceeding to set license fees. Late last year, ASCAP reached agreement with Turner Bcstg. Court proceeding continues for remaining cable networks.

EAST COAST CABLE SHOW CANCELED: Organizers canceled East Coast Cable Show 2001, citing fear and uncertainty resulting from terrorist attacks on U.S. East Coast Show joins long list of telecom events scrapped recently, including National Assn. of Minorities in Cable (NAMIC) Diversity Week in N.Y., which had just started when planes crashed into World Trade Center Sept. 11. RTNDA canceled its convention in Tenn., and Mid-America Cable Telecom Assn. dropped its 44th annual convention in Kansas City, Mo. Washington Metropolitan Cable Club called off its luncheon, which was to take place same day, saying it wouldn't be "appropriate." Karen Alexander of N.J. Cable Telecom Assn. said directors of East Coast Show, originally scheduled for Oct. 23-25 in Baltimore, were concerned that so many attendees were from N.Y., Pa., and D.C. — areas targeted by attacks.

So far, Western Show still is scheduled for Nov. 27-30, although registration already was down before attacks because of softening economy. Cable & Telecom Assn. for Marketing (CTAM) said it would proceed with its Broadband Opportunity Conference Nov. 6-8 in Tysons Corner, Va. "We need to meet," CTAM said, because broadband will play significant role in nation's future.

Directors of East Coast Show said economy wasn't factor in decision. They said they had improved marketing for event, adding online registration, and expected increase in attendance over last year, when it attracted 173 exhibitors and about 2,000 attendees. It said 123 exhibitors and 1,000 attendees had signed up for 2001. It said most attendees typically signed up at last min. and noted that there were 5 weeks to go before show. Many attendees were coming from East Coast locations and could have reached show by train or single day's drive. However, some exhibitors from outside region would have to fly and were reluctant to do so after hijackings, spokeswoman said. "We had to consider that there will be some continuation of the drama, whether or not it's through some attack that we initiate from the United States, so we're just very cognizant this is a sensitive time."

Organizers announced 2002 show would be in Baltimore Oct. 1-3 and would be called New Eastern Cable Show, combining East Coast Cable Show and Eastern Show.

Members of copyright community will urge House lawmakers today (Oct. 1) to kill HR-2724, Music Online Competition Act (MOCA), saying it would hurt Internet marketplace. In letter released Sept. 28, 15 groups said they "strongly oppose" bill floated in Aug. by Reps. Cannon (R-Utah) and Boucher (D-Va.). Groups are American Assn. of Ad Agencies, Assn. of American Publishers, Copyright Assembly, Interactive Digital Software Assn., Minor League Baseball, MPAA, National Baseball Assn., National Collegiate Athletic Assn., National Football League, National Hockey League, Office of Commissioner of Baseball, Professional Golfers' Assn. of America, Professional Photographers of America, RIAA, Writers Guild of America, West. "America's creative industries are investing huge resources in order to embrace e-commerce and the opportunities it presents," Copyright Assembly members said. "The market is working but HR-2724 threatens to stifle America's copyright industries by substituting government regulation on the Internet for business models and contractual arrangements that promote flexibility, experimentation and adaption to consumer demand."

XM BEGINS SERVICE: XM kicked off first digital satellite radio service in U.S. Sept. 25 with celebration that was scaled down following Sept. 11 attacks, CEO Hugh Panero said. Instead, XM employees donated \$10,000 to firefighters in N.Y. and Red Cross in D.C. Company showed off satellite system with live interviews with on-air personalities, demonstrations and testimonials from first subscribers of programming called "Power To X" in Dallas and San Diego. Panero reiterated company would have 100,000 radio receivers available for sale at 6,000 retailers.

Panero, who remains firm on hitting target of 4 million subscribers by 2004, admitted company faced challenges from terrestrial rivals and consumers, who must grow accustomed to paying for service they now receive free: "Local radio is still going to be there. Different mediums will still exist." He said tough economic conditions exacerbated by attacks also were hurdle that had to be overcome: "It was a good idea before Sept. 11 and we believe it's a good idea today. Consumer confidence is going to have to get better."

Panero said he remained confident XM would continue to be able to raise money: "Investor markets will eventually come back, and if they don't we are confident our strategic investors will step up." He said opposition to use of terrestrial repeaters by NAB and terrestrial stations "were old arguments" that were made in 1997 when Commission issued first order.

Out of concern for victims of tragedy, Panero said company pulled ads that depicted things falling out of sky. In one, rapper Snoop Doggy Dog falls out of skyscraper before repeating funny line about radio to conservative looking passerby. He also said XM was at 70%-80% capacity in 2 lead markets following delay in delivery of equipment because of ban on air travel.

Broadband deployment is proceeding at rapid pace and cable companies are playing "leading role" in making that happen, NCTA told FCC. Comments came in response to Commission's 3rd annual inquiry into whether advanced telecom services — broadband for voice, data, graphics and video — were being deployed to all of public in timely fashion. NCTA cited recent Morgan Stanley Dean Witter report that estimated broadband service was available to 66.1 million homes, 64% of all U.S. homes today, compared with 34% 18 months ago. Report estimated broadband would be deployed to 90% of homes by end of 2002. NCTA filing recognized that actual cable modem subscribership was relatively low, 5.5 million (5.3%) of households at middle of this year, but said it expected substantial growth in coming years. Not surprisingly, NCTA said no regulatory action was necessary to spur further deployment. In contrast, Hughes Networks Systems told FCC that wireline and wireless service providers had "disappointingly fallen short in providing the services so urgently needed" by rural and other underserved areas, and urged Commission to ensure deployment by making "adequate spectrum" available for satellite-based systems to meet unmet needs.

FCC rules requiring cable systems to carry digital-only local TV broadcast stations and provide retransmission consent covering digital signals became effective with publication in *Federal Register* Sept. 25. New rules include provisions on carriage obligations for new digital-only stations and stations that return to analog; retransmission consent agreements for digital signals; cable channel capacity calculations; channel positioning; determination of what is "good quality signal."

Personals

Robb Dalton, ex-CBS, appointed Twentieth TV pres.-programming & production... **Wayne Pederson**, exec. vp, Northwestern Radio, named pres., National Religious Bcstrs., replacing **Brandt Gustavson**, who died in May, effective part-time Oct. 1, fulltime Jan. 1; succeeded as NRB chmn. by First Vice Chmn. **Glenn Plummer**... **Robert Callahan**, ex-ABC, named chmn.-CEO, Ziff Davis Media... **Jeff Brooks**, ex-vp, business development, Mondo Media, appointed vp-basic cable distribution, MGM Worldwide TV Distribution... **Saundra Thomas** promoted to WABC-TV N.Y. dir.-community affairs... **Rich Lewis** advanced to Clear Channel Communications regional vp for Philadelphia trading area; **Drew Hilles** named vp-sales for same area.

Former White House staffer **Susan Brophy** named AOL Time Warner senior vp-domestic policy... Ex-FCC Comr. **Susan Ness** appointed visiting prof. of communications, U. of Pa.'s Annenberg School for Communication and dir. of Information Society section of Annenberg Public Policy Center in Washington.

Jerry Kent resigns as Charter CEO after telling company he didn't plan to extend employment contract... Changes at Crown Media: **Margaret Loesch**, founding CEO, will step down at end of her contract next month and **Lana Corbi**, currently COO, will move up to CEO... Changes at Cablevision: **Thomas Dolan**, senior vp and chief information officer, named exec. vp; **David Pistacchio**, vp-business systems development, promoted to senior vp... **Enrique Martinez** advanced to exec. vp-managing dir., Discovery Latin America/Iberia... **Gary Cassard**, gen. mgr., Cox's Gainesville, Fla., system, moves to vp-system operations for Middle America, Cox's La. region... **Joel Chiodi** advanced to Game Show Network dir.-promotion... **Kent Libbey**, ex-Excite@Home, named iVast vp-mktg.

NextWave and **Zenith** formalized their partnership to develop next-generation DTV technology, as expected (TVD July 2 p8). They said they merged their technologies into "best-of-the-best" system that included NextWave error correction systems with Zenith dataframe mapping and packing technologies. Result, they said, is multirate modulation method that's backward compatible with legacy DTV sets. Technology includes modifications in DTV signal, including extra level of error encoding, Zenith Senior Vp-Technology **Richard Lewis** said. Companies said industry testing already had shown new signal was backward compatible with existing DTVs, and they didn't believe any FCC approval would be needed for signal change. Comprehensive industry testing using prototype equipment is expected to start later in fall. New error encoding allows dynamic allocation of portion of DTV signal's 19.4 Mbps data stream to such things as making main HDTV signal more robust or creating 2nd, more robust standard definition signal that could be used for mobile reception, **Lewis** told us. Portion of data stream also could be used for other services, such as new audio services, he said. He acknowledged that diverting portion of data stream from main HDTV signal could mean bigger workload for encoder or lower quality HDTV signal in some cases.

Cable operator in Israel, Tevel Ltd., said it would use OpenTV EN2 middleware platform to start iTV service for its 430,000 subscribers. Services will include electronic program guide (EPG), weather information, videogames.



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Boeing 702 satellites are experiencing power degradation faster than expected and problem could have long-term impact on 3 companies that have such models in orbit. New concentrated solar cells designed to focus additional sunlight onto solar panels are "losing their optical quality and becoming foggy," Boeing spokesman said. **PanAmSat** and **XM Radio** each uses 2 of affected satellites and **Telesat Canada** has one. Degradation will have no immediate effect on **PanAmSat's** 702 satellites **Galaxy 11** and **PAS-1R** because they were designed with excess power margins, spokesman said. **XM Radio** said it "anticipates the solar array situation will have no material impact on its quality of service, conduct of business or cost of operation, but could result in an earlier-than-expected replacement of its satellites in order to maintain acceptable power levels and service quality."

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Sept. 7 and year to date:

	SEPT. 8- SEPT. 14	2000 WEEK	% CHANGE	SEPT. 1- SEPT. 7	37 WEEKS 2001	37 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	515,853	595,026	- 13.3	310,337	16,981,206	19,416,016	- 12.5
DIRECT-VIEW**	497,910	570,980	- 12.8	299,363	16,378,065	18,627,324	- 12.1
TV ONLY#....	401,786	459,692	- 12.6	250,971	13,452,607	15,413,853	- 12.7
TV/VCR COMBO.	96,124	111,288	- 13.6	48,392	2,925,458	3,213,471	- 9.0
PROJECTION TV	17,943	24,046	- 25.4	10,974	603,141	788,692	- 23.5
TOTAL VCR**...	314,053	410,400	- 23.5	180,489	12,885,171	17,607,858	- 26.8
HOME DECKS...	217,929	299,112	- 27.1	132,097	9,959,713	14,394,387	- 30.8
CAMCORDERS.....	60,026	70,440	- 14.8	66,403	3,405,125	3,682,827	- 7.5
DVD PLAYERS....	175,920*	149,675	+ 17.5	103,111	6,489,163*	4,251,611	+ 52.6

Direct-view TV 5-week moving average#: 2001--362,797; 2000-456,723 (down 20.6%).

Projection TV 5-week moving average: 2001-16,787; 2000-21,518 (down 22.1%).

VCR deck 5-week moving average: 2001--87,422; 2000-97,902 (down 10.7%).

TV/VCR 5-week moving average: 2001--87,422; 2000-97,902 (up 10.7%).

Camcorder 5-week moving average: 2001--71,417; 2000-104,005 (down 31.3%).

DVD player 5-week moving average: 2001--184,561*; 2000-161,327 (up 14.4%).

* Record for date. ** 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; camcorder data includes analog and digital models.

TV GLASS MAKERS AND COMPONENT SUPPLIERS SLOW PRODUCTION: TV sales, already slowed by downturn in economy, are likely to continue sluggish pace for rest of year, forcing component suppliers to put brakes on production.

Corning Asahi, which has been rotating production lines in effort to keep check on TV glass inventory, may shut down State College, Pa., plant in Nov.-Dec., Commercial Dir. Alan Herklotz said. It already had halted production for 3 weeks as part of annual summer shutdown in Aug. Rival Techneglas also is weighing possible shutdown of Columbus, O., plant in Dec. and has closed 2 production lines that manufactured 19-20" TV tubes and 17" PC display funnels for Sony and Toshiba, CEO Timothy Hickey said. Sizes constituted 25% of plant's capacity. Techneglas, which laid off 300 of 1,500 employees earlier this year, will continue to operate 8 panel and 3 funnel lines. It currently produces 25"-38W TV glass and plans to add 40W for Sony in 2002, Hickey said. Parent Nippon Electric Glass is building 40W in sample quantities in Japan.

"We have taken the opportunity to close down and eliminate some capacity that we consider to be less than efficient, and what we're left with should leave us in pretty good shape," Hickey said. "It was really just watching where the market is going. Corning got out of the small sizes years ago, but we continued to produce them because customers had a need for them. Now they don't. We thought we would be able to operate a few more lines than we are right now when the industry is down 12 to 15%."

Joining chorus was TV and PC monitor mask maker BMC Industries, which last week revised 3rd quarter earnings to reflect expected loss of 13-16¢ per share against 10¢ profit year earlier as projected revenues sank to \$75-\$80 million range from \$92 million. Drop in demand forced BMC to shut down production in Cortland, N.Y., (TV masks) and Mullheim, Germany, (PCs) for 3 weeks starting in mid-July (TVD July 30 p11) and cut hourly and salaried jobs in

Cortland and St. Paul. BMC said it would take unspecified charge against 3rd quarter earnings to cover job cuts, with spokesman declining to disclose number.

"These difficult market conditions, particularly with our Buckbee-Mears group [aperture masks], have necessitated quick, aggressive action in adjusting our manufacturing output and related operating costs," BMC Chmn.-CEO Paul Burke said. Company said that while BMC, which also makes optical products including eyeglass lens, continued to forecast 4th quarter profit, "recent events have added uncertainty in the level of demand in the near term for our products."

For Corning and others involved in TV glass business, market continues to suffer from oversupply after coming off year in which there was severe shortage (TVD Sept 18 p12). At that time, worldwide shortage was estimated at 200,000 panels. "There's a lot of unknowns and we don't know when the market is going to get better at this point," Herklotz said. Hickey said tube inventories were "slightly higher" than TV sets, which were running at 4-5 weeks, and market was expected to remain "soft" in 2002 first half.

Adding to uncertainty is recent spate of agreements between tube manufacturers. Thomson and Matsushita unveiled "cooperation" agreement in Sept. and are expected to hash out details in meetings this month. Earlier, LG Electronics and Philips joined forces to create LG.Philips Displays. Latter opened new facility in Sept. in Hranice, Czech Republic, to produce 28" and 32" conventional and widescreen tubes. Annual capacity is forecast to reach 2.5 million units by Jan., when 32" flat-screen tubes are added to mix, company said.

Meanwhile, in further reflection of industrywide belt-tightening, Sony said Fri. restructuring costs for fiscal year ending March 31 would total \$417.8 million, which includes \$173.9 million in additional restructuring of group operations. It lowered forecast for annual group profit to \$86.9 million from \$782.7 million projected in July. Annual sales estimate was cut to \$65.2 billion from \$66.9 billion. At same time, NEC said it would post special loss of \$835.5 million to restructure chip business. It will close line in Kyushu, Japan, that had monthly capacity for 30,000 six-inch wafers in addition to previously planned shutdown of Britain, Cal., factory. Overall, NEC said it would cut wafer-processing capacity 15% for fiscal year ending in March.

While TV manufacturers battle declining prices, 2 TFT LCD manufacturers are planning to raise them. AU Optronics and Chunghwa Picture Tubes will increase some prices starting in Oct., *Digitimes.com* reported: AU Optronics for 13.3" and 14.1" LCDs for notebook PCs 5-10%, 17" panels for PC monitors 5%. Chunghwa plans to increase price for 14.1" notebook panels and 15" monitor displays \$10 both this month and in Nov.

DVD SELL-THROUGH TO DOUBLE THIS YEAR — NPD: DVD could hit 13 million players this year, nearly doubling last year's sellthrough to consumers, NPD Intellect Market Tracking predicted. If forecast is correct, 2001 sellthrough would bring installed base of DVD players to 23.65 million in U.S. since format's 1997 introduction.

Through July, dealers sold 4.3 million DVD players in U.S., said NPD, based in Port Washington, N.Y. Tally compares with 6.7 million sellthrough for all of last year, 3.1 million in 1999 and 697,000 in 1998. For 1997, format had regional rollout with 157,400 sellthrough of 350,000 shipped to dealers. Average selling price that year was \$661 compared with \$192 this July, NPD analyst Thomas Edwards said. Actual household penetration could be higher, as NPD's count includes only standalone players and not those incorporated in systems or other combination products.

"It took 25 years for the VCR to become ubiquitous in the American home. By current projections, it should take the DVD no more than 10-12 years," Edwards said. He attributed main drivers of sales surge to reduction in average selling price and improved picture quality over VCRs. Other factors for format's growing popularity include digital surround sound, durability of discs, fast search and added-value content on discs, Edwards said.

Demand for DVD player has produced ripple effect among home theater categories because with purchase of DVD player, many consumers are upgrading their TVs and sound systems, Edwards said. "Despite the tentative economic consumer outlook, soaring sales of DVD players have not yet hit their potential. Recordable DVD is just becoming available. The future will see DVD players with PVRs coming into play to combine the best of all worlds — recording of broadcast, cable or satellite programming, plus the enjoyment of purchased or rented video software," Edwards said. "Just like DVD players, PVRs will eventually decrease in price, giving consumers more choices when it comes to recording and opening up another space in the American living room."

XM SATELLITE LAUNCHED, SUPPLY TIGHT: Rollout of XM Satellite Digital Audio Radio Service (DARS) in Dallas and San Diego last week was hampered by product shortages, and several dealers were sharply critical of profit margins Sony was proposing for receiver shipping this month.

At week's end, Alpine and Pioneer were shipping small quantities of outboard tuner (\$299) that's coupled with XM-ready head unit to receive service. Alpine, which is building tuner in Japan, was limiting dealers to 4 per store in addition to demonstrator model and had delivered "just under" 2,000 to Dallas and San Diego markets, Alpine Brand Mktg. Vp Stephen Witt said. Another 2,000-3,000 units will be available when XM expands to Southwestern and Southeastern U.S. Oct. 12, he said. Alpine has shipped 145,000 XM-ready CD head units since Feb., Witt said. Company offers 5 XM-ready head units at \$350-\$850. Pioneer officials weren't available for comment.

Despite small number of tuners available at start, XM forecast shipments of 100,000 by year-end to more than 6,000 retail stores, CEO Hugh Panero said. Total includes tuners that will be available from GM for Cadillac Seville and Deville starting in Nov. XM said in Dallas and San Diego markets so far had signed up 400 subscribers. XM is forecasting that it will break even on earnings before interest, depreciation and amortization by 2004 with 4 million subscribers.

"The number of units shipped thus far has been abysmal and everyone should have waited until there was more product available," West Coast retailer said. Among chains selling product, Good Guys was said to have enough demonstrator models for 2 of 8 stores in San Diego. And Tweeter Home Entertainment, which operates 11 stores in Dallas and San Diego, said it had sold and installed 2 Alpine tuners in Dallas as of late last week and had preorders for 13 more.

Witt conceded that inventory of XM adapters had been "fairly tight" but said Alpine "did supply all of our dealers in San Diego and Dallas." He cautioned that first shipments were for controlled market rollout and Alpine thus had been "very cautious about the quality of production." Second batch of adapters has been received and is undergoing quality assurance testing before shipping this month. National rollout is set for Nov. XM rival Sirius Satellite has said limited amount of its product will ship in 4th quarter starting around Dec. 1 with total not exceeding 20,000 units.

Although retailers said they were frustrated by number of units in initial deliveries, most hadn't forecast DARS receivers as major factor for holiday selling season. "We're definitely committed to the category, but for me it's a 2002 product," Tweeter Mdsg. Vp Bernard Sapienza said.

Commitment to category hasn't stopped some retailers from being critical of Sony's plan to offer 25-27% profit margins for its DRN-XM01 (\$299 for self-installed model, \$399 for custom bundle) that's designed with docking station that allows it to be used either in car or home. That compares with 35-40% margins more typical of mobile electronics, dealers said. Lower margins stem, in part, from Sony's decision to market XM receiver as part of its General Audio line, which also includes boom boxes and headphone stereos that more typically have margins in 25-27% range.

In light of Sony's proposal, Tweeter won't offer its XM product, Sapienza said. He said retailers needed higher margin because mobile electronics category carried added costs, such as hiring national trainers and sales managers. In contrast to Sony's strategy, Alpine sale includes head unit and adapter that increases total bill to \$700-\$800. XM's 100-channel service carries \$9.99 monthly fee and retailers earn commission from selling it.

"I'm not in this for the sale of the units, I'm in it for the profit," Sapienza said. He estimated Tweeter had sold around 5,000 DARS receivers to date, equally split between XM and Sirius. "They both seem more focused on their competition than on building the market," he said. Sony has positioned product as being "transportable" and "less labor intensive" means for receiving XM service, industry source said. "Anybody that spins it as a mobile electronics product is wrong," industry source said. "It was never positioned as that."

Pioneer line of 3 XM tuners includes FM-modulated model that can work with any existing car radio. GEX-FM903XM has separate display for XM channels and other information, remote control, \$249 price. Other tuner (\$199) is designed to be attached to 14 XM-ready head units as well as P-series models that date back to 1994. Separately, Terk Technologies is marketing roof-mount and glass-mount antennas at \$49 and \$99, respectively.

DARS passage to market has been fraught with delays for service and products. Most recently, XM postponed planned Sept. 12 debut to Sept. 25 as it waited to receive Special Temporary Authority (STA) from FCC to use terrestrial repeaters to supplement satellite service. FCC granted XM and Sirius STAs on Sept. 17. XM has installed more than 1,000 repeaters in major markets, while Sirius has said it has slightly more than 100. STA was needed after wireless industry argued that repeaters at levels proposed by XM and Sirius would cause interference for advanced wireless. FCC did bar XM and Sirius from using terrestrial repeaters for originating local programming.

Meanwhile, Boeing's disclosure that its 702 class satellites used by XM had "potential long-term issue" in solar-array output power won't have "material impact on quality of service, conduct of business or cost of output levels,"

XM said. XM, which uses 2 Boeing 702 satellites at 85° W and 115° W, said current output power of solar arrays was above specification and shouldn't fall below that level before latter half of decade. XM launched birds earlier this year.

Satellites normally would launch with about 16,000 w of power and, after 15 years, degrade to about 15,000 w, Boeing spokesman said. In case of 702s, however, concentrators that reflect sunlight onto solar arrays aren't working as well as expected, meaning satellites will be down to 12,000 w in 15 years, he said. Following disclosure on Sept. 27, XM stock tumbled 19.3% to \$5.

UMG SILENT ON CD COPY-PROTECTION DETAILS: World's largest record company will sell copy-proof CDs this quarter, but Universal Music Group (UMG) won't comment otherwise on its plans.

Beans were spilled last week in ad lib comments by Vivendi Universal Vice Chmn. Edgar Bronfman in tele-conference with analysts following company's earnings report. Reuters reported that Bronfman said technology to prevent CD copying on PCs or blank CDs would begin in Oct. and UMG planned to use it on all CDs toward end of first quarter next year. He wouldn't divulge how copy protection worked or who was providing it, but said protected discs would run in conventional CD players and PC-based CD-ROM drives, Reuters said.

UMG wouldn't elaborate on Bronfman's unscripted comments, but issued statement confirming them. "Universal Music Group has been undergoing extensive exploration and technical evaluation of a variety of technologies designed to prevent the growing problem of CD copying and duplication. We will be implementing copy protection on a number of releases internationally in the 4th quarter."

UMG spokeswoman told us "selected" 4th quarter releases would be copy-protected, and program would be rolled out gradually. She wouldn't identify titles, but UMG is expected to release albums by Sting, Elton John, The Cranberries and others this quarter. Last group's album *Wake Up and Smell the Coffee* hits street in Japan Wed., U.K. Oct. 22 and U.S. Oct. 23. Other popular UMG acts include Eminem, Eric Clapton, Sheryl Crow, Rod Stewart, U2, The Who. Spokeswoman wouldn't say whether copy protection would be used on catalog titles or only for new releases.

If statement attributed to Bronfman is correct that UMG's copy protected CDs will play in CD-ROM drives, that would eliminate use of Sony's key2audio system, which doesn't permit PC playback. Macrovision has long said that its SafeAudio copy prevention system is playback-compatible with PCs, but doesn't permit copying to hard drive or CD burner. Macrovision Pres.-COO Bill Krepick declined to comment on whether UMG was using SafeAudio, but told us it continued to be evaluated by various labels and new version would be released soon.

Key question for CE industry that remains unanswered is whether copy protection system used by UMG will permit digital dubbing in home audio CD recorders, whose price includes royalty to compensate content owners and creators. It's also not known what notification, if any, UMG will provide on packaging of copy protected CDs. Spokewoman told us details would be announced closer to releases of discs.

Meanwhile, Sony Music Europe has implemented key2audio copy protection on Michael Jackson single released for radio promotion there. Sony said it took preventive step after "You Rock My World" single was leaked on Internet. Company said it didn't plan to release sale copies with key2audio, which is one of several copy prevention technologies it's testing.

New ad campaign for PlayStation 2 (PS2) will be kicked off by Sony Computer Entertainment UK (SCE UK) today (Oct. 1). Company said "3 separate advertising treatments have been created." Budget for ad campaign "will total over £15 million," SCE UK said, noting that campaign actually started with *Gran Turismo 3* ads in July. SCE UK said: "The collaboration will enable the development of gaming on demand and an online multiplayer gaming service." Commenting on marketing effort, SCE UK Mktg. Dir. Darren Carter said: "The brand campaign for the launch of PS2 established the proposition of 'The Third Place.' These 3 [new ads] continue the theme and add more depth and understanding. They also aim to reinforce to our audience that PS2 is the platform of choice. Following on from the large amount of marketing activity this summer, the PS2 autumn advertising campaign at over £15 million shows a significant level of investment and is set to help continue the success established since launch."

Harman International Exec. Chmn. Sidney Harman was paid \$891,667 salary in fiscal 2001, up from \$850,000 year earlier, plus \$500,000 bonus, down from \$750,000. Harman also was granted options for 100,000 shares. CEO Bernard Girod received salary increase to \$833,333 from \$725,000 and \$500,000 bonus, down from \$750,000. FMR Corp. was top stockholder with 3.1 million shares (9.9% of those outstanding), followed by Harman 2.5 million (7.8%), T. Rowe Price, 2.4 million (7.5%).

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥118 = \$1, except where noted.

AUDIOVOX DVD PLAYERS: Audiovox will plunge into price-sensitive DVD home deck market in Jan. with delivery of 3 models.

DVD players, which will be single-play models and priced at \$99-\$200, came at request of mass merchants, who have championed cause of low-end market. Audiovox currently ships portable DVD players with 7" and 5.8" LCD displays and unit sold as part of mobile video system.

"We have a good relationship with mass merchants and they wanted a DVD home player with the Audiovox brand on it," Audiovox Electronics Pres.-CEO Patrick Levelle said. Audiovox is likely to collide with Chinese brands Apex and Oritron, which have dominated sub-\$99 DVD player category.

Audiovox unveiled new DVD strategy in reporting that 3rd quarter net income plunged to \$1 million from \$9 million year ago as revenues fell to \$313.9 million from \$470.3 million. Gross profit margin slipped to 9.1% from 10%. Overall inventory shrank to \$228 million from \$236 million in 2nd quarter. Verizon, which markets Audiovox CDMA phones, accounted for 50% of revenues in quarter.

Sharp downturn in earnings and revenues was related largely to slowing sales of cellular phones, which fell to \$241.9 million from \$403.9 million year ago. Audiovox sold 2.1 million cellular phones in quarter at average price of \$108. Sales included last of 300,000 units of analog TDMA cellular phones manufactured by Mitsubishi. Minus analog product, average selling price for digital models was \$130, company said.

Consumer electronics business sales, driven by mobile video, gained 8% to \$71.9 million from \$66.6 million year earlier. Car audio sales declined 6% in quarter to \$17.9 million but mobile video rose to \$12.3 million and accessories to \$41.3 million, company said.

Audiovox will enter handheld PC market in Nov. with packaging model (\$549) based on Microsoft's Pocket PC operating system with cellular phone. Combination handheld/cellular phone will be available in first quarter at \$649. Toshiba, which will build PDAs for Audiovox, has unveiled own Genio handheld PC based on Microsoft OS and containing Intel's 206 MHz StrongArm processor (TVD July 23 p16). Audiovox will avoid competing with Toshiba by selling its product through Verizon's retail stores, Audiovox Corp. Pres.-CEO John Shalam said.

Audiovox also said it planned to market XM and Sirius Satellite digital audio radio system (DARS) receivers in 2002.

Sale of Curtis Mathes (CM) (TVD Sept 17 p16) brand to CM Royalties (CMR) in Sept. for \$4.5 million was designed in part to pay off notes owed Sagemark Capital, SEC filing showed. Under agreement, CMR will pay \$2 million to Sagemark to cover principal and interest due on uniView notes. Another \$402,258 cash is to be paid uniView and \$450,000 credit will be applied to purchase price for previous advance made by Avmark, which owns 10% of CMR. CMR also is required to deliver uniView \$1.8 million promissory note, including \$215,000 in royalties. UniView is to receive \$167,258 in CM royalties for period ended June 30 and another \$50,000 for month of Aug. Also to be settled as part of agreement is Avmark lawsuit filed against uniView in July that involved former's right of first refusal.

ZENITH AND NXTWAVE TEAM UP: TV receivers with combined VSB technologies of Zenith and NxtWave Communications aren't likely to emerge in market until 2003 at earliest, industry officials said.

Companies already have integrated technologies from "design standpoint" and hardware implementation could be completed within 30 days, NxtWave CEO Matthew Miller said. Testing of 8 proposals for E-VSB extension — slight alteration of now-standard 19.4 Mbps data rate for HDTV — is expected to start in late fall and continue into early 2002, ATSC Exec. Dir. Mark Richer said. ATSC is expected to set E-VSB standard by spring, he said. Zenith-NxtWave proposal has been submitted to ATSC technical committee.

If Zenith-NxtWave proposal is selected, products containing it should arrive on market in 12-18 months, Miller said. E-VSB would alter, but not replace, 19.4 Mbps standard by slowing data rate to 14-15 Mbps so signal-to-noise ratio (S/N) would decrease to 9.5-11 dB range from current 15 dB (TVD April 30 p15). S/N had been major difference between competing Zenith and NxtWave proposals as companies achieved 11 dB and 9.5 dB, respectively. Integrated proposal since has dropped S/N below 9.5 dB, Miller said. Zenith-NxtWave have conducted test with Philadelphia broadcaster to prove backward compatibility with existing ATSC receivers, he said.

"Each of us had a complete solution and each one had some strengths and weaknesses," said Miller, adding that talks between companies began 2 years ago and advanced as they rallied to defend existing VSB standard for DTV against challenge from COFDM modulation advanced by Sinclair Bestg. "It turned out our strengths were Zenith's weakness and vice-versa."

While Zenith contributes dataframe mapping, interleaving and packing algorithm, NxtWave adds error-correction coding and precoder solution. Combined bitstream of 600-700 Mb is available from Zenith file server, Zenith Senior Vp Richard Lewis said.

Under agreement, Zenith will administer licensing program, although company declined to disclose how royalty revenues would be divided. There will be no extra charge for existing VSB licensees to add E-VSB, it said. Zenith is sole licensor of VSB technology.

To support disaster relief for victims of terrorist attacks, video software retailer Movie Gallery said it would contribute 25 cents from every video and videogame rental at chain's 1,084 stores. Contributions will go to Sept. 11 Fund established by United Way and N.Y. Community Trust. Movie Gallery ranks in top-3 video specialty retailers in U.S. and bills itself as leading provider of movie and videogame rentals and sales in rural and secondary markets.

Next-generation optical disc recording using high-power, high-efficiency blue laser developed by Panasonic will be demonstrated this week at CEATEC show in Japan and Oct. 19 in Taiwan at International Symposium on Optical Memory. Efficient blue laser is required for high-definition optical recording.

DVD Conference USA has been rescheduled to Dec. 5 in L.A. Event originally was to be Oct. 9 in San Francisco — 310-967-2980.

NINTENDO STILL ON TARGET: Nintendo of America (NOA) Senior Vp George Harrison told us last week his company still was on target to ship 700,000 GameCube consoles in U.S. and Canada for rollout of videogame system Nov. 18. But he said Nintendo wouldn't be able to boost number of GameCube consoles above that number at request of retailers.

Harrison told us he would "love to" be able to ship more units than company said last month (TVD Aug 27 p12) it would be able to make available for N. American rollout. He said "many of the retailers have in fact contacted us" to ask for larger GameCube allocations after learning they probably wouldn't be getting as many Xbox systems as they had expected for Microsoft's rollout of system. Harrison said NOA had to tell its retailers same thing he told *Television Digest* — it's just "not possible to increase the production capacity at this point."

As we reported last week (TVD Sept 24 p9), Microsoft is likely to ship considerably fewer Xbox consoles than 600,000-800,000 announced at Electronic Entertainment Expo (E3) in May (TVD May 21 p10). Number of Xbox systems available at start may end up being as low as 300,000, industry sources said.

Harrison said "we weren't surprised" by Microsoft announcement that N. American Xbox rollout also had been delayed from Nov. 8 to Nov. 15. He said Microsoft appeared to be making same mistake as did Sony Computer Entertainment last year with PlayStation 2 in waiting perhaps too long to tell retailers about drop in first allocations.

Meanwhile, as N. American rollout for GameCube neared, NOA said it was entering "the final phase of its most comprehensive and fully integrated marketing campaign" to date. Campaign includes national advertising, nontraditional consumer sampling, online viral campaigns, partner promotions, retail marketing. NOA said its campaign "will culminate in a 'Cube' Sun., Nov. 18 launch."

Company said \$75 million rollout campaign was focusing "on what Nintendo does best — [creating] the world's greatest videogames — and will run simultaneously with dedicated campaigns for 5 exclusive first and 2nd party games and more than 10 third party games, for a total of nearly 20 exclusive titles and 1.1 million systems on store shelves by the end of the year."

NOA said "the heart of the multimedia campaign starts [this] month when 7 different television commercials begin airing virtually everywhere," adding "the media buy ranges from prime-time television to MTV to Saturday morning cartoons." NOA said production talent involved in creation of TV spots included director of photography for films *Seven* and *The Beach*. Multinational production, company said, has involved shooting, editing and postproduction work in France, Italy, U.K., U.S. One of commercials features more than 500 cast members — something company said "adds to the epic scope of the TV advertising campaign." NOA also said moviegoers who went to theaters this holiday season to see films including *Harry Potter* and *Lord of the Rings* would see GameCube commercials on theater screens in Nov. and Dec.

On print side, NOA said 8 ads would appear in magazines ranging from kids and teen publications including *Sports Illustrated for Kids*, to men's magazines including *Maxim* and *Stuff*. More than 95 full-page print ads will appear in more than 50

publications, company said. NOA's online marketing blitz also is being backed by start of official GameCube Web site, www.nintendogamecube.com.

Sega will bring its videogame content and gaming technology to various wireless devices via Qualcomm's Binary Runtime Environment for Wireless BREW application platform. BREW initiative provides standard platform for developing applications for wireless devices. Consumers will be able to play Sega games via BREW-enabled handsets as early as Dec., Japanese game maker said. Sega Mobile Communications Dir. Ryoichi Shiratsuchi said: "There is a major market for wireless gaming in Japan and we expect to see a similar trend in the United States. To take advantage of these markets, Sega Corp. is aggressively teaming with major wireless companies worldwide, such as Qualcomm and its BREW initiative." Gina Lombardi, senior mktg. vp and product management for Qualcomm Internet Services, said: "Sega will be able to bring its legendary games to BREW-enabled handsets, providing users with a truly interactive gaming experience." Sega said this was just its latest initiative in wireless arena. It said that in Japan it currently provides Java-based games for Motorola's iDEN, NTT DoCoMo's iMODE and J-Phone's J-Sky phones, as well as downloadable ringing tones for iMODE and J-Sky and AU/KDDI's EZ Web. In U.S., Sega has partnered with Palm to deliver content to Palm handheld computers and Synovial to bring Sega games to Compaq iPAQ(TM) Pocket PCs.

Worldwide shipments of low-end digital still cameras (DSCs) will hit 17.7 million units this year, representing 21% of all worldwide camera sales, InfoTrends Research Group said in report last week. Report said traditional film camera sales in Europe, Japan and N. America were starting to decline largely because of growth in DSC market. By 2006, DSC sales are expected to capture 63% of total worldwide camera market, with revenue from DSC sales reaching \$9.9 billion, it said. InfoTrends Market Research Analyst Michelle Slaughter said: "The worldwide economic situation is expected to impact digital still camera sales in the short term, but this product category will remain more resilient than others. Digital cameras remain a top-selling [CE] product category due to compelling benefits — [namely] the ability to view and share digital photos immediately and incorporate digital photos into a variety of applications." Report said N. America was leading DSC market for unit sales and should remain so through 2006. N. America represents 47% of DSC unit sales worldwide this year, compared with 2nd-place Japan with 25%. InfoTrends predicted that "Europe will surpass Japan" over next 5 years because "market in Japan is expected to reach a saturation point before the U.S. and Europe." Top-5 ranked DSC makers this year are Sony, Olympus, Fuji, Kodak, Canon. For last 4 years, InfoTrends said, Sony has been N. American market leader and now is expected to surpass Olympus to become worldwide leader as well.

Game maker Activision postponed its previously announced public offering of 6 million shares of common stock. CEO-Chmn. Robert Kotick said: "We have decided to postpone the offering in light of the current market conditions and volatility resulting from recent events." But he added: "We remain confident about the outlook for our business and the prospects for the interactive entertainment software industry generally. With \$288 million of shareholders equity, \$106 million of cash and only \$5 million of debt as of June 30, 2001, Activision is in a very liquid and strong financial position."

SCE UK SLASHES PS2 PRICING: Sony Computer Entertainment UK (SCE UK) dropped PlayStation 2 (PS2) pricing Fri. to £199.99 (\$290). But Sony Computer Entertainment America (SCEA) indicated there wouldn't be price change in N. America.

SCEA spokeswoman told us late last week: "We're holding firm to the decision that we communicated" throughout year — that \$299 is right price point for game system and "we don't have any plans to reduce it, at least in the course of this year."

Gerard Klauer Mattison Analyst/Senior Vp Edward Williams told us that just because SCE UK cut its pricing, "I don't think that it reasons there will be a cut in North America — I think the sellthrough in North America is still tracking at Sony's targeted levels." He said sales of PS2 in Europe had been running at 1/3 of N. American results. He said U.K. cut also made PS2 pricing there compatible with N. America.

When asked whether PS2 price cut in N. America could affect GameCube and Xbox sales, Williams said: "It certainly could. You could see consumers making more of a price decision and if you cut it by \$100," that wipes out Nintendo's price advantage with its \$199.95 GameCube. As for \$299 Xbox, he said, "you lose the person who is... wishy-washy" — consumer who wants to buy game system but has yet to make final decision which one to buy. Price, Williams said, stands to make big difference with that type of consumer and Sony therefore gets "clear advantage" with them.

SCE UK initially sold PS2 for £299 (\$440) when next-generation game system was introduced in U.K. last Nov. 24. In June, company cut price to £269. Explaining decision for cut last week, SCE UK said: "Significant advances in manufacturing have produced increased efficiencies and a brand new production plant has become operational in Japan, creating further economies of scale. These factors combined mean that these substantial savings can be passed straight to PS2 customers."

SCE UK Managing Dir. Ray Maguire said: "SCE stated at the time of launch that its strategy would be to pass on any future savings to its customers, and this is exactly what we are doing now. With this attractive new price point, with PlayStation 2's unbeatable technology package, and with a vast portfolio of over 100 software titles, we believe there has never been a better time to enter the PlayStation 2 experience. PlayStation 2 has been an unmitigated success. From November of last year, PlayStation 2 has sold more than 3-1/2 times the rate of PlayStation over the same period of launch. In terms of software, 10 months after launch we have more than double the number of games. We are now ready to make the move to £199.99 to make PlayStation 2 much more accessible."

Company also said: "Building upon the massive sales momentum of the past few months, as stimulated by a raft of quality software launches (including the one million selling *Gran Turismo 3*), SCE UK is well positioned to further capitalize on the significant demand for PlayStation 2. In the run-up to the Christmas period, a wealth of outstanding games will be launched for PlayStation 2 to bring the total number of games available to 200."

Clarification: Contrary to report in last week's issue, THX said it has no plans to drop its THX Select specification. THX Select will coexist with new THX Ultra2 specification.

Genesis Microchip has reached agreement to acquire image processor rival Sage for \$241 million in stock. Genesis will issue 0.571 shares for each outstanding Sage share. Deal is expected to close in early 2002. "This presents advantages that were unavailable to either company on a standalone basis," Genesis CEO Amnon Fisher said. Combination will allow companies to "accelerate development" of products for digital CRTs, leveraging Faroudja brand and projection systems, he said. Sage acquired Faroudja for \$154 million last year. Combined company, which has been under discussions for several weeks, will have 65% share of flat-panel LCD monitor market (50% for Genesis and 15% for Sage), but deal shouldn't raise antitrust issues, Fisher said. Indeed, while Genesis has focused on analog and dual interface ICs, Sage has made thrust in digital including progressive scan DVD players. "The market is a lot bigger than LCDs because it consists of the entire television category," Fisher said. However, combined companies currently derive more than 70% of revenues from LCDs monitors, although Sage has made push in CE, which accounts for 18% of its sales. Large portion of CE sales are derived from Faroudja's video processing technology and new company will continue to market its standalone set-top boxes that currently are sold through 450 dealers, said Sage CEO Chandra Reddy, who will be exec. vp-engineering and vice chmn. of combined company. Companies will share several OEM customers, including Fujitsu, NEC and Samsung, but respective technologies have targeted different applications. For example, while Genesis supplies image controllers for Samsung's XGA resolution displays, Sage has provided them for its 24W LCD. Companies had combined revenues of \$94.9 million (\$31.3 million for Sage, \$63.6 million, Genesis) in fiscal year ended March 31. Genesis posted \$2.6 million profit, while Sage had \$121 million loss due largely to Faroudja acquisition. Sage also had \$134.4 million accumulated deficit. Acquisition will be accretive to Genesis earnings in 2nd quarter 2002 based on savings of \$4-6 million generated by combining operations, analysts said.

Icebox line of Internet-ready products including 12.1" LCD and 9" TV have started shipping, capping year-long struggle to bring products to market. CMi Worldwide, which was acquired by housewares maker Salton earlier this year, unveiled Icebox countertop TV/DVD/CD player year ago in joint venture with Samsung and NadaPC, but now is pursuing its own strategy, National Sales Mgr. John Robson said. Countertop model (\$899) has 9" TV, DVD/CD player, two 3" speakers and 56 kbps modem, while LCD version (\$3,499) adds 10 w per channel speakers, 800x600 resolution, dual USB ports, composite video input. Both units use OpenTV's Spyglass browser, Wind River's Vxworks operating system and have 32 MB memory. NEC is supplying LCD. Meanwhile, former CMi partner NadaPC continues to market 13" countertop model (TVD June 25 p18) via Web site, but CEO Jonathan Strum wasn't available for comment on plans for other products. It had planned to deliver 27" digital TV by 4th quarter at \$199, but has since raised it to \$399. Set, built around Ch. 1 interactive platform, was to be packaged with 3-year ISP agreement carrying \$21.95 monthly fee. Ch. 1 recently was spun off from Princeton Graphics (PG), which is awaiting letter of credit from NadaPC for purchase of 27" multimedia tubes, PG spokesman said.

DVD with 7 movies has been achieved by technology company Zeros & Ones. Santa Monica, Cal.-based group earlier used its MC-10 compression formula to shoehorn 5 full-length movies on disc. Codec is said to offer 3x to 10x compression with same or superior image quality as MPEG-2 compression now used for DVD and DTV.

GAMESTOP SALES REBOUND: Videogame specialty retail chain GameStop said last week that business rebounded strongly from Sept. 11 terrorist attacks, but said there still were lingering uncertainties over economy heading into key holiday-selling season.

GameStop Pres. Dan DeMatteo told us in interview last week: "We believe [business] has come back. We were particularly pleased with sales for the weekend after the Sept. 11 incident. Last week it was a little hard to judge because there weren't a lot of new titles driving business. But this week there are a lot of new titles and they seem to be performing very well. While it's too soon to tell if it's back 100%, we're cautiously optimistic that it seems to be running better than we anticipated after the Sept. 11 incident."

DeMatteo said that while his 1,200-store chain — a division of Barnes & Noble — had reduced some orders from publishers, he said that was strictly because of industry-specific issues such as hardware supplies. "We're looking at quantities of Xbox games just because of the reduction in the number of units they're going to launch and the uncertainty of them making that schedule," he said. "That's probably the only thing that caused us to reinvestigate what we're buying." Even potentially sensitive genres such as flight simulation games are performing well above expectations these days, DeMatteo said. "They're blowing off the shelves and you can't buy them because of the changeover."

DeMatteo said he subscribed to theory that consumers could shift some of dollars they were going to spend on holiday travel into home entertainment such as games, but "that's counterbalanced by the weakening economy — it's difficult to predict where it's going to end up. The layoffs and the economy have to take a toll at some point in time."

"You have 2 seasons in this business," DeMatteo said. "You have the holidays which run from mid-November to Christmas and you have the rest of the year. The rest of the year can be strong because of titles' driving gamers into stores, which is happening right now. But when you get to the holiday it will be the consumer's mood that dictates your business levels. And that's what you don't know right now. We can be strong now and get weaker because of the worsening economy, but I'm not counting on that."

One trend DeMatteo does expect to see this year is increase in value-conscious consumers opting to purchase legacy systems such as Dreamcast and PS One instead of more costly newer platforms, although he said that depended great deal on age of player. Although chain hadn't tweaked its merchandising mix in anticipation of surge in budget consumers, DeMatteo said that could be done quickly if needed.

Of soon-to-be-extinct Dreamcast, DeMatteo said: "We're still selling the system in record numbers. At the [recently reduced] price point of \$79, they're flying off the shelves. I think our Dreamcast hardware inventory will be gone by Thanksgiving."

As for upcoming rollouts of Nintendo GameCube and Microsoft Xbox, DeMatteo said preorders already accounted for all hardware chain expected to get this year: "With the [Xbox] reduction, we will have nothing for walk-in [customers] at the get-go." Even though Nintendo has boosted its first allocation

of GameCube as it pushed back its debut week (TVD Aug 27 p12), he said he expected only 500,000 of 600,000-800,000 initial units actually would make it to U.S. store shelves at outset, with rest going to Canada, possibly S. America and promotions.

With both Xbox and GameCube, there's "no question there's be a lot more demand than supply through the holidays," DeMatteo said. "I don't think you're going to find units on shelves until sometime in the middle of the first quarter next year." Offsetting that will be ample supply of PlayStation 2 (PS2) hardware, he said. "PS2's going to be the clear winner this year, followed by PS One probably."

Meanwhile, GameStop was forced to scale back dramatically its annual managers' conference set for week of Sept. 17, inviting only 120 district managers instead of 1,200 store managers and canceling appearances by publishers to show off their new games. "We made the decision on the Sunday prior to the conference based on the uncertainty of air travel schedules," DeMatteo said. While noting that most of chain's store managers already were very knowledgeable about upcoming holiday products, he said, "the conference is great for morale, and canceling it is still somewhat of a loss."

Microvision has signed production agreement with Taiwanese manufacturer Walsin Lihwa for microdisplays starting in 2003. Walsin, part of Walsin Technology's new Micro System Technology Div., recently opened 14,400-sq.-ft. fabrication facility in Yangmei, Taiwan, for making 5" wafers, but plans to expand to 8" wafers and volume production by 2003, company said. Factory will develop wafers based on micro electro-mechanical systems (MEMS) technology that's central to Microvision's Nomad Personal Display System that uses tiny scanning mirror to create displays by "painting" images directly on retina. Nomad is being developed for professional market at start, but later will target digital cameras, gaming systems, mobile Internet devices. Microvision also filed with SEC to sell \$20 million of common and preferred stock and convertible debt, with proceeds to be used for general corporate purposes... **SK Corp.** invested \$3 million in microdisplay developer eMagin. SK bought \$3 million in 4% series convertible debt that can be exercised within 3 years for 205,479 shares of common stock. S. Korean manufacturer has right, during period starting Sept. 19, 2002, to have debt redeemed at cash price equal to 100% of principal, plus accrued and unpaid interest... **RiTdisplay** and **Solomon Systech** have developed integrated IC organic light-emitting diode (OLED) modules of mobile phones. Product combines driver, controller and SRAM on single chip and can be used in mono and color OLEDs with 132x65 resolution. OLEDs have slowly made inroads in mobile phone market, with Motorola deploying Pioneer display in GSM model.

Delayed Xbox rollout (TVD Sept 24 p9) should have no major impact on Microsoft's chances for success with videogame console, Gerard Klauer Mattison Senior Vp-Analyst Edward Williams told us last week. "I don't think it really materially affects" rollout of system, he said, but he was quick to add that Xbox really needed to hit store shelves by Thanksgiving. He said games were most important thing and "it's too early for me to tell" about overall quality of titles for Xbox. "I don't know if there is a must-have game" yet for Microsoft's system, he said, and company must offer "a few" games that are must-haves — "some platform-driver games, something that is a killer app" — to succeed.

BRICK'S RADIOSHACK FORMAT: Intertan has signed deal with Brick Warehouse to offer RadioShack (RS) store-within-a-store format in Canada.

Eight RS stores are expected to open within Brick outlets in Toronto area by Dec., each with 1,000-1,800 sq. ft. of selling space previously occupied by home office products, Brick Exec. Vp-CFO Ronald Tweddle said. RS stores will use Brick sales staffs, while Intertan supplies products, Intertan Exec. Vp-CFO James Gingerich said. First of RS stores was expected to open by Oct. 1 and format could be chainwide by mid-2002, Tweddle said.

Brick will decide at year-end whether to expand concept to its 55 other stores. Chains won't compete because RS stores typically are located in shopping malls, while free-standing and strip center Brick outlets average 25,000-35,000 sq.-ft. Some recently opened stores have exceeded 45,000 sq. ft., including 110,000-sq.-ft. outlet added in Toronto area in Aug. that could serve as prototype for future expansion, Tweddle said.

Other major difference between chains is in merchandise mix. RS stores carry 25" and under TVs while Brick offers 30" and up direct-view and rear-projection sets. Brick also stocks home theater products including speakers and front projectors in addition to furniture and major appliances, while RS has ExpressVu and Star Choice DBS systems. Brick previously hadn't carried Star Choice and will transfer responsibility for PCs, cellular, corded and cordless phones to RS, Tweddle said. Not part of agreement are RS Panasonic store-within-a-store format in Canada or 55 Rogers AT&T Wireless Communication outlets it operates, Gingerich said.

For RS, venture represents 2nd attempt at establishing store-within-a-store format. It opened RS outlets in 7-8 Hudson Bay department stores several years ago but later abandoned project, Gingerich said. Structure of Hudson Bay agreement differed from pact with Brick in that RS kept sales and leased space. RS in U.S. has similar agreement with Blockbuster and thus far has opened more than 120 stores in 4 markets including Las Vegas.

Sony replaced DirecTV receiver after finding heat it generated when placed in enclosed space caused security card to melt. SATB55, which shipped last Nov., was replaced in July with similarly featured model with vented cover, Sony spokeswoman said. Overheating occurred primarily in custom installations, said dealers who reported taking back and replacing receivers. Sony declined to disclose number of DirecTV receivers involved. "These are sometimes stacked and placed in a closet-like environment so it's not just these boxes that get hot, it's everything else as well," spokeswoman said. "We told dealers to put it in a well-ventilated area, but with custom installation that's not always doable." Some custom installers said they worked around heat problem by adding fans beneath receiver. Sony has set up hot line — 1-800-222-7669 — for consumers and/or dealers seeking to replace original SATB55, spokeswoman said. She declined to comment on whether retailers were reimbursed at for cost of product. Sony will replace SATB55 in Nov. with SATB65 and SATA65 at \$149 and \$249, respectively. Entry-level piece has advanced program guide and DirecTV Interactive, while step-up adds on-screen caller ID and Dolby Digital compatibility.

Wherehouse Music planned to hold \$1 Used CD Blowout Benefit over weekend in parking lot of its Sepulveda Blvd. store in Torrance, Cal., to raise money for victims of Sept. 11 terrorist attacks. Chain said 100% of proceeds would go to Clear Cut Channel Relief Fund, which benefits Red Cross, Fallen Firemen and other relief and rescue organizations. Wherehouse has 414 stores in 29 states and, in addition to music, sells videogames, DVD and VHS movies, personal electronics, other entertainment-related products. Separately, Wherehouse said it tapped Application Service Provider Frontera to implement and host WebLogic Application server for its online music Web site. Wherehouse Business Development Vp Brad Tait said: "We've been looking for a solution that would allow us to create a compelling online shopping environment for our customers and also offer the flexibility to integrate with our existing infrastructure. Frontera's customized approach to applications management is tailored to our needs, complements our e-business strategy and will help us deliver a superior online experience for our customers." Frontera CEO Tim Cahill said: "By providing Wherehouse with Frontera's outsourced e-business applications, Wherehouse will be able to expand customer relationships, increase customer satisfaction and elevate brand interaction and awareness beyond the site itself."

Assistance to families affected by tragedies in N.Y.C., Washington and Pa. was pledged by retailer Toys "R" Us. As part of first initiative, Toys "R" Us said it was making minimum \$2 million commitment to relief efforts. Retail chain pledged \$1 million of total to American Red Cross and encouraged visitors to its Internet stores to donate to Red Cross via its partner, Amazon.com. Money is earmarked to help families of victims. Toys "R" Us also committed \$1 million donation to assist families of rescue workers and emergency personnel who lost their lives in rescue efforts. In addition, 10 million copies of *First Aid for Feelings*, 16-page children's workbook by Denise Daniels, registered nurse and co-founder of National Childhood Grief Institute, will be available free in all Toys "R" Us, Kids "R" Us, Babies "R" Us and Imaginarium stores around country. Workbooks were to be available in volume at stores last week. Book was designed to enhance communication and encourage expression of feelings associated with fear, loss and change and was created in response to terrorist attacks.

Disney formed new business, Buena Vista Game Entertainment Studio, to deliver interactive games online by integrating emerging technologies such as broadband and wireless with video consoles, PCs and other devices. Studio said it envisioned time when people no longer would need to sit together at table or at one PC or game station to play games. New venture will help users play games "across continents and thousands of miles through a variety of platforms or stations," Disney said.

800.com added "PDA store" to its e-commerce Web site. CE e-tailer said last week it received authorization to sell full line of PDAs from Casio, Hewlett-Packard, Palm, Sony. 800.com Senior Vp Frank Sadowski said: "By offering PDAs, we're giving our customers what they want, and further solidifying our reputation as a one-stop shop for consumer electronics." In conjunction with introduction of PDA store, 800.com is offering free shipping on all PDAs through Oct. 10.

Nintendo said Fri. it was considering executing planned buyback of up to 14 million of its own shares — 10% of total outstanding — after Oct. 1, Reuters said in report from Tokyo. Company first announced buyback plan in April, saying it wanted to increase share value. Nintendo of America was unable to confirm report by our deadline.

Infogrames, Inc. narrowed its net losses for 4th quarter and year ended June 30. N.Y.-based subsidiary of French game maker Infogrames Entertainment SA posted loss \$23 million (-33¢ per share) in quarter vs. \$55.4 million (-\$2.68) loss year ago, with \$60.7 million (-\$1.07) loss for year compared with \$397.6 million (-\$22.13) loss in 2000. Revenue increased to \$72.7 million from \$48.5 million for quarter and fell to \$310.5 million from \$313.2 million for year. Company attributed small decline in full-year revenue to its "decreased emphasis on 3rd-party distribution, which was partially offset by revenue gains generated by sales of product at Infogrames Interactive, Inc. (formerly Hasbro Interactive), which was acquired by [Infogrames, Inc.] parent, Infogrames Entertainment SA (IESA) in January 2001." Infogrames said it saw "strong sales of several key titles, including *Driver 2* (more than 1.25 million units sold to date)." Commenting on results, CEO-Chmn. Bruno Bonnell said: "We are quite pleased with the progress we made during this past year. We successfully consolidated the operations of the company, Infogrames NA and Infogrames Interactive to emerge as the 2nd largest 3rd party publisher of interactive entertainment in the U.S. In addition, we significantly streamlined our businesses to create greater cost-efficiencies and enhance our competitive position within the industry. And we aggressively pursued new opportunities, including developing product for next-generation consoles, signed a number of new major licenses and maximized the value of several key franchises." Looking ahead, Bonnell said: "While we have no way of determining the effect that recent world events will have on our particular industry in the coming months, we remain confident in our current and upcoming products and believe we have the lineup to command a significant portion of holiday sales."

Digital Millennium Copyright Act (DMCA) is essential to future of e-publishing and all e-commerce, Assn. of American Publishers Pres. Pat Schroeder said at recent World Intellectual Property Organization (WIPO) meeting on e-commerce and intellectual property in Geneva. "People are having sobering 2nd thoughts about the e-economy, rethinking the Internet and acknowledging that an effective way to protect intellectual property is needed before the Internet will reach its potential," she said. Schroeder denied DMCA stifled "fair use," saying software couldn't read intent, making it impossible to give people unlimited rights to copy electronically since copy could be distributed to millions of others. Moreover, she said, e-books aren't interoperable on different platforms because software providers don't want them to be: "[T]his is a marketplace issue, not a legal or DMCA issue."

Mega-hit *Final Fantasy X* will arrive for PlayStation 2 (PS2) consoles in Jan., publisher Square Electronic Arts said. Title was released July 19 in Japan, where Square said it had sold through 90% of 2.14 million copies it shipped in first 4 days at retail. Square also said game was first PS2 title to reach 2 million unit mark. It will be released on DVD with Dolby(R) Digital 5.1 sound. Pricing wasn't disclosed.

Iomega stockholders approved one-for-5 reverse stock split proposal last week. Split became effective at close of business Fri., and adjusted new common stock was to begin trading under split at opening of market today. Iomega common is continuing to trade on N.Y. Stock Exchange under symbol IOM.

CEDIA training will be offered during CES in Las Vegas, Jan. 8-10. Classes will be held in Flamingo Hilton hotel — www.cesweb.org.

Tweeter Home Entertainment cut 4th quarter earnings forecast amid continued downturn in U.S. economy. Retailer projected earnings of flat to 3¢ before \$1.2 million charge tied to write-off of investment in joint venture with Cyberian Outpost (CO). Tweeter earned 18¢ during 4th quarter year ago. Analysts had projected 4th quarter earnings of 19¢, according to Thomson Financial/First Call. Sales "fell off dramatically" following terrorist attacks on Sept. 11, said Tweeter, which forecast 0-2% gain in same store sales. Newly acquired Sound Advice chain turned from 2.1% increase in same store sales in Aug. to 20% decline through Sept. 25, Tweeter said. Tweeter stock fell \$3.25 to \$14 after earnings announcement, closed week at \$13.64. Tweeter's write-off of investment in Cyberian Outpost came as latter worked toward completing its sale to Fry's Electronics for 25¢ per share. Tweeter initially supported PC Connection's proposed purchase of CO, but backed off when Fry's struck final deal in Aug. PC Connection dropped acquisition plans after CO's tangible net worth fell below \$14 million, which was required to be maintained as part of purchase agreement. CO, which owed creditors \$7 million, contacted PC Connection in April and hired Dain Rauscher Wessels to find buyer. Dain contacted 43 potential candidates and 4 conducted due diligence, according to SEC filing. Fry's emerged in May when it bought 3.1 million shares of CO stock. Key component of Fry's deal, which is expected to close this month, is \$13 million loan that is due Dec. 31. About \$5 million of total will be used to repay loans from PC Connection, while another \$4 million is earmarked for letters of credit issued to vendors, according to filing.

In light of terrorist attacks on U.S., Blockbuster said last week it would place signs in stores where terrorist-themed movies and games were displayed "to help consumers make informed rental decisions." Blockbuster said signs would remain in place at all retail locations until year-end and would focus on new films and games "because that is where most of the company's rental activity takes place." Antioch said: "Quite frankly, we have been faced with a dilemma. On one hand, we know that there is a heightened sensitivity to terrorist themes right now. On the other hand, we do not want to pull product from our stores. We see that as playing right into the hands of the people who would like to curtail our freedoms in this country."

RadioShack stock ended week at \$22.45 despite Robertson Stephens cutting its rating to "market perform" from "buy" citing difficulty in gauging the productivity retailer's new initiatives. RS had closed at \$22.15 on Sept. 27. Robertson Stephens cut 2001 earnings estimate to \$4.82 billion from \$4.92 billion and trimmed earnings forecast to \$1.45 from \$1.55.

Olympus will ship D-40 Zoom digital still camera (DSC) this month at \$799. It said new model was "world's smallest 4 megapixel digital camera." Camera is latest in growing field of consumer DSCs offering 4 or greater megapixel resolution. Olympus said camera was 3.4" wide x 2.7" high x 1.7" thick.

Videogame maker Eidos reported revenue of £12.2 million (\$17.2 million) for its first quarter ended June 30, down 27% from same quarter year ago. London-based company said that, on U.S. GAAP basis, it had loss of £16.4 million (\$23.2 million) before tax in quarter for per-share loss of 22.3¢.

Cedia Expo 2001 attendance rose to 17,260 from 15,125 year ago and number of exhibitors to 398 from 356. Expo in Sept. at Indianapolis Convention Center and RCA Dome covered 408,000 gross sq. ft., up from 334,834 sq. ft. year ago.

Vivendi Universal said earnings before interest, taxes, depreciation and amortization (EBITDA) grew 42% in its first half ended June 30 to 3.98 billion euros from 2.58 billion euros in same period year ago (1 euro = 91.7¢). Revenue increased 11% to 26.44 billion euros from 19.41 billion. In announcing results last week, CEO-Chmn. Jean-Marie Messier said that "should the recent [U.S. terrorist attack] result in [a] further period of uncertainty and maybe recession, Vivendi Universal will continue to deliver growth and will benefit from strong defensive qualities." He said that in 2nd half of year company "will continue to focus on executing the strategies of [its] merger" and "will focus our resources toward online music initiatives — including pressplay — with the goal of making our music more accessible through additional distribution agreements." Messier said that "despite the current environment," he expected company would "reach all our previously stated revenue EBITDA objectives" this year, including 10% revenue growth and more than 35% EBITDA growth targets. In first half, publishing (including games) EBITDA increased to 223 million euros from 170 million year ago while revenue dipped to 1.61 billion euros from 1.63 billion. Music EBITDA was 451 million euros and revenue 234 million. Last year's first-half results didn't include music category. TV and film (including DVD/video) EBITDA jumped to 598 million euros from 233 million year ago, while revenue more than doubled to 4.3 billion euros from 2 billion. Looking ahead to 2002, company said year "may prove to be challenging for revenue growth" in music category, in particular. But Vivendi said "EBITDA should grow higher than revenues" thanks to "introduction of antipiracy CD software, the development of pressplay and the success of offers, such as [Universal Mobile Music in France that] will show the path of future revenue streams."

Acclaim Entertainment CEO Gregory Fischbach said his company was "cautiously optimistic" about its results this quarter. Game maker based in Glen Cove, N.Y., also said it would ship 11 titles in first quarter of 2002 and roll out "a broad array of products throughout the holiday season." Titles to ship will include 5 for PlayStation 2, 3 for GameCube, one each for Game Boy Advance, Game Boy Color, Xbox. Fischbach said: "The holiday portfolio defines our company's commitment to the next-generation systems, as our product mix is focused on the new hardware platforms, which allowed our development studios to maximize the capabilities of their proprietary tools and engines." He added: "Based upon our current evaluation of the market conditions at retail, we are cautiously optimistic and anticipate that our performance will meet with analysts' expectations for the current quarter. We are comfortable with analysts' hardware and software estimates for the current calendar year and are confident that both Microsoft and Nintendo will have successful launches with their respective new systems. In addition, we are eagerly looking forward to releasing several launch titles to enhance the breadth and depth of the next-generation entertainment experience. Furthermore, we will continue to support all of our holiday releases, which should appeal to a broad spectrum of consumers, with integrated marketing campaigns, including national print and television advertising."

Universal Interactive (UI) will ship survival/horror game *The Thing*, "sequel" to John Carpenter cult classic film of same name, for PlayStation 2 (PS2) and Xbox in first quarter 2002, with PC version in 2nd quarter. *The Thing* was highlight of UI's first Gamers Day in L.A., where game maker underscored recent transformation into multiplatform videogame publisher (TVD June 4 p21) by giving sneak peek at titles it planned to ship in rest of this year and early next. UI's other big first quarter 2002 release will be Crash Bandicoot title — *Crash* — for Game Boy Advance (GBA). Title marks first time PlayStation mascot will be appearing on Nintendo platform.

Consumer Electronics Personals

Thomas Steckbeck, ex-Sony, named Sirius Satellite retail mktg. & distribution vp... Christopher Ball, Techneglas account exec., advanced to sales & mktg. vp, succeeding James King, who retires... Roxio Pres.-CEO Christopher Gorog adds chmn. responsibilities... Philippe Cassereau, ex-BroadLogic Network, named engineering vp, Roxio... Marcel Tromp and Rudi Bloks, both ex-TriMedia, join Equator Technologies as senior architects... Nigel Travis, Blockbuster exec. vp-worldwide stores, promoted to pres.-COO... Holly Files, ex-NetIQ/Webtrends, named 800.com chief information officer.

Frank Monteleone, ex-Arthur Andersen, appointed CFO, York Entertainment... Michael Lawther, ex-Scotia Holdings, named group financial dir., Codemasters UK... Ron Malinowski, ex-Capcom USA, and Drew Maniscalco, ex-ICE, join Sega Enterprises to manage new special projects division... Rocky Flintermann, ex-Gamut Interactive, named Veil Interactive exec.-vp sports and media development; Yousri Barsoum, ex-Datcom Solutions, appointed Veil senior hardware design engineer.

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TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

DTV TECHNOLOGY CENTER gets MSTV approval. NAB, consumer electronics funding sought. Details still to be worked out. Powell backs industry effort on transition. (P. 1)

DISNEY 'OPTIMISTIC' on long-term prospects, despite terrorist impact, Iger says. Turnaround called inevitable. Ad softness to continue into next year. (P. 2)

WIRETAP BILL CHANGES sought by cable industry. MSOs want protection from complaints, limits on when modems can be tapped. (P. 3)

SUPREME COURT DEBATE on cable pole attachments focuses on Internet, FCC role. Justices question congressional intent. (P. 4)

EX PARTE FILINGS TIGHTENED by Comr. Abernathy. She says companies aren't complying with disclosure rules. (P. 4)

MODEM FIRMS SCRAMBLING to keep cable customers on-line following Excite@Home bankruptcy. AT&T role applauded. (P. 5)

DTV TECHNOLOGY CENTER ROLLOUT GETS MSTV APPROVAL: MSTV board gave its okay to roll out DTV technology and research center, although funding still must be sought from NAB and consumer electronics interests. Center is intended to work toward improving DTV services and reception, as well as finding new ways for broadcasters to use digital technology. NAB didn't immediately react to decision, but consumer electronics official indicated at least some interest.

MSTV board decision followed 75-min. session with FCC Chmn. Powell. He went to Four Seasons Hotel in Washington for meeting and reportedly stressed ways govt. and industry could work more closely together to benefit HDTV development, as well as consumers. "We are finally at a point that we can stop pointing fingers" as to who's responsible for slow rollout and public acceptance of DTV and "work together to accomplish common goals," MSTV Chmn. Gary Chapman of LIN TV said: "We're going forward... with various ideas of how to make it work... I think we now have a better understanding of how industries and the government can work together." MSTV dirs. also met with other FCC officials and communications leaders in Congress.

Assn. official said MSTV was prepared to put up \$1.4 million in "seed money" to start project and Chapman was authorized to appoint task force to seek outside financing — with NAB expected to provide large share of funding. Set manufacturers also will be approached to participate financially and in other ways. Another proposal being considered is for TV stations to set aside small portion of their ad revenues to help finance project. CEA spokesman said manufacturers were "obviously very interested in anything that may help speed the transition." He said set makers already had spent billions on DTV, but "certainly we will listen and if it makes sense I am sure the association or the manufacturers will be willing to do their part."

Consumer Electronics

TO COMBAT SIGNAL THEFT DirecTV will stop packaging access cards with satellite receivers sold by 4 mass merchants. (P. 7)

PAUSE SUES TIVO as PVR patent fight escalates in what's likely to be continuing battle over rights to technology. (P. 8)

COPY PROTECTION ABSENT from major Universal CDs released last week, our test finds. (P. 9)

TWEETER TO LIMIT EXPANSION in current fiscal year to 15 stores with signed leases, reducing forecast of 35-36 new outlets in slowing economy. (P. 10)

SONY STICKS WITH PS2 TARGETS despite economic troubles; still expects to ship 20 million consoles worldwide this year. (P. 10)

DVD REVENUE SHARING EXPECTED by Hollywood Video with most movie studios by year-end 2002, CEO Wattles says. (P. 11)

EMI LICENSES SONGS TO PRESSPLAY: Record company signs agreement with online music service despite Sony-Universal venture's being major competitor. (P. 12)

NAB approval isn't expected to be problem since about half of its TV board members also serve on MSTV board, sources said. Source said MSTV Senior Vp Victor Tawil had been charged with responsibility of "coming up with something more concrete to get us going" for presentation to NAB Exec. Committee Oct. 25. Left for future discussion, we're told, was what to do about TV digital signals on cable systems without mandatory must-carry. Also in talking stage is possibility of including digital radio as part of technology center.

Solving DTV multipath problems and greatly improving reception in homes will be among goals of proposed digital technology center. Cost and location of venture haven't been determined.

"There's a rainy day fund there [at NAB]," said Chapman, who also is former NAB chmn., "and right now it's raining." NAB's reserve fund has more than \$40 million. Once established, DTV technology center, while putting emphasis on improving digital signals into homes, also is expected to become involved in such issues as digital rights management and on-channel repeaters (TVD July 2 p4). Also on center's agenda, Chapman said, would be to take another look at 2VSB — more rugged modulation mode with less data capacity than FCC standard 8VSB.

DISNEY 'OPTIMISTIC ABOUT LONG TERM' — IGER: Prospects for Disney Co. in all phases of its operations are very good, Pres. Robert Iger told analysts and reporters in Oct. 3 teleconference from N.Y. Despite lost revenues from "unprecedented 91 hours of uninterrupted coverage" following Sept. 11 terrorist attacks, "we are very optimistic about the long-term prospects of our company," he said. "The turnaround at Disney is a matter of when — not if." But, he said, he couldn't predict when that would happen. Iger didn't say how much Disney's ABC TV Network and its owned stations lost because of attacks, but said it was only "small percentage of total revenues" and many advertisers that cancelled schedules after attacks were returning to network. However, he said all TV buys by advertisers now "are extremely short term," and he predicted that "softness" in economy was "going to continue well into 2002."

Sept. 11 attacks added "greater uncertainties to an already uncertain [advertising] market," Iger said. Based on TV networks' premiere week (delayed 7 days by attacks), "I'm encouraged by our performance," he said. Without giving specific figures, he said Disney received about 30% of its revenue from TV, just under 20% from cable networks. He said 15% of ESPN advertisers were new to sports network. Disney Exec. Vp-CFO Thomas Staggs said some product advertisers remained strong in TV — citing specifically foreign manufactured cars and pharmaceutical products. "Hopefully, there'll be a few more in the months ahead," he said. Despite poor results this year, Iger said, practice of networks' selling time "up front" in spring for fall season will remain in place because system protects advertisers from rate increases later in year. It's also good for networks, he said, because "you can lock in a substantial amount of advertising" dollars before season starts.

As for industry consolidation, "we've already seen a lot of it and I think it will continue," Iger said. And if "pipe owners" — meaning cable networks — start discriminating in favor of their own programming, "that's something we'll probably be very vocal about" in Washington and elsewhere. Following teleconference, he told analysts and reporters in N.Y. that it was highly unlikely Disney would be bidder for AT&T's cable properties.

Iger said Disney was pleasantly "shocked by the results" of experiments with providing Disney-produced content for wireless systems in Europe and Japan, which turned out to be "highly profitable" from start and "we had expected to lose money." Disney Internet began service in Japan in Aug. on NTT DoCoMo wireless platform and has similar contracts to provide content on wireless systems in Taiwan and Hong Kong. He said wireless "is a real growth area potential for [Disney]... We'll just have to wait for technology to catch up" with content.

FCC legitimately "exercised its broad power over television licensing" with rule declaring local marketing agreements (LMAs) duopolies under TV station ownership restrictions and forcing some licensees to divest LMAs, agency told U.S. Appeals Court, D.C. Commission, responding to appeal of new restrictions by Sinclair Best., told court that rule was consistent with provisions of First Amendment, despite claim otherwise by Sinclair and Paxson Communications. Because TV has "pervasive reach and influence" over public, "it is vital to the public interest that broadcast television remain a robust marketplace of ideas," FCC told court. "The duopoly rule directly advances that important public policy of diversity... The rule passes muster because it furthers an extremely important national interest while imposing a minimal burden on speech." Oral argument in case is scheduled for Jan. 14.

DBS provider EchoStar and Charter Communications are battling over decision by DISH network to actively pursue Charter and other cable customers with "I Like 9" promotional campaign. Charter threatened legal action because of what it terms "unfair competition" that it says has caused it to "lose current and potential customers and has damaged Charter's goodwill and reputation." Charter also accused EchoStar of violating law with "false and deceptive" ad campaign, in letter from Charter Senior Vp-Gen. Counsel Curtis Shaw to EchoStar CEO Charlie Ergen. EchoStar denied claim and stepped up efforts to attract Charter customers. Charter challenged EchoStar assertion that customers could save \$462, as advertised. It said requirement that customer must purchase DISH system to receive free installation and \$9 rate was in small print and "deceptive."

CABLE GAINS IN ANTITERRORISM BILL: House Commerce Committee passed changes supported by cable TV industry that would require cable operators — and any other multichannel video programming distributors, including satellite — to give personal information about their Internet and telephony subscribers to law enforcement agencies without notifying suspected customers. Law enforcement would have to produce court order based on “clear and convincing evidence” that suspect was engaged in criminal activity. Committee passed amendment to Communications Act without opposition as part of push for antiterrorism legislation. Under amendment by Rep. Upton (R-Mich.), Act was amended to say that in such cases, 1986 Electronic Communications Privacy Act (ECPA) was prevailing statute — not 1984 Cable Act.

Distinction is key because cable industry contended that 2 laws held cable operators to different standards. Under Cable Act, operators are required to notify subscribers of law enforcement action and give them opportunity to challenge search warrants in court before warrants could be executed. Attorney Gen. John Ashcroft had sought to change that because, he said, those requirements hampered investigations and tipped off suspects. He wants cable operators to withhold notification for 90 days. ECPA has no notification requirement. Cable industry wanted to comply with authorities’ wishes not to notify customers but feared lawsuits and legal penalties under Cable Act. Upton’s amendment essentially would give cable companies indemnity from lawsuits for revealing information about customer Internet surfing habits and other personal information.

However, law enforcement wouldn’t have same access to subscriber cable TV watching habits, such as if suspect regularly watched Playboy Channel. TV viewing habits still would be protected by requirements of court order and prior notification.

House Commerce version now must be coordinated with separate but similar version that passed in Judiciary Committee. Either House leadership or Rules Committee will work out differences before moving item to floor.

In Judiciary, proposal by Committee Chmn. Sensenbrenner (R-Wis.) and ranking Democrat Conyers (Mich.) also attempts to create parity in subscriber information disclosure requirements of cable, phone and ISPs under certain circumstances. However, industry source said cable companies remained concerned that bill lacked language to specifically limit their liability. Since companies are subject to punitive and other damages for Cable Act violations, NCTA said liability protection was warranted.

Sensenbrenner-Conyers includes some, but not all, of electronic surveillance provisions that Ashcroft has been pushing since attacks. For example, it would enable federal courts to grant nationwide pen register and trap-&-trace wiretap orders, measure that supporters say is necessary to contend with borderless nature of Internet. Wiretap orders currently can be granted by judges only within their respective jurisdictions. Critics of that restriction have argued that that impedes ability of law enforcement agencies to swiftly investigate cybercrime, particularly when suspects simultaneously use computers in several states to commit Internet fraud or carry out cyberattacks. Bill also includes language clarifying that such wiretap orders can be applied to new modes of communications, including Internet.

Bill partly reflects DoJ’s request to amend Foreign Intelligence Surveillance Act (FISA), which governs wiretaps and in-

vestigations of foreign agents. Multipoint, or “roving,” wiretaps, which are allowed under Title III for criminal investigations, would be extended to FISA surveillance orders. Sensenbrenner-Conyers also would extend to criminal investigations lower standard of proof needed for FISA wiretaps, measure that has drawn particular scrutiny from privacy and civil liberties groups.

Cable carriage dispute in Washington suburb between Cox Cable and Allbritton Communications reached name-calling stage Oct. 5, day before contract was due to expire. Day began with letter from Gary McCollum, vp-gen. mgr. of Cox system in Fairfax County, Va., telling Allbritton Pres. Frederick Ryan that Ryan’s Oct. 1 notice of intention to remove WJLA-TV Washington and News Channel 8 from Fairfax system at midnight Oct. 6 “was not legally sufficient.” McCollum also said FCC rules required 30-day notice to subscribers before broadcast signal could be taken off system and Cable Act prohibited Cox from dropping signal during ratings sweep. Therefore, he said, “this 30-day notice obligation will carry us into the November sweeps... Consequently, we cannot legally comply with your demand to cease carriage of WJLA until after the November sweeps.” McCollum suggested that companies “engage a professional mediator during this period... in an attempt to reach a settlement... Furthermore... we propose that there would be no publicity... other than a mutually agreed press release.” Ryan replied later same day that he read McCollum’s letter “with some surprise. Rather than offering to discuss the substance of our renewal contracts... you regrettably seek to drive the matter to the FCC and the courts... You seek to engage lawyers with no apparent intent to resolve the dispute.” Ryan disputed McCollum’s contention that Cox hadn’t received sufficient notice from Allbritton and system’s “continued carriage of WJLA beyond the contract expiration date exposes you to significant liability for theft of signal, copyright infringement and FCC sanctions... It appears to us a continuation of a long history of heavy-handed negotiating tactics by Cox.”

TV-radio news helicopters pose no threat to national security and should be permitted to resume their usual roles in news coverage, broadcast news groups led by RTNDA told FAA Chief Counsel David Leitch and other federal officials Oct. 5. Ban on news helicopters in air in 30 largest metropolitan markets has been in place since Sept. 11. RTNDA Pres. Barbara Cochran said flying ban had been lifted for other types of aircraft — including crop dusters and planes with student pilots — and TV and radio stations needed to have their copters in air to properly serve public. About 250 stations use news helicopters, RTNDA estimated. FAA officials said agency didn’t have authority to lift ban, asked for more information and promised to pass on media’s concerns to National Security Council and other govt. agencies involved in such security measures.

FTC Chmn. Timothy Muris vowed to increase his agency’s role in privacy protection for consumers, but said it was his opinion that now wasn’t good time for new privacy regulation. Introducing his much-anticipated privacy policy in speech at Privacy 2001 conference in Cleveland, Muris outlined long list of initiatives he would press FTC to undertake to protect consumer privacy both online and offline. They include national “do-not-call” list that would protect consumers from telemarketers and 50% increase in resources targeting privacy. His opposition to privacy legislation irked privacy advocates, but they also praised initiatives he did propose.

COURT CONSIDERING CABLE: If term “pole attachment” really means any attachment by cable TV system, couldn’t that also mean current law would allow cable companies to hang posters or billboards from poles, Justice Antonin Scalia half-jokingly asked Asst. Solicitor Gen. James Feldman in oral argument before U.S. Supreme Court Oct. 2. Feldman said court need not decide that issue in case of *FCC and National Cable & Telecom Assn. (NCTA) v. Gulf Power*. Only question before court, Feldman said, is whether FCC has jurisdiction to decide pole attachment rates for Internet service provided by cable companies. Yet justices repeatedly returned to question of how to classify Internet service, whether it’s cable service, telecom service, or something yet to be defined. “I don’t know how the Commission could [have authority] without ever purporting to decide whether Internet is telecommunications,” Scalia said. Court is expected to rule by next summer.

Utilities that own poles can charge one regulated price for cable attachments and another regulated rate for telecom. However, they say Internet is neither and therefore is unregulated, allowing utilities to charge “market rates” for attachments. Current regulated rate for cable service line is roughly \$6 per year per pole, and cable companies say utilities want to charge \$36 or more for space on their poles — increase that industry experts said could cost it millions or lead to increase of \$1.50 per month in subscriber rates.

Case before Supreme Court is review of decision by 11th U.S. Appeals Court, Atlanta, which sided with utilities in their conclusion that FCC had no authority to decide issue. Justice Ruth Ginsburg focused on jurisdictional issue. Justice David Souter asked FCC to come to some conclusion on defining Internet service: “Doesn’t it make sense for you to tell us, at least explain what you think your jurisdictional basis is?” Feldman reminded justices that FCC had proceeding pending on that very question. Scalia seemed to indicate Internet should fall under telecom category, saying Congress could have intended that one section of law be meant for cable services and other for telecom, “which is everything else.” NCTA attorney Peter Keisler said he didn’t think Congress “divided the world solely into cable or telecom” when it passed 1996 Pole Attachments Act, but left room for technology that didn’t fit either. What’s more, he argued, Congress passed statute with intention of encouraging and speeding rollout of Internet and other high-tech services as part of open access philosophy.

Congress intended that other services be excluded from law and FCC is “making a revolutionary expansion in its jurisdiction” by intervening on Internet service, argued attorney Thomas Steindler, representing utilities. Justice John Stevens told Steindler he didn’t see how law as written “forecloses” other kinds of attachments and other rates. Justice Stephen Breyer chided Steindler as reading statute too “narrowly,” saying Congress evidently intended broad interpretation since underlying presumption of statute was that utilities had monopoly on poles and that needed to be rectified. Steindler said that by leaving Internet service unregulated, cable companies that provided that service would merely be placed in same competitive situation as local exchange carriers that competed to provide Internet over DSL lines.

After hearing, lawyers for both sides were reluctant to declare victory, but each said he was pleased. Steindler said he believed FCC must “go across the street to Congress and get some new authority” if it wanted to regulate Internet service because Congress already had described it as “information ser-

vice.” Cheryl Leanza, deputy dir. of Media Access Project (MAP), which filed amicus brief in case, said court “probably” would uphold FCC. She said she thought Breyer, Ginsburg and Souter were “pretty consistent in support of the FCC.” MAP, in its brief, focused on need for FCC to make a decision on how to classify Internet service.

EX PARTE FILINGS TIGHTENED: Office of FCC Comr. Abernathy will begin returning ex parte letters that aren’t detailed enough to meet Commission requirements, she told reporters at breakfast Oct. 4. Lobbyists and others who don’t offer level of detail required by FCC guidelines will be asked to resubmit their letters, she said: “We have rules in place that say when you come in and file an ex parte it should delineate exactly what you’re saying and what issues you are going into... That has not been followed in many instances.” In recent speech to FCBA, Abernathy also cited what she saw as need for more detailed ex parte filings.

“If you look through the ex partes that are filed with this office, you should have a clear understanding of the issues in discussion and who’s been in and then you can decide which ones you do respond to,” Abernathy said. She said she had discussed process her office was implementing along with other commissioners, whom she described as very supportive. “All it really takes is one or 2 offices ensuring that the information is there,” she said.

Abernathy also expressed concern that public might perceive undue influence by profitable companies when they come up against consumer groups on issues such as open access issues currently before Commission. Although she conceded that many consumer groups couldn’t finance their own studies in same way private industry could, she said her office planned to call public interest groups when “certain key issues come forward” and, if they hadn’t scheduled appointment, encourage them to do so. She also urged consumer groups to team up with foundations or other organizations that could generate substantive data for FCC record. “It’s not always how much money you throw at it,” she said.

To address issue of spectrum for public safety operations, FCC has been looking at additional 97.5 MHz of spectrum over next 15 years, Abernathy said. Part of that will be 24 MHz of Ch. 60-69 spectrum, now occupied by incumbent analog broadcasters, she said.

Abernathy said Commission would hold off on deciding how to define Internet service in deference to U.S. Supreme Court, which heard oral argument Oct. 2 in pole attachment case that pitted cable companies against utilities on whether Internet service provided by cable companies was classified as cable service, telecom service or some other as-yet-undefined service (see separate story, this issue). High court is expected to rule on question by next summer. “At this point, we’ll wait and see what the Supreme Court does,” she said.

FCC issued public notice to remind cable operators of requirements of Cable Act on service tiers and Commission rules on subject. As of Oct. 5, 2002, cable operators no longer will be able to require subscribers to buy expanded service tiers to access premium or pay-per-view channels. Some operators have been granted waivers based on lack of addressable converter boxes or other technical limitations.

MODEM FIRMS SCRAMBLING: Companies scrambled to reassure their customers that their Internet service would continue without interruption despite bankruptcy filing by Excite@Home, nation's largest provider of Internet service over cable. Cox Communications said it was heartened by AT&T's decision to acquire Excite's broadband access service before company filed for Chapter 11 protection in U.S. Bankruptcy Court, San Francisco. Dallas Clement, Cox senior vp-strategy and development, said companies would work together to "ensure the high-quality uninterrupted high-speed Internet service." Cox also owns 7% of Excite@Home, and that stake may be lost or worth pennies on dollar when Excite emerges from bankruptcy. As of June 30, Cox had 448,000 customers for Excite@Home. Cox spokeswoman said that between now and June 4, 2002, company would "transition" all of those customers to Cox-managed system from Excite@Home.

AT&T offered to buy essentially all of Excite@Home's broadband access business for \$307 million cash. Agreement remains subject to better offers, but industry insiders said they doubted there would be any. If sale is approved by bankruptcy court and SEC, AT&T said it planned to improve broadband high-speed Internet service and hoped to close transaction early next year. With 23% ownership of Excite@Home, AT&T also has 3.7 million customers with Excite service. "Our stake is pretty much out the window," company source said.

AT&T is scurrying to build its own network to avoid any gaps, source said. Company said it hoped to work with other MSOs that depended on Excite@Home. Excite@Home has affiliate partnerships with Adelphia, Charter, Cogeco Cable, Comcast, Cox, Insight, Midcontinent Cable, Prime Cable, among others. Charter, which has 90,000 customers who receive service with Excite@Home portal, is moving them to other Internet service providers, spokesman said.

AT&T discounted notion that Excite's assets would be acquired to boost asset portfolio of AT&T Broadband, largest cable operator in nation, which AT&T wants to spin off or sell. Comcast in summer made unsolicited \$44.5 billion bid for broadband unit, which was rejected. But Comcast and AT&T since have signed confidentiality agreement and are negotiating in earnest. In fact, one AT&T source said retaining Excite@Home assets would give AT&T "a toehold" in Internet business should it seek to reenter that market once broadband unit was gone.

Complying with Justice Dept. consent decree, Fox TV said it consummated swap of KTVX (Ch. 4, ABC) Salt Lake City and KMOL-TV (Ch. 4, NBC) San Antonio for Clear Channel Communications' WFTC (Ch. 29, Fox) Minneapolis-St. Paul. Acquisition of WFTC gives Fox duopoly in Minneapolis, where it owns KMSP-TV (Ch. 9), acquired in July in purchase of Chris-Craft stations. Meanwhile, Fox parent News Corp. revised its expected fiscal 2002 income downward, citing effect of terrorist attacks on "the worsening advertising market." News Corp. said it now expected income growth for year in "high single-digit to low double-digit range" while Fox Entertainment Group projected "EBITDA [earnings before interest, taxes, depreciation and amortization] growth in the low to midteens." Terrorist attacks "exacerbated an already weak advertising environment" in U.K. and Australia as well as U.S., News Corp. Chmn. Rupert Murdoch said: "Our revised forecast assumes a continuing weak advertising environment... balanced by stringent cost-cutting across all of our businesses."

Cable operators can pass through to subscribers entire amount of franchise fees assessed by local franchising authorities, FCC ruled Oct. 4. Acting on petition by city of Pasadena, Cal., and others challenging Charter Communications' passthrough of franchise fees other than those on subscriber-related revenue, Commission said Communications Act didn't prohibit cable operator from passing through full amount of franchise fees. FCC said fees include those on advertising sales and home shopping commissions. Under Act, local authorities can assess franchise fees of up to 5% of cable operators' gross revenue. Agency also clarified that operators could itemize franchise fees on customers' bills separately to inform users about portion of their bill that's paid to local govt. If operators and local govts. didn't want to burden subscribers with higher franchise fee passthroughs, they could modify their franchise agreements to change definition of gross revenue to exclude certain categories of revenue, FCC said. Agency said it hoped both cable operators and local govts. would "use this decision as an opportunity to negotiate reasonable franchise agreements and franchise fees that put customers at the forefront of their discussion." NCTA, which had opposed Pasadena petition, said it was pleased FCC had resolved issue "so that when a local franchising authority seeks additional fees, then customers will know what they are being charged for." Spokesman said he hoped decision would lead to constructive dialog with local govts. on how best to "handle treatment of franchise fee collection." In filing supporting Pasadena, National Assn. of Telecom Officers & Advisers had contended that permitting passthrough of entire franchise fees would "unfairly disadvantage" competitors to cable operators.

FCC Comr. Copps said he was "heartened" by broadcasters' response to his urging that they voluntarily keep transcripts or tapes of programs so consumers could file complaints of indecent content more easily. In meeting with reporters, he said: "I have genuine concern and want to work with them [broadcasters]. I hope to hear from them soon." FCC puts unwarranted burden on consumers by requiring them to provide transcripts or tapes, he said. Parent carpooling children or sitting with them on beach can't produce tape recorder on spur of moment if allegedly indecent programming is aired, he said. Many stations probably already are taping, he said. "I'm not saying send the tape to the FCC so I can pore through it," he said, adding that he just wanted stations to keep tape for few months in case there were complaints. However, in separate meeting with reporters, Comr. Abernathy rejected notion that FCC should require or encourage industry to record all radio and TV programs that might be deemed in bad taste. "Would I ever support the adoption of a regulation whose sole purpose is to monitor speech for the purpose of regulating speech? No, I won't," she said. She said such taping wasn't necessary because citizens, organized parent groups and others often taped material they found objectionable. "Someone's taping them because we do get the complaints," she said. Broadcasters are subject to penalties and forfeitures only "if they do cross the line into indecent material," she said.

FCC issued new advisory to public on how to stop children or others from seeing objectionable TV programs. Commission reminded consumers that, under Communications Decency Act of 1996, cable companies were required — upon consumer request — to fully scramble or block channels not part of that consumer's chosen programming package. Consumers also may utilize V-chip available in most TV sets manufactured since July 1, 1999, or lockbox technology, which can be leased from cable company or retailer.

Personals

David DeVoe promoted to exec. vp-deputy CFO, Fox Entertainment Group... Anne Gattoff advanced to ABC Radio vp-finance... Joe Cook, ex-WALA-TV Mobile, appointed vp-gen. mgr., WVUE New Orleans... Madelyn Bonnot promoted to vp-special projects, Emmis TV... Kimberly Godwin moves from NBC network to KNBC-TV L.A. as vp-news... Steve Winkey advanced to Clear Channel vp-Iowa region... Daniel Sullivan resigns from Shop At Home board... Alan Frank named station mgr., WPGH-TV Pittsburgh.

Changes at NAB: Andrew Reinsdorf promoted to vp-House govt. relations; Larry Walke, ex-Winstar, named assoc. gen. counsel; Ann Bobeck advanced to asst. gen. counsel... President Bush said he would appoint long-time talk show host Robert Reilly as dir., Voice of America... Bjorn Erichsen, ex-managing dir., DRTV Denmark, appointed dir.-TV, EBU.

Motorola appointed Ed Breen, formerly of General Instrument, to succeed Bob Growney as pres.-COO, effective Jan. 1... Kate Brown, ex-Salomon Smith Barney, named AOL Time Warner vp-finance & acquisitions; Michele James promoted to chief talent scout... Manish Jha advanced to new position of ESPN vp-broadband & interactive TV sales... Denise Brady, San Francisco Dept. of Telecom & Information Services, began term as NATO pres... Brian Allen, ex-ACI Investigations, named dir., NCTA Office of Cable Signal Theft... James Bray, ex-Charter Communications, appointed Dialogic Communications vp-operations... Chad Harris promoted to vp-creative services, Hallmark Channel U.S.

Cable descramblers don't facilitate interception of "communications by radio," so statutory damages available under Telecom Act don't apply to their unauthorized manufacture or sale, 3rd U.S. Appeals Court, Philadelphia, ruled. Court vacated penalties imposed by U.S. Dist. Court, Newark, N.J., on Cable City Corp., seller of unauthorized cable descramblers, and remanded case for further proceedings. Dist. Court had awarded TCR Cable Co., which brought suit, damages of \$160,000 and attorney fees under Sec. 605 of Act. Appeals Court said Sec. 605 barred only unauthorized interception of any radio communication and provided penalties for unauthorized manufacture and sale of any device that helped in decryption of satellite cable programming or direct-to-home satellite services. It agreed with defendant that Sec. 553 was sole statutory remedy for cable piracy of signals sent over terrestrial cable lines. It held that Sec. 605 encompassed interception of satellite transmissions "to the extent reception or interception occurs prior to, or not in connection with, distribution of the service over a cable system." Once satellite transmission reaches cable system's wire distribution phase, court said, it's subject to Sec. 553 and no longer is within purview of Sec. 605.

Charter Communications said it would pay \$81.1 million in cash to buy nearly all assets of High Speed Access Corp. (HSA), struggling Internet access provider. All 75,000 shares of HSA's preferred stock held by Charter and its affiliate, Vulcan Ventures, will be canceled under agreement. Deal has been approved by boards of Charter and HSA, and is expected to close later this year subject to regulatory review and approval by HSA's shareholders. Charter, Vulcan and HSA directors, who together hold majority of voting power in HSA, have agreed to vote in favor of transaction.



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Cable lost \$31.6 million in ad revenue in week in which cable news covered Sept. 11 terrorist attacks without commercial interruption, study says. CMR study found that cable networks lost 16% of their weekly revenue and on Sept. 11 alone lost \$10.8 million. Broadcast networks took biggest hit, \$188.4 million — 49% of weekly revenue for week, study said. Spot or local TV in nation's 75 largest markets lost \$93.2 million (30%), CMR said.

FCC released new quarterly inflation factor of 2.08% for 2nd quarter ended June 30 and factor for year ended June 30 was 1.02%. Under Commission rules, cable operators may adjust their rates for inflation.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers from CEA for week ending Sept. 21 and year to date:

	SEPT. 15- SEPT. 21	2000 WEEK	% CHANGE	SEPT. 8- SEPT. 14	38 WEEKS 2001	38 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	639,946	639,530	+ 0.1	515,853	17,621,152	20,055,546	- 12.1
DIRECT-VIEW**	619,324	613,575	+ 0.9	497,910	16,997,389	19,240,899	- 11.7
TV ONLY#....	519,750	509,544	+ 2.0	401,786	13,972,357	15,923,397	- 12.3
TV/VCR COMBO.	99,574	104,031	- 4.3	96,124	3,025,032	3,317,502	- 8.8
PROJECTION TV	20,622	25,955	- 20.5	17,943	623,763	814,647	- 23.4
TOTAL VCR**...	399,576	758,374	- 47.3	314,053	13,284,747	18,366,232	- 27.7
HOME DECKS...	300,002	654,343	- 54.2	217,929	10,259,715	15,048,730	- 31.8
CAMCORDERS.....	145,577	146,982	- 1.0	60,026	3,550,702	3,829,809	- 7.3
DVD PLAYERS....	286,474*	222,726	+ 28.6	175,920*	6,775,637*	4,474,337	+ 51.4

Direct-view TV 5-week moving average#: 2001--417,652; 2000-467,314 (down 10.6%).

Projection TV 5-week moving average: 2001-18,688; 2000-27,598 (down 32.3%).

VCR deck 5-week moving average: 2001--281,990; 2000-456,648 (down 38.2%).

TV/VCR 5-week moving average: 2001--103,206; 2000-109,113 (up 5.4%).

Camcorder 5-week moving average: 2001--95,505; 2000-107,867 (down 11.5%).

DVD player 5-week moving average: 2001--251,338*; 2000-173,839 (up 44.6%).

* Record for period. ** 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; camcorder data includes analog and digital models.

DIRECTV 'CARDLESS' ANTIPIRACY STRATEGY AT MASS MERCHANTS: To combat signal piracy, DirecTV has stopped packaging access card with satellite receivers sold by 4 mass merchants.

So-called card-out-of-the-box strategy, which has been deployed at BJ's Wholesale Club, Kmart, Shopko and Wal-Mart since Sept., requires that consumers buying RCA or Philips receivers contact DirecTV via toll-free number to obtain free security card, which usually is received within 2-3 days, DirecTV spokesman said. Once consumers get card, they are required to activate programming package starting with Total Choice (\$31.99 monthly fee) within 30 days of purchase. Those that don't choose programming package within 30 days will have \$150 nonactivation fee applied to credit card, DirecTV spokesman said. Flyer detailing program is packaged inside box and sticker is affixed to outside informing consumers that access card will be shipped separately.

Program, which has been under consideration for several years, is first aimed at mass merchants that lack staff to qualify potential customers, DirecTV spokesman said. Access cards have been stolen from boxes containing receivers that are merchandised on sales floor, industry sources said. Recent theft was thwarted at Wal-Mart store in Naperville, Ill., where security camera caught person opening box and taking card, DirecTV spokesman said.

DirecTV's push to tighten up security came after it reported in 2nd fiscal quarter that it had added more than 500,000 gross subscribers, but netted only 175,000 (TVD July 23 p20). It also said per-subscriber acquisition cost hit \$575, \$50 of which was due to nonactivation of service — presumably by consumers who were receiving programming through pirated means. Monthly churn also rose 1.8% from 1.5% as average revenue per subscriber remained flat at \$59.

Although DirecTV does offer cheaper Select Choice package at \$21.99, company has deemphasized it in recent months and DirecTV Web site contains little mention of it. "Most of our promotions are geared toward Total Choice and up packages because they represent a much better proposition and selection for the consumer," DirecTV spokesman said.

New strategy was implemented quickly, said manufacturers, who were notified in early Aug. and barred from shipping 4 mass merchants receivers packaged with security card after Aug. 15. Retailers affected by change were given grace period to sell off existing receivers with cards, and only "limited amount" remains in inventory, DirecTV spokesman said. Wal-Mart and Kmart officials weren't available for comment.

Switch-over won't affect price of product, although manufacturers have given cardless receivers different model number. In case of Philips, "X" was added to end of DSX5350 receiver to identify it as lacking security card, Philips Home Access Solutions Vp John Strobel said. Thomson spokesman confirmed it was shipping receivers as part of new DirecTV initiative and said that "as a licensee we certainly do understand the need to guard against piracy."

Not part of program is Sony, although spokeswoman said company was "looking into it" and will likely make decision by early 2002. Among 4 mass merchants involved in program, Wal-Mart is Sony's largest customer. In slightly different approach, Samsung will ship its standalone DirecTV receiver (\$99) later this month with security card stored in slot located on front of machine rather than packaged separately in box, Samsung DTV Strategy Group Dir. Frank Romeo said.

"It did add some complexity and the difficulty was in how quickly they [DirecTV] wanted to implement it," Strobel said. "It would be nice if all products didn't have cards because there has been theft everywhere — at the trucking companies, in warehouses and in the stores."

DirecTV spokesman was noncommittal about expanding cardless approach to other CE retailers, saying test would be run at mass merchants for unspecified period of time and "we'll measure the effectiveness and look to see if it is necessary at other chains as well."

Separately, White Viper Technologies, Anaheim, Cal., and Ky.-based Vector Technologies agreed to pay \$600,000 and \$563,000, respectively, to settle civil suit filed against them earlier this year by DirecTV. White Viper and Vector were among several businesses in 3 states that were sued under Digital Millennium Copyright Act that contains provisions for fighting signal piracy. Several truckloads of signal theft equipment were seized in May in investigation that involved White Viper offices in Anaheim as well as warehouse in Santa Ana, Cal. Other seizures in Fla. and Tex. recovered \$4.6 million in gear and resulted in shutdown of 35 web sites. White Viper, Vector and others advertised and sold signal theft equipment over Internet and provided and listed programs for modifying DirecTV access cards, DirecTV said.

About 25-30 defendants were named in DirecTV's suit, but White Viper and Vector are only companies to have reached settlements so far. Suit remains pending against American Card Programmers, Fulfillment Plus, Global Capital Corp., Mailroom & More and Meadco, DirecTV spokesman said.

PAUSE SUES TIVO AS PVR PATENT FIGHT ESCALATES: Pause Technology's filing of patent infringement suit against TiVo is most recent volley in what is likely to be continuing battle for rights to various aspects of personal video recorder (PVR) technology.

Boston-based Pause filed suit in U.S. Dist. Court there alleging that TiVo had violated patent issued in 1995 and reaffirmed in 2000 that covered technology that enabled viewers to pause live TV, fast forward programs and replay parts of programs while they were being recorded. But Pause patent claims could expand beyond TiVo. Motorola has signed licensing agreement with Pause for its digital cable set-top boxes that are expected to be based on ReplayTV's PVR platform. Pause has had discussions with ReplayTV and others, spokesman said: "We're essentially talking to everybody in the industry." ReplayTV officials weren't available for comment.

Inventors of Pause technology are listed as James Logan, Windham, N.H., and Daniel Goessling, Wayland, Mass. Pause suit puts chink in TiVo patent portfolio. TiVo earlier this year received broad patent covering PVR technology (TVD May 28 p13). Patent, (U.S. 6,233,389) filed in July 1998 and granted May 15, covers simultaneous playback and recording of TV programs, feature that TiVo only recently has begun to implement via DirecTV/PVR product that contains 2 tuners. Patent has 56 claims including methods of processing various multimedia streams such as audio and video at low cost and storage format that allows user to pause and scan through live TV broadcast.

TiVo spokeswoman said company was “surprised and disappointed” that Pause filed suit, but said “we stand by our prior claim to this company that we don’t infringe.” Pause spokesman said company contacted TiVo twice, starting in spring, on its patent before filing suit. TiVo also has been target of other patent infringement suits, including one filed by Gemstar-TV Guide International in 2000, largely because it so far has been only company to have generated significant business using PVR technology. Company has attracted more than 200,000 subscribers since starting service in 2000. ReplayTV, which made run at selling PVRs via own Web site and under Panasonic’s Showstopper brand, underwent major restructuring last fall to shift focus to licensing of technology and since has sold company to Sonicblue.

PVR technology situation could become sticky, with possibility of patents’ being reexamined. Others with patents include Gemstar (U.S. 5,701,383, granted Dec. 23, 1997) and Matsushita (U.S. 5,999,691, granted Dec. 7, 1999).

NO CD COPY PROTECTION FROM UMG — YET: No copy protection was found on 3 major CD releases last week from Universal Music Group (UMG), despite label’s Sept. 25 claim it would implement anticopying technology on selected releases this month.

We had no difficulty making digital copies from new CDs, either on PCs or home audio CD recorders. Discs involved in test were major titles from high-profile artists: Elton John’s *Songs from the West Coast*, Diana Krall’s *The Look of Love* and *Wake Up and Smell the Coffee* by The Cranberries. Latter CD won’t be available in U.S. until Oct. 23 but was released Oct. 3 in Japan, where we obtained it.

UMG has been mum to date on details of copy prevention program, declining to disclose what system it will use and what titles will be protected. But Vivendi Universal Vice Chmn. Edgar Bronfman told analysts Sept. 25 that technology to prevent CD copying on PCs or blank CDs would begin in Oct. and UMG aims to use it on all CDs toward end of first quarter 2002. Although he said protected discs would run in conventional CD players and PC-based CD-ROM drives, it’s not known if copying in home audio CD recorders is permitted.

We had no trouble copying new discs digitally in Philips CDR765 home dubbing deck. All 3 CDs also copied easily to hard drive and CD burner in Windows PC using Roxio’s Easy CD Creator. Discs were copied to CD burner on-fly in Apple Macintosh. In all cases, copies of CDs played back flawlessly, without any deliberate spoilers or artifacts attributable to copy prevention.

Comment from UMG wasn’t available at our Fri. deadline. Label’s other major releases for quarter include albums from Sting, Bee Gees, Enrique Iglesias, Andrea Bocelli. Other popular UMG acts include Eminem, Eric Clapton, Sheryl Crow, Rod Stewart, U2, The Who.

EchoStar will continue marketing campaign that offers America’s Top 100 programming package with \$9 monthly fee despite charges by cable operator Charter Communications that it’s “false and deceptive.” EchoStar began promotion in early Aug., offering consumers who bought Digital Sky Highway (DISH) receivers priced at \$199 or more programming package starting at \$9. DISH subscribers receive \$21.99 credit for 12 consecutive months when they sign up for 115-channel America’s Top 100 (\$30.99 monthly fee). “The disparity in presentation makes it likely that customers will be deceived concerning the investment necessary to receive free installation and promotional pricing and to achieve the promised savings,” Charter Senior Vp-Gen. Counsel Curtis Snow said in letter to EchoStar CEO Charles Ergen. EchoStar’s “I Like 9” campaign doesn’t generate \$462 in savings that it suggests can be achieved when compared with digital cable service, Snow said. EchoStar is further expanding promotion to offer Charter subscribers additional \$100 savings off \$199 hardware price provided they present dealer with Charter bill showing they had subscribed to cable service within 90 days of signing up for DISH. Promotion runs Oct. 8-31. Ergen said he was “surprised” by Charter’s reaction to “I Like 9” promotion and said cable operator should supply “better service and better pricing” in effort to retain subscribers.

ATI Technologies remains on target to report first royalty payments from Nintendo in first fiscal quarter (TVD May 21 p20) and will be paid by game maker on monthly basis, Pres.-COO David Orton told analysts in conference call. ATI, which designed graphics and I/O chip for Nintendo’s GameCube, will receive royalties on hardware and software sales. Software royalty will apply only to titles that Nintendo develops internally and not to 3rd party games, company has said. Initial sales in Sept. of GameCube in Japan have been strong, although “timing wasn’t great” given terrorist attacks in U.S., Orton said. GameCube is scheduled to debut in U.S. Nov. 18. Overall, ATI said 4th quarter loss narrowed to \$11.6 million from \$45.2 million year ago despite drop in sales to \$229.1 million from \$279.2 million. Revenue downturn was largely caused by decline in desktop PC market to which ATI supplies graphics chipsets. ATI said 15% of sales were through retail, rest OEM.

THIS WEEK’S YEN RATE

Yen values have been converted to dollars in this week’s issue at ¥121 = \$1, except where noted.

TWEETER REDUCES EXPANSION: Tweeter will open 15 stores with signed leases in current fiscal year, but won't add 35-36 it had forecast earlier as it grapples with slowdown in U.S. economy, CFO Joseph McGuire said.

Most of new stores will open in Greenville, S.C., Nashville and Washington (TVD March 26 p12) and will feature chain's 10,000-sq.-ft. format, McGuire told investors at Robertson Stephens conference in N.Y. last week.

"We're seeing traffic in our stores, but people absolutely are being more cautious," McGuire said.

As it slowed store expansion plans, Tweeter reported fiscal 4th quarter sales soared 55.2% to \$150 million from \$97 million year earlier. Same-store sales declined 1.9% excluding results of several chains Tweeter recently acquired that had sharp drops, including Audio Video Systems (14.2%), Big Screen City (5.1%), Douglas TV (15.1%) and Sound Advice (SA) (8.5%). SA was hit especially hard as same store sales fell 20% in Sept. (TVD Oct 1 p17) chainwide, 31% at single West Palm Beach, Fla. location, downturn that McGuire attributed to fall off in U.S. economy following Sept. 11 terrorist attacks.

Tweeter ended 4th quarter with \$128 million in inventory, \$4-\$5 million "higher than I would have liked to finish" Sept., McGuire said. Audio profit margin declined 4-5% in Sept., which was partly offset by strong sales of digital TVs, he said.

"The decision process over the next 60 days is, do we buy for flat comps, down 2% or down 5%?" McGuire said. "We've made no decisions and we're looking at the trends."

In tightening financial belt, Tweeter isn't likely to resume e-commerce business next year to replace joint venture with Cyberian Outpost (CO). Tweeter took \$1.2 million charge against fiscal 4th quarter earnings to write off investment in joint venture after proposed sale of CO to Fry's Electronics. CO shareholders are to vote on sale Nov. 8 at Sheraton Hotel in Danbury, Conn. In scrapping joint venture, chain will focus on revamping Tweeter.com informational Web site that's expected to be completed by Nov., McGuire said.

"I don't think we'll make the necessary investment to get a full-blown commerce Web site, which means we may be dark next year," McGuire said. "That doesn't mean we may not partner with somebody else, but there is a shortage of financially viable people to do that with. I am in no rush to go through that again."

In other strategies, Tweeter, which completed purchase of SA in Aug., will continue open Bang & Olufsen (B&O) outlets, which latter operated under licensing agreement. It also will continue to maintain separate Hi-Fi Buys, SA and Showcase Home Entertainment brands in Atlanta, Miami and Phoenix markets respectively for "time being," McGuire said. It has switched acquired chains Bryn Mawr, Douglas TV, Dow Audio/Video, Home Entertainment and United Audio to Tweeter name. Still undecided is whether Tweeter will expand SA's Electronics Environment (TVD May 8/00 p13) mall-based format, 2nd of which recently opened in Tampa, McGuire said.

Correction: Toll-free number for JVC hq in U.S. is 800-526-5308.

SONY STICKS WITH PS2 TARGETS: Sony has no intention of revising its PlayStation 2 (PS2) sales targets for current fiscal year ending March 31, 2002, despite economic troubles that are affecting company and CE industry overall.

Spokeswoman said Sony Computer Entertainment America (SCEA) told investors in Japan that PS2 already was turning profit and that game group was expected to be profitable this year. Reuters report from Tokyo quoted Sony CEO Nobuyuki Idei as saying: "So far, Sony management has no reason to make any revision in sales targets for the [game console]. We're confident regarding sales of the [console] despite the impact of the [Sept. 11 U.S. terrorist attacks]." SCEA spokeswoman said: "We are still on track [to ship] 20 million [PS2] units for the fiscal year" worldwide.

What could help maintain Sony's game console sales this year is delayed rollouts of competing Microsoft Xbox and Nintendo GameCube, Idei told reporters. Reuters also indicated that Idei said dropping chip and component prices were helping to cut PS2 production costs.

While PS2 sales in Europe have fallen far short of performance in U.S., Sony's recent decision to cut price in Europe is expected to boost sales in that market considerably. SCE U.K. dropped PS2 price £30 to £199.99 (\$290) in U.K. as of Sept. 28 (TVD Oct 1 p14). Sales of PS2 in U.K. apparently have shot through roof since then. British news report last week said PS2 sales "more than tripled" after price cut, and console had its best week since it went on sale Nov. 24, 2000. SCE U.K. officials weren't available at our deadline for comment.

In April, Sony said its games business had \$409 million operating loss although game sales rose 2% overall (TVD April 30 p17). Operating loss was blamed mainly on start-up expenses for PS2 and higher cost of raw materials and depreciation expenses at manufacturing stage.

As we reported last week (TVD Oct 1 p9), Sony said restructuring costs for fiscal year ending March 31 would total \$417.8 million, including \$173.9 million in additional restructuring of group operations. Company also lowered its forecast for annual group profit to \$86.9 million from \$782.7 million projected in July and annual sales estimate to \$65.2 billion from \$66.9 billion on "worsening of results in the electronics business." Sony added: "The revised forecast reflects the estimated impact of greater worldwide economic deceleration than foreseen in July. This impact includes a preliminary estimate by management of the effects of the terrorist attacks which occurred in the U.S. on September 11, 2001. However, further ramifications of these events remain uncertain, and it is difficult for Sony to estimate the overall impact of these events at this time."

DVD deck with Compact Flash (CF) reader is available from Sampo. Baldwin Park, Cal., company said new DVE-631CF player lets users view JPEG photos of any resolution from CF card or CD-R/W on their TV sets instead of needing PC hookup. CF cards and CD-R/Ws can store photos, MP3 and video files. Sampo said when either CF card or CD-R/W was inserted in DVE-631CF, TV screen displayed several folders so users could navigate and retrieve files using remote control. New deck can play MP3 files from either source and accommodates CF cards of any memory size. It also plays MPEG-1 Video CDs and Super Video CDs. MSRP is \$249.99.

HOLLYWOOD VIDEO DVD PACT: Hollywood Entertainment (HE) will have DVD revenue-sharing agreements with most movie studios by year-end 2002, CEO Mark Wattles said at Robertson Stephens investor conference in N.Y. last week.

Chain signed revenue-sharing pact with MGM Entertainment earlier this year (TVD Aug 13 p16). Video rental industry isn't likely to "rush into" revenue-sharing agreements because dealer cost of DVD titles (\$18) is low and it has better margins than VHS, which is priced at \$65, Wattles said. Video rental chains signed first VHS revenue-sharing deals with studios in late 1990s. "Some titles might not be brought out under DVD, but the slower we are in reaching agreements, the better the terms we'll get from the studios," he said.

DVD accounted for 16.5% of HE's rental revenue in 2nd quarter, up from 9% year earlier, and is targeted for 30% by year-end. While HE rival Blockbuster is taking \$450 million charge in 3rd and 4th quarters to write off and eliminate 2,000 VHS titles from merchandise mix (TVD Sept 17 p18), HE doesn't have similar plans, preferring instead to use broad selection, Wattles said. Blockbuster has said it will double DVD selection to 2,000 titles by 2002.

HE has no immediate plans to open new stores beyond 1,815 it currently operates due largely to terms of credit facility. Credit agreement bars HE from adding new outlets until debt falls below \$100 million from current \$500 million, Wattles said. Agreement requires HE make \$6.5 million amortization payment in Dec. and \$100 million in 2002, including \$40 million in 4th quarter, Exec. Vp-CFO James Marcum said. And while facility's requirements don't cover HE's store-within-a-store formats like Game Crazy (67 stores), those plans also have been put on hold, he said. Some 200 HE stores were unprofitable when Wattles, who founded chain, returned as CEO in Aug. 2000, and number since has been cut in half, he said. HE is targeting videogames to account eventually for 20% of total revenues, up from current 8%. Increase will be driven by Nintendo's GameCube and Microsoft's Xbox, both of which are being introduced this fall, along with Sony's PlayStation 2.

"We need to bring the budget back in line," Wattles said. "We will grow the chain, but when we will do that again I don't know, but we're not there yet."

In effort to generate new revenue, HE will weigh entering video-on-demand (VOD) business through "mergers, acquisitions or joint ventures," Wattles said. HE had tested VOD waters when former subsidiary Reel.com began venture with Sprint, but program never moved forward and Reel.com was shut down year ago. HE has continued to maintain Reel.com as informational site, but last week signed agreement to link it to 800.com for sales of music, video, electronics. Reel.com averages about one million monthly visitors. Wattles declined comment on amount of revenue 800.com venture might generate, but said it wouldn't be "significant to us." HE will receive commission on each sale through 800.com.

800.com-HE partnership is being promoted online and in-store. For limited time, companies said, new 800.com customers will save \$5 off movie orders of \$50 or more and receive free rental coupon for Hollywood Video stores with their orders.

Unclear is impact of HE's agreement with 800.com on its previous pact with Buy.com. Latter had been handling e-commerce

fulfillment for Reel.com since HE discontinued e-commerce operations (TVD July 3/00 p20). Wattles declined comment and Buy.com spokesman wasn't available for comment.

Meanwhile, HE, crediting better-than-expected results driven by DVD, raised 3rd pro forma diluted earnings per share estimate to 15-17¢ from 8-10¢. Same-store stores in 3rd quarter ended Sept. 30 increased 11%, besting earlier forecast of 4-5%.

Cirrus Logic said it would consolidate digital signal processor (DSP), D/A convertors (DAC) and codec chips under own brand starting next year, largely dispensing with Maverick and Crystal names. Crystal brand DSPs and DACs have been deployed largely in A/V receivers and DVD players and Maverick processors in Internet appliances, PDAs, e-books, digital audio players. "We've done away with all our branding lately and we're restructuring things to just be Cirrus" brand, Cirrus spokeswoman said. Cirrus, which last week trimmed 300 jobs as it ceased making chips for hard disc drives, is expected formalize to brand plans at CES in Jan. It also reported that 2nd quarter pro forma loss per share would be at high end of 15-20¢ range and revenue at low end of previously forecast \$75-\$85 million range. Cirrus also completed acquisition of ShareWave last week and said it would take \$13-\$18 million charge against 4th quarter earnings for in-process R&D as result. Cirrus exchanged 3.4 million shares, worth \$28.3 million, for all of ShareWave stock. Deal, worth \$92 million when it was announced in July, will add to earnings within 3 quarters, Cirrus said. It also is expected to complete purchase of Stream Machine by mid-Nov., spokeswoman said. Meanwhile, Cirrus started sample shipments of its first 8-channel DAC chip (\$6.50 in lots of 10,000 units) in move that will bring into competition with Texas Instruments' Burr-Brown. New 24-bit chip accepts PCM and DSD data at sample rates up to 192 kHz and has 114 dB dynamic range, latter being about 10 dB better than Burr-Brown's comparable DAC. Cirrus also introduced step-up version of 6-channel CS4360 DAC (TVD June 4 p16) that adds DSD audio data capability (\$5.35 in lots of 10,000). Both DACs, which start volume production in first quarter, target upper end audio gear including DVD Audio and Super Audio CD (SACD) decks. DACs are based on Cirrus's Delta-Sigma convertor architecture combined with analog switch capacitor filter. Cirrus also will start sample shipments of CS42L50 codec (\$3.64 in volumes of 1,000 units) for digital audio players, minidisc recorders/players, digital camcorders. Volume production begins in Nov. Chip has 96 kHz sample rate, 1.8-3.3 v supply and draws 19 and 30 milliwatts in playback and record modes respectively.

RadioShack (RS) said revenue fell 6% in Sept. on weak sales of PCs. Sales declined to \$354 million from \$376.2 million. Same-store sales at company-owned outlets dipped 3%. Bright spot was wireless communications category, which jumped 20% in same-store sales in dollars and 30% in units. RS sells Sprint PCS, Verizon Wireless, prepaid wireless service Tracfone. Sprint gets 25% of new customers through its store-within-a-store format at RS... Intertan reported Sept. sales of \$32.1 million on flat same-store sales. Double-digit sales gains were recorded in wireless, digital accessories, software and direct-to-home satellite, Pres.-CEO Brian Levy said. RS operates 890 stores in Canada under its own and Rogers AT&T Wireless Communications Express banners.

Free *Shrek* DVD will be offered with purchase of select Philips DVD players. Company said promotion would run Nov. 23-Feb. 2.

EMI LICENSES MUSIC TO PRESSPLAY: Huge boost arrived last week for pressplay online music service with word that licensing agreement was signed with EMI Recorded Music that would see company's songs added to pressplay's growing catalog.

Pressplay, joint venture of Sony Music Entertainment and Universal Music Group, said agreement established it as "the largest subscription-based music catalog." Nonexclusive agreement was first major label signed by pressplay, which is direct competitor of Sony and Universal. Remaining 2 of industry's 5 major labels — BMG and Warner — had yet to throw their support behind pressplay by our deadline but pressplay Pres.-CEO Andy Schuon said last week: "We will continue working to secure agreements with other labels that will enable us to enlarge our offering."

Schuon said deal with EMI "represents another major step forward" for his company as it prepares to start service.

Explaining why company decided to throw its support to pressplay, EMI New Media Senior Vp Jay Samit said: "We are always looking for new ways to expand the reach of our artists' music as long as our artists' rights are fully respected, and pressplay offers a great new opportunity for us to do that. There is clearly huge demand for music delivered digitally and we want to support as many innovative and competing online music services as possible."

But development was unlikely to ease concerns of industry watchdogs who have been arguing for last couple of years that top 5 record companies had monopoly that would only strengthen in digital music arena — especially now that Napster essentially was out of picture.

EMI, BMG and Warner — along with RealNetworks — are backers of competing MusicNet online music subscription service. MusicNet has indicated it's interested in signing on Sony and Universal to its service. Starts of both services have been put off from earlier this year, but are expected this fall.

Pressplay intends to offer on-demand access to digital music files through various affiliates, including MP3.com (with which major record labels have had contentious relationship in past), MSN, Yahoo. Report late last month said MusicNet already had provided its technology platform to its distribution partners — apparently moving start of service closer to reality. But MusicNet and its backers have, like pressplay, failed to offer specific date for start.

Continuing trend in which online retailers presell new videogame consoles only as part of pricey bundle instead of hardware alone, Amazon.com was to start offering limited number of GameCube presale bundles at its Web site today at \$399.99 each. E-tailer indicated to members of its *Amazon.com Delivers Nintendo* newsletter that more bundles would be offered for presale in future. Two bundles are to be offered at start — GameCube Luigi Pack containing console, additional controller, memory card, 6-month subscription to *Electronic Gaming Monthly* and games *Luigi's Mansion*, *Madden NFL 2002*, *Star Wars Rogue Squadron II: Rogue Leader*; GameCube Wave Pack including same merchandise but with *Wave Race* instead of *Madden 2002*. Consoles are to be available in indigo and jet black.

COURT REVERSES CCD DECISION: U.S. Appeals Court, D.C. has overturned lower court ruling that granted summary judgment in long-running patent dispute over manufacturing process for charge-coupled devices (CCDs) that pitted Loral Fairchild against half-dozen Japanese CE companies.

Most recent decision, which returned case to U.S. Dist. Court, Brooklyn, involved Toshiba and NEC. Companies were granted summary judgment dismissing Loral suit on basis that article written by Daniel Erb in late 1973 predated filing of latter's CCD patent application in Feb. 1974. Dist. Court had found that Erb's article qualified as prior art that could be used to prove that Toshiba and NEC didn't infringe on patent. CCDs are key components of camcorders and other CE products.

Appeals Court ruled that Loral's evidence that Gilbert Amelio "conceived of [CCD] invention and actually reduced it to practice" before Erb's article was published "raised genuine issue" of prior art. Amelio said in affidavit dated April 2000 that CCD invention was "reduced to practice shortly after" Sept. 14, 1973, and that Loral had production-quality devices that Oct.

Amelio's position was supported by co-worker David Wen, who testified in separate trial involving Sony that Loral had received custom-made lithographic masks needed for CCDs by mid-Sept. 1973. Federal court jury found in Feb. 1996 that Sony had infringed on Loral patents, but judge later reversed decision, saying company hadn't infringed based on disclosure of Erb article. Appeals Court upheld decision based on doctrine of equivalents, but didn't rule on Erb evidence.

Loral originally filed suit in 1991 naming numerous Japanese CE manufacturers. List was shortened in 1995 to 6 manufacturers: Hitachi, NEC, Oki, Sanyo, Sony, Toshiba. Sony is only defendant to go to trial.

Sharp Electronics is said to be readying 43W plasma display panel (PDP) for Japanese market priced at \$8,200. Display, sourced from Pioneer, has 1,280x768 resolution, 900 lumens and 900:1 contrast ratio. Pioneer unveiled 43W at Cedia in Sept. (TVD Sept 10 p10). Sharp is targeting monthly sales in Japan of 1,000 units. New PDP will expand Sharp's ties to Pioneer, from which it also sourced 50W HD display. Sharp's PDP venture with Pioneer dates back at least 2 years (TVD Oct 4/99 p18) and stems from companies' earlier joint development of 61W rear-projection HDTV. Sharp spokeswoman declined comment on U.S. PDP plans, saying product would be unveiled at CES in Jan. However, Sharp earlier hinted at 37W or 43W PDP (TVD Dec 11 p16). Hitachi forecast shipments of 48,000 PDPs (15,000 in first half, 33,000 in 2nd) this year, *Digitimes* reported. Hitachi markets PDPs of 32W-42W produced in joint venture with Fujitsu... **Toshiba** formally unveiled 14.1" low-temperature polysilicon (LTPS) TFT LCD (\$660) notebook PCs last week. Display has 1,024x768 resolution and monthly capacity at Toshiba's plant in Japan will be 100,000 units at start. Toshiba also markets 10.4" and 12.1" LTPS LCDs.

Sharp cut prices on Aquos LCD TVs \$100-\$700, driving retail for entry-level 10" (\$999) below \$1,000 for first time. Under new pricing, 13" drops to \$1,299 (\$1,599); 15", \$1,999 (\$2,299); 20", \$3,299 (\$3,999). In introducing product line late last year, Sharp hinted at possibility of dropping 10" to \$999 as part of effort to jump-start category (TVD Dec 11 p16).

NINTENDO TO PUSH GAMECUBE TITLES: After flurry of new games for N. American GameCube rollout late this year, Nintendo of America (NOA) will ship 5 new titles in Q1 2002, including first-party games *NBA Courtside 2002* and *Star Fox Adventures: Dinosaur Planet*.

While he wouldn't name other anticipated first quarter releases, NOA Senior Mktg. Vp George Harrison suggested last week that some of them would be 3rd party games that slip out of Christmas selling period. Harrison said many 3rd party publishers that didn't have GameCube titles this holiday might opt to hold releases until Electronic Entertainment Expo (E3) in May. But he emphasized that NOA would continue to market new hardware aggressively in early 2002.

Although only 3 games were shipped on day one of GameCube's rollout in Japan Sept. 14, NOA said 15-20 might be available in N. America between Nov. 18, when system is unveiled, and end of calendar year.

At L.A. kickoff of NOA's 10-city Cube Club promotional tour last week, Harrison said company would be receiving some of its 1.1 million GameCube allotment fairly late in holiday selling season but hoped positive buzz on introduction would convince Japanese parent company to boost N. America's percentage of hardware production for first half of next year.

With sellouts and shortages expected for both GameCube and competing Microsoft Xbox regardless of how much hardware actually reaches shelves, upcoming holiday season may be as much about branding and positioning as it is about tie ratio and revenue. NOA and its PR agency Golin/Harris have made little secret that Cube Club events are part of conscious effort to inject some cachet into what traditionally has been kid-friendly image for Nintendo. In addition to play stations featuring more than dozen GameCube titles including *Madden NFL 2002* and *FIFA 2002* from Electronic Arts *Super Monkey Ball* and *Sonic Adventure 2* from Sega and *NFL Hitz* from Midway, L.A. event featured celebrities including Paul Sorvino, along with paparazzi lining red carpet at entrance. "We're trying to develop more of the [buzz] that seems to come more naturally to Sony," Harrison said.

As for big picture, Harrison, like others in videogame industry, said his company was concerned about overall economy heading into 4th quarter, although he said Nintendo, unlike relative newcomers to games industry, at least had had experience selling systems in uncertain financial times. Sales & Mktg. Exec. Vp Peter Main "was here during the recession of 1990-1991 and the Gulf War and said videogames sold through the roof," Harrison said.

Meanwhile, Harrison said his company would be working primarily with Blockbuster in rental arena, but because NOA would be receiving only 600,000-800,000 GameCube units, Nintendo might not be able to supply rental chain with that much hardware at outset, limiting amount of joint promotions that could be done. However, he did add that company would be supplying additional promotional discs to rental channel featuring 3 playable demonstrators and movies of 5 other games.

Main, who is to retire in Feb., said company expected to begin receiving shipments of GameCube hardware at its warehouse Oct. 10, giving it plenty of time to get allocations out to retailers in time for Nov. 18 start.

Microsoft took wraps off Pocket PC 2002 operating system (OS) for handheld PCs last week, saying it had roster of 15 hardware suppliers that include additions of Audiovox, Samsung and Toshiba, among others. New OS offers improved links to other Microsoft products including Exchange server, which runs Outlook e-mail and calendar software, and SQL Server database. As expected, Audiovox introduced Maestro Pocket PC with 32 MB SDRAM, 32 MB flash ROM, Intel 206 MHz processor and 3" screen with 240x320-pixel resolution. It also has built-in CompactFlash and Secure Digital (SD) slots. Maestro will be marketed with wireless phone at Verizon stores and products will be combined in model due in first quarter. Wild card was Samsung, which said it would ship handheld PC/cellular phone in 2002 based on Pocket PC OS. British Telecom spinoff mm02 PLC also is developing wireless phone/personal organizer. Casio unveiled E-200 (\$599), which has MultiMedia Card/CF slot, USB port and is Bluetooth/802.11 enabled. New handhelds, at \$350-\$600, will largely target business customers, not consumers... **Palm V** handheld is receiving makeover that allows it to act more like Blackberry pager. Motient, which operates wireless service for Research In Motion's Blackberry e-mail products, is expected to announce pager modem and service this week for Palm V. Motient's MobileModem, which ships in Nov., will be \$259 and service carries \$49.95 monthly fee. MobileModem, which is being built by Australia's WaveNet, accesses Internet at 19.2 kbps. Debut won't be affected by Motient's recent financial troubles, spokesman said. Motient said it would cut 25% of work force in effort to reach break-even cash flow by mid-2002. Research In Motion also recorded \$23 million write-down of inventory at Motient in reporting earnings last week. Motient, which resells Blackberry pager, no longer is being shipped product, Research In Motion officials said.

Studios and record labels charged Napster-like "Grokster" and its partners with creating "21st century piratical bazaar" for swapping copyrighted movies and songs on Internet. In Oct. 3 complaint filed in U.S. Dist. Court, L.A., in *Metro-Goldwyn-Mayer v. Grokster*, plaintiffs said Grokster, MusicCity.com, MusicCity Networks Inc. and Dutch company Consumer Empowerment BV permitted exchange of first-run movies and hit songs via their interlocked networks. Moreover, they alleged, "in an effort to create a protected zone for piracy, defendants have encrypted the electronic communication within the network and boast of the anonymity it provides to users." Defendants' system works by providing software via download that lets users connect to closed computer network to copy and distribute infringing files, plaintiffs said. Respective user populations can see and access each other's files, complainants said. Files available on system include movies *Legally Blonde* and *Planet of the Apes*, court documents showed, as well as songs by 'N Sync, Janet Jackson and Britney Spears. Lawsuit seeks damages and injunction. "We cannot sit idly by while these services continue to operate illegally, especially at a time when new, legitimate services are being launched," RIAA Pres. Hilary Rosen said. "The filing speaks for itself," MPAA Pres. Jack Valenti said. Neither Grokster nor MusicCity.com responded to requests for comment.

Amazon.com introduced fully personalized online store for its returning customers. "Your Store" features each customer's name in tab that contains selections from their favorite product categories across e-tailer's Web site. Items featured in Your Store include content based on prior purchases, products customers previously rated, areas on site that customers marked as favorites.

GEMINI SETS ZENITH STRATEGY: Gemini Industries will position Zenith brand alongside Philip-Magnavox at high end of accessories line, each typically targeting separate retailers, Corp. Strategy & Business Development Vp Robert Heiblim said.

While Philips-Magnavox and lower priced Magnavox brands will target audio applications, Zenith will aim at video, particularly in satellite and TV applications, Heiblim said. For example, while Philips-Magnavox covers audio accessories at Wal-Mart, Zenith could be added for satellite products such as dishes, remotes, feed horns, etc., he said.

Gemini, which acquired rights to Philips brand in 1996 (March 25/96 p15) and followed it up by adding Zenith name in May (TVD May 14 p17), has expanded rapidly since York Management bought financially troubled company from Merrill Lynch Capital in Sept. 1999.

In addition to video accessories, Gemini will broaden Zenith's push into videogames with introduction of about 20 SKUs at CES in Jan., Heiblim said. Line, priced at \$20-\$200, will range from universal remote for Sony's PlayStation 2 (PS2) to multimedia speakers and wireless headphones, he said. Also to be included are cables and memory cards, he said, and Gemini is developing remote for Microsoft's Xbox.

Videogame accessories will focus largely on PS2 at start, Heiblim said. And despite Sony's producing 70% of PS2 accessories, he said gaps remained for niche items. While Sony has marketed remote to operate DVD functions of PS2, Gemini's Zenith brand will market universal version allowing it to operate other products as well. Zenith, which has line of about 25 remotes, had introduced universal remote for PS2 before licensing agreement with Gemini. "We're going to be fighting for the 30% of total sales [of PS2 accessories] of products that Sony doesn't make with Interact and Mad Katz and our line is going to be oriented around items that they don't produce," Heiblim said.

In addition to broadening videogames, Gemini will explore new technologies. As evidence, it has shipped Zenith branded GuideRemote (\$199), device developed by Evolve Communications with built-in program guide that can be viewed using remote's LCD screen. Program listings can be grouped to meet user preferences and can be updated via free GuideRemote.com Web site. Remote has 4 "interactivity keys" including those that enable users to find out more information about program they're watching, shop, vote and enter contests. GuideRemote also serves 16-function programmable control device. "Gemini service levels are high, but now we're going to improve the technological offerings and the speed to market," Heiblim said.

In boosting speed to market, Gemini will pare back some of Zenith-branded accessories line, which had grown to 750 SKUs as it sought to boost market share under direction of former Vp Leonard Coakley, who signed on with Gemini following sale.

Panasonic will shift DVD production to China from Japan, spokesman confirmed last week. Move will involve all but high-end models, which will continue to be made in Japan, he said. Manufacturing in China will be at joint venture in Dalian, China Hualu Matsushita, mostly for export to N. America.

NHT TO REVAMP LINE: Recoton's NHT brand will drop its aging Music and Home Theater speaker lines and replace them with single line with new drivers and better bass response, Vp-Gen. Mgr. Chris Byrne said.

New speakers, which have working name of Evolution, will be priced slightly lower at \$300-\$4,000 per pair from previous \$275-\$6,000. They will be smaller than those they replace, but with higher output. Bass response will be lowered to 70 kHz from 90 kHz, he said. Evolution will feature 3-way speakers, which were in 6 of 15 models in previous line. "We found a way to get a little more bass out of a smaller enclosure and that has to do with the power that we're going to supply," Byrne said.

Overall, NHT speaker line, exclusive of in-wall product, will be trimmed to 13 SKUs from 22 with tower models dropping to 3 from 7. Home Theater series featured VT-3 towers with 500 w mono amplifier that used Robert Carver's Sunfire tracking down-converter technology for high efficiency and power. "We had too many price overlaps before," Byrne said. "The fact is, we can make these for lower prices but we're not going to become a value-oriented brand."

Music speakers were introduced in 1987, followed by Home Theater models in 1991. Since then, there "have been just updates of the same models," Byrne said. New speaker series will be first major change Byrne has made in line since returning to company last year. Recoton acquired NHT in 1996 as part of purchase of International Jensen.

Flextronics CEO-Chmn. Michael Marks told analysts at meeting in N.Y. last week that his company was "making a lot of changes about the way we run our business" in order to be competitive and see returns it wanted. Singapore-based electronics manufacturing service company said it recently started production on Microsoft's Xbox videogame console in Guadalajara, Mexico, and Hungary. Console is scheduled to roll out in N. America Nov. 15. On same day as analyst meeting, Flextronics and Xerox announced 5-year manufacturing agreement calling for latter to produce select Xerox office equipment and components. Deal also calls for Flextronics to pay Xerox \$220 million and assume certain liabilities for sale of inventory, property, equipment. Flextronics expects deal to translate into \$1 billion in annual revenue when it's finalized, probably in Feb., Reuters reported. Flextronics also said it was sticking to its previously announced financial guidance for 2nd quarter ended Sept. 30 although it was taking \$380 million restructuring charge that included \$90 million in cash charges related to cuts in work force. Company said it believed previous earnings guidance of 15-18¢ and revenue of \$3.2 billion in quarter would prove to be correct. Flextronics also recently said its design division acquired systems test equipment maker Instrumentation Engineering.

Panasonic consolidated its U.S.-based technology activities by combining R&D and design operations of Panasonic Technologies and its subsidiary, Panasonic AVC American Labs, with operations of Panasonic U.S. hq's technology development center. New entity, called Panasonic Technologies Co., has more than 300 scientists and engineers. Panasonic Chmn.-CEO Don Iwatani said consolidation would optimize efficiency speed development of U.S.-focused products. Paul Liao, Panasonic vp-chief technology officer, was named Panasonic Technologies pres.

TDV TO OFFER 3D ENTERTAINMENT: True Depth Visualization (TDV) Technologies plans to offer 3D videogames and other forms of entertainment, along with 3D e-commerce functionality, in coming months via its online portal and StereoVision technology.

N.Y.C.-based company recently signed 3-year deal with Tetratel, Canadian technology company that makes 3D viewing eyewear systems for PCs but also is developing system that can be used with TVs and videogame console systems (TVD March 5 p17).

TDV also plans to debut StereoVision 3D portal at www.TDV3d.com Oct. 16. CEO Jonathan McCann told us in interview: "What we are attempting to bring to the masses is affordable 3D virtual reality through a one-destination Internet site... 3D, we believe, within the next 5 years... will be the preferred viewing format and what we're trying to do is create a foothold and position ourselves as a company where we can be well ahead of the pack, if you will, in delivering that content not only through the Internet but through the consumers' TV screen."

When portal goes public this month, "placeholder" 2D content at site will be able to be viewed in 3D format, McCann told us. But to view content in 3D, users will have to buy viewing system at \$99 that includes 3D glasses, infrared device, 3 software discs. One is installation disc, another allows user to perform 2d-to-3d conversions "on the fly" with computer, he said. System will be sold "via retail outlets, via telemarketing and directly on the portal and we are presently in negotiations with a number of 3rd party distributors" and major retail chains — "anybody that'll sell any type of component," McCann said. TDV 3D will be brand name on system when consumer buys it, he said.

McCann told us 3D glasses in system now are from i-o Display Systems — "major shareholder" in TDV, he said — rather than Tetratel because i-o glasses are designed for PC use, which best fits into current TDV plans: "Ultimately, what we'd like to do is merge the [systems] and have Tetratel and i-o Display and us get together and write the code" to do that. McCann said that "ideally, from our standpoint, what we'd like to do is take Tetratel's box and have it communicate with [i-o] glasses... and that's what we're working on right now."

TDV's business model calls for it to earn revenue via its portal partners, which at this point still are limited. "How we are going to generate traffic to the revenue-generating side of the site is through exclusive events," he said. On e-commerce side, TDV wants to spotlight broad range of products that can be best appreciated in 3D — electronics, among them. McCann said "all e-commerce partners" would have to sign "a revenue-sharing agreement. Some [revenue-sharing rates are] as high as 50% for every transaction. It depends on the product and the margins that are involved in the product. In exchange for the revenue participation agreements there is no charge for the merchant to come onto the site. If they accept, we then go and shoot their products on our own [in StereoVision process] and at our own expense."

As for games, TDV has deal with Wild Tangent, McCann said: "We have taken their videogame product on the Internet, and our viewing system will enable people to either play games directly on our portal or [users] can literally go to their site and play their games in stereoscopic 3D using the TDV viewing system." Although he described deal with Wild Tangent as

"somewhat of an exclusive one" at this point, "we do want to explore other gaming alliances."

McCann said TDV hoped to form alliances with movie studios "and more importantly we'd like to even go to the cable companies early" for 3D content in those arenas. But he said talks had yet to begin on those fronts.

Amazon.com will use new alliance with Circuit City (TVD Aug 27 p9) as leverage in bid to gain approval to sell Sony products in U.S., Investor Relations Vp Timothy Halladay said. While Amazon.com has agreement to sell Sony gear in Europe, it has thus far lacked similar deal for U.S. "We are hopeful that our agreement with Circuit will give us that access," Halladay said. Sony hasn't changed position with Amazon.com in U.S., spokesman said. Sony spokesman in Europe wasn't available for comment. Circuit site within Amazon.com, which makes debut in Nov., will be "accretive" to earnings, said CFO Warren Jensen, who declined to disclose figure. While addition of Target.com site in Dec. eventually will give Amazon 3 locations that sell CE under its umbrella, Jensen said there would be little overlap. "We think it continues to make sense," he said, "for Amazon.com's own site to sell CE because we [Amazon.com, Circuit, Target] are all going to be sellers, but we will be giving customers better selection and more choice. So if you want to order on Amazon.com and want it shipped directly to your house, great, and if you want to buy from Circuit, you can pick it up that night." Products purchased from Circuit through Amazon can be picked up at retail chain's stores. Jensen declined comment on whether Amazon would deliver on pledge earlier this year to turn operating profit by 4th quarter, saying e-tailer was "watching the economy very carefully." While Amazon.com's sales have returned to "plus or minus where we were" before Sept. 11 terrorist attacks, "we don't know what that means for the rest of the 4th quarter and 2002," Jensen said.

Namco cut its group net profit estimate for year to March 31, 2002, because of concern over slowing U.S. sales in light of terrorist attacks, Reuters reported from Tokyo last week. Report said Japanese game maker's estimate was reduced to ¥1.9 billion (\$15.79 million) from ¥2.6 billion. But Reuters said Namco raised its first-half earnings estimate thanks to strong sales of consumer videogames in N. America. Meanwhile, company reduced forecast for full year 2.6% to ¥151 billion and now expected group net profit of ¥950 million in first half compared with previous estimate of ¥500 million net loss. Reuters said Namco generated almost 20% of its sales in N. America in FY 2000-2001. Spokeswoman for game maker was quoted as saying company planned to "speed up restructuring steps in North America, including closures of loss-making centers and the implementation of better service." Spokesman for company's U.S. division, Namco Hometek, didn't return call for comment by our deadline.

Combo DVD recorder and PVR from Panasonic with up to 64 hours' recording was announced at last week's CEATEC show in Japan. DMR-HS1 goes on sale in Japan Dec. 1 at \$1,667. Panasonic said PVR's 40 GB hard disc could store 52 hours of programming in EP mode and DVD-RAM could record 12 hours on double-sided disc. Each drive has Time Slip function that permits viewing from any previously recorded point while deck continues recording. One-touch dubbing is possible from either drive to other and at speed as high as 12x from hard disc to DVD-RAM. In EP mode and 22 Mbps data transfer, one hour program can be copied in 5 min. Combo also has digital IEEE-1394 input for dubbing from digital camcorder.

Consumer Electronics Personals

Paul Liao, Panasonic vp-chief technology officer, named pres. of newly formed Panasonic Technologies Co... **Chung Liu**, ex-Palm, appointed Access Systems America chief technology officer-engineering vp... **James Kralik**, ex-UA Cinema Circuit, named VTech CEO-consumer telephone business... **Boris Seleznev** ex-Moscow State U., appointed engineering dir., Telegen... **Donald Wallis**, ex-Toshiba & SRS Labs, named sales vp, Interactive Objects... **Harold Bach** retires as Midway Games CFO, succeeded by Exec. Finance Vp **Thomas Powell**... **Sebastien Soulier**, Codemasters France gen. mgr., promoted to pres., Codemasters N. America pres... **Raney Nelson**, ex-L.G. Zangani financial PR, joins Gordon Sell Public Relations as assoc. account exec.

Prototype HD videodisc recorders were among highlights of CEATEC show outside Tokyo last week. Hitachi, Panasonic, Pioneer, Sharp and Sony all showed optical disc recorders using blue laser pickup. Among other noteworthy exhibits were combo PVR/DVD-RAM recorder from Panasonic and DVD-RAM recorder from JVC — latter also is member of rival DVD-RW camp. Panasonic also showed SD combo product that includes SD recorder, CD player, video camera with 2" LCD viewfinder. Sony fielded variety of Memory Stick products that can be networked, including camcorder and Walkman recorder. It also showed OLED 13" TV while Sharp demonstrated 30" LCD set and JVC had prototype TV that displayed 1,500 scanning lines from 525 line NTSC signal. At AudioExpo in Tokyo, Yamaha demonstrated its first plasma display, which will use flat-panel speakers. Marantz showed its 2nd DLP video projector, with 1,280 x 720 pixels resolution. DVD-Audio and Super Audio CD players were out in force at show, in each case from brands that already have committed to one or another of the formats. Sakon Nagasaki, Panasonic dir. and point man for DVD, said installed base of DVD-Video player sales would reach 25 million worldwide by end of Japanese fiscal year in March.

Thomson Multimedia and MP3.com unveiled special co-branded section at www.mp3.com, spotlighting new MP3Pro codec. Thomson showed codec at CES last year, where it said MP3Pro delivered stronger audio performance than MP3, enabling 128 kbps performance quality at 64 kbps encoding rate (TVD Jan 15 p15). Thomson-MP3.com online destination features thousands of MP3Pro music files, along with MP3Pro plug-in for Winamp player. MP3.com said it planned to provide "substantial promotional support" for MP3Pro, including text link on MP3.com home page and banner placements designed to drive traffic to MP3Pro area of site. Thomson is exclusive licensing representative of MP3 patents and software of Coding Technologies (CT), Fraunhofer and Thomson. CT developed MP3Pro.

U.K. tests of online game service for PlayStation 2 (PS2) will be conducted by Sony Computer Entertainment Europe in conjunction with Telewest in Nov. and Dec., British report said. It also said PS2's hard disc communications device might be bundled as part of subscription-based online service.

July audio sales to dealers dropped 10% to \$617.5 million from year ago, CEA said. Year to date, shipments are down 6.7% to \$4.2 billion. Biggest declines in July were portable audio (21.1%) and separate components (9.5%). Those categories also are down 12% and 12.8%, respectively, year to date.

Concord Camera has slashed 2,000 jobs at camera-making plant in China and will trim another 71 worldwide by end of fiscal 2002, it said in annual report. China plant, which builds single-use and digital cameras, has 4,000 employees. In addition to eliminating jobs, Concord CEO Ira Lampert and 4 other executives agreed to take 11% cut in annual salary effective July 1. Thus, Lampert's \$900,000 annual salary was lowered to \$800,000. He received \$969,444 annual salary in fiscal 2001, up from \$704,167 year ago, and \$860,686 bonus, up from \$400,000. Overall, Concord said annual loss grew to \$4.8 million from \$883,000 year ago as revenues rose to \$183.4 million from \$173.1 million. Loss was largely result of its taking \$15.8 million write-off for accounts receivable owed it by KB Gear, which had sourced digital cameras from Concord and accounted for 14.3% of its revenue. Eastman Kodak, which sourced advanced photo system (APS) single-use cameras from Concord, was 2nd largest customer, representing 12.3% of revenue. Single-use cameras accounted for 57% Concord's sales. Separately, N.J. Superior Court judge granted Concord partial summary judgment dismissing former CEO Jack Benun's claim for \$4 million in option rights and guarantee fees. Benun, who was fired in 1994 amid allegations of fraud, filed suit earlier this year (TVD June 11 p17) seeking to modify arbitrator's award and \$4 million in options and fees. Arbitrator awarded Concord \$1.13 million in March for, among other things, fees company had paid to attorneys. Benun also sought to cut arbitrator's award to \$1.1 million.

BestBuy.com unveiled separate Best Buy Entertainment (BBE) Web site at www.bbe.bestbuy.com last week. While Best Buy's Web subsidiary, BestBuy.com, continues to handle e-commerce transactions at its main online store, linked BBE offers visitors information on games, movies and music releases, along with demonstrators and media clips. BBE also offers visitors more than 20 Internet radio stations in variety of music genres as well as ability to preorder upcoming releases. Entertainment Vp Scott Young said: "Best Buy Entertainment is central to our strategy to offer Best Buy customers a complete entertainment experience combining a compelling online experience with our leading retail operation." He added: "The features and functions we offer on Best Buy Entertainment and BestBuy.com will continue to evolve as we add new digital services and build our connection with customers across both the online and retail channels."

NPD Intellect said Sony Computer Entertainment (SCE) 8 MB memory card for PlayStation 2 (PS2) held onto its first-place sales ranking among videogame console accessories in Aug. Once again holding 2nd and 3rd spots, respectively, were SCE's Dual Shock2 controller for PlayStation (PSX) and PS2 and Mad Catz's 8 MB memory card for PS2. Also once again in top 10 were SCE's RFU Adapter 3 for PSX and PS2 (#4), InterAct's RFU adapter for PSX and PS2 (#6) and SCE's dual shock controller for PSX (#10). Accessories landing in top 10 in Aug. that didn't in July were Sega's Dreamcast VMU (#5), SCE's one memory card (#7), Sega's Dreamcast control pad (#8), Digital Innovations's universal Game Doctor (#9).

Some DVD-Audio titles from EMI are reprocessed from stereo to create surround sound effect, as we reported Sept. 24. EMI spokesman confirmed that record label was using method we described on 7 of its 9 DVD-Audio titles. They are classical titles originally recorded in 1970s on analog stereo tape. To create surround reissues, engineers played them through stereo loudspeakers in original recording studio and re-recorded reproduced sound as DVD-Audio surround. Other 2 EMI titles are recent multichannel originals



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The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

PUBCASTING ADS OKAYED by FCC, but only for ancillary digital services. Copps sees start of ad-supported PTV. DTV transition costs cited. Subscription video possible. (P. 2)

DTV TASK FORCE SET by FCC Chmn. Powell. Duties to include speeding spectrum return. He says priorities changed Sept. 11. (P. 3)

JUMPTV.COM FIGHT NOT OVER, despite end of its bid for copyright clearance to stream broadcast signals over Internet in Canada. (P. 4)

PROGRAM ACCESS REVIEWED by FCC. Cable, DBS to face off. Question raised whether new competition justifies easing rules. (P. 4)

NBC BUYING TELEMUNDO for \$2.8 billion. Rapidly growing Hispanic market targeted. Program crossover unclear. (P. 5)

NCTA PROMOTING SET-TOP availability through trade-in plan. Solution claimed to FCC demand. CEA less than satisfied. (P. 5)

Consumer Electronics

MACROVISION BOLSTERS CD COPY PROTECTION with new technologies for SafeAudio, affirms compatibility for PC playback. (P. 8)

DVD DEMOGRAPHIC IS SHIFTING to mass market, panelists tell video conference. Penetration predicted to hit 20% this year. (P. 10)

VM LABS FACING CASH CRUNCH, lays off 45% of 100 employees as it seeks funding or buyer. Will open Nuon platform to all developers to spur new content. (P. 11)

LOEWE, SONICBLUE SCRAP PACT as former prepares to open U.S. subsidiary in Jan. to market CE gear. (P. 13)

MICROSOFT, SEGA TAKE CENTER STAGE again at Tokyo Game Show in new initiatives for Xbox and PC games. (P. 14)

SILICON IMAGE SLASHES 60 JOBS in shifting focus to licensing integrated monitor controller technology. (P. 15)

RENT-A-CENTER BUYS 27 STORES from Rent-Way, will close 23 and keep 4 in gaining access to 8,000 rental accounts. (P. 15)

From the Publisher

Consumer Electronics Daily — Faster, Easier, Better

Many of you already will have heard: Warren Communications News, publisher of the consumer electronics industry's acknowledged news leader *TV Digest*, is introducing *Consumer Electronics Daily*, the only daily publication covering the industry.

As a *TV Digest* subscriber, you're probably aware that we've been the preeminent source for CE industry news and analysis since 1945 — in fact, we literally invented the term "consumer electronics." Now we're responding to your demand for CE business intelligence that's even more timely and more convenient. Starting tomorrow, we'll be publishing *Consumer Electronics Daily* every business day for e-mail distribution worldwide.

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PUBLIC BROADCASTERS CAN SOLICIT ADS, FCC RULES: Public broadcasters will be allowed to accept ad money as long as they limit those spots to programming on their excess DTV channel capacity that isn't broadcast to general public, FCC ruled 3-1 Oct. 11. Commission said public broadcasters could solicit funding outside traditional sources, such as from viewers, philanthropic organizations, corporate underwriters, govt. subsidies. It said ruling was intended to help them make transition to DTV from analog, but it has no sunset provision, meaning alternative revenue streams still will be available after DTV transition is complete. Mass Media Bureau Chief Roy Stewart said money also could go into producing programming. Examples of kinds of services that may be offered as ancillary or supplementary in digital TV signal include subscription video, paging or voice messaging services, computer software distribution, data transmissions, interactive materials. FCC officials didn't rule out subscription video offerings such as premium services much like HBO or Showtime delivered over cable systems. Commission ruled that noncommercial educational (NCE) TV licensees must pay fee to federal Treasury of 5% of gross revenue generated by those extra services, just like commercial broadcasters. Currently, public TV (PTV) doesn't run commercials, but conversion to DTV would allow them to support several programming streams.

Comr. Copps, sole Democrat on Commission and lone dissenter in vote, expressed dismay at what he characterized as decision that "in some respects is contrary to law." If commercial broadcasters and congressional appropriators see public broadcasters having success with commercial ventures, they may conclude govt. subsidies and charitable donations are unnecessary, precipitating demise of national and local PTV, he said: "It has the potential to warp the nation's image of public television and to endanger the identity and even the viability of a national treasure." Congress didn't intend PTV to "be the same as commercial television, nor even to be a little different," he said. Copps said when PTV "begins to lose this different identity, it begins to lose its soul." However, Chmn. Powell insisted that fundamental nature of public broadcasting wouldn't change. "The soul of public broadcasting is in no way compromised," he said: "I also think that it's a mischaracterization to suggest that it's a radical move to commercialization." He pointed out that public broadcasters already were conceiving creative ways to generate new revenue, such as using Web sites for advertising.

Although ruling doesn't mean viewers will see commercials weaved into *Sesame St.* or *NewsHour with Jim Lehrer* — since those shows are part of station's free over-air broadcast service — it will allow PBS, for example, to create PBS2 or some other form of brand identity that could contain commercials in shows transmitted digitally for fee. Assn. of America's Public TV Stations (APTS) Pres. John Lawson said he believed material most likely would be streamed to computers, at least at first. Saying public broadcasters were pleased with FCC ruling, he said revenue from ancillary and supplementary digital services could become important money source in future. Addressing criticism that PTV stations eventually would end up competing with their commercial counterparts, he said that was "gross exaggeration." He said possible subscription services for PTV included digital education services such as those for school textbooks and home schooling. Asked whether decision could apply to video-on-demand (VoD) for programs such as *Masterpiece Theater*, he pointed out that there was no cable carriage of PTV's ancillary or supplementary services.

FCC ratified one big catch for public broadcasters: NCE licensees are required to use their whole DTV bitstream "primarily" for nonprofit, noncommercial, educational broadcast services. Commission didn't create bright line test to define term "primarily" but instead defined it as "substantial majority" of NCE station's entire digital capacity, as measured on weekly basis. Beginning in 2002, NCE licensees will be required to report to FCC on Dec. 1 each year on their use of digital bitstreams in 12-month period ending previous Sept. 30. Under current govt. rules, public stations don't have to start DTV operation until 2003.

Rep. Tauzin (R-La.), chmn. of House Commerce Committee, said he feared FCC ruling opened door to "creeping commercialization" of PTV, spokesman said. "We may very well ask the agency to tighten its definition of 'substantial majority,'" Tauzin spokesman Ken Johnson said. Tauzin, who often is skeptical about govt. subsidies for public broadcasters, said he would be much more comfortable with ruling if commercials were limited to one or perhaps 2 channels at most. "As written, the ruling is too much of a blank check," spokesman said.

Public interest groups said they believed FCC decision was illegal. "No advertising means no advertising," said Andrew Schwartzman of Media Access Project, which represents Center for Media Education, among other parties. Although Schwartzman and his clients said they didn't doubt good intentions of current public broadcasters, they feared that others with less benevolent intentions some day could gain control of NCE stations. Also, they said, public broadcasters were likely to lose current support from NAB because they soon would be competing for same scarce advertising dollars. Citizens for Independent Public Bcstg. (CIPB) said FCC ruling would allow PTV stations to become "even more commercial, using the public airwaves to serve the corporations and the affluent."

FCC DTV TASK FORCE ESTABLISHED: FCC Chmn. Powell established DTV task force to review stations' transition to DTV and make recommendations to Commission on priorities. Among task force duties will be to promote rapid recovery of broadcast spectrum for other uses. Powell said Commission must review DTV transition in light of "new realities that have arisen out the tragic events of Sept. 11," particularly financial impact on media companies and needs of public safety agencies and wireless services for spectrum. Powell has been advocate of technology transition, even installing HDTV in FCC lobby. Commercial TV stations are supposed to make transition by May 1, 2002. About 210 commercial stations are on air now in digital; 1,100 stations haven't changed yet. NAB said 2/3 of stations were expected to be digital by deadline.

Task force, led by Rick Chessen, assoc. chief-law in Mass Media Bureau, will help Commission set priorities and make any "midcourse corrections" that are necessary, Powell said. Group will hold ex parte meetings, participate in proceedings and assist in internal biennial review on status of DTV transition. Next biennial rule is due next year and Powell has indicated he wants to begin inquiry on matter this fall. Other members of task force are Barbara Esbin, assoc. chief, Cable Bureau; Tom Horan, legal adviser, Cable Bureau; Keith Larson, assoc. chief engineer, Mass Media Bureau; Jonathan Levy, deputy chief economist, Office of Plans & Policy; Mary Beth Murphy, chief of Policy & Rules Div., Mass Media Bureau; Alan Stillwell, assoc. chief, Office of Engineering & Technology.

Broadcast insiders had grumbled in past over what they called foot-dragging by Clinton Administration's FCC on DTV. NAB spokesman said only that his group was "pleased" that Powell and FCC were "moving the DTV transition forward." NCTA spokesman also called formation of task force "very constructive step" to bring all DTV-related proceedings together.

FCC also established ad hoc advisory group to assist task force consisting of Barbara Douglas, assoc. chief, program coordination and management, Consumer Information Bureau; Bruce Franca, acting chief, Office of Engineering & Technology; Joel Kaufman, deputy assoc. gen. counsel for administrative law, Office of Gen. Counsel; Barbara Kreisman, chief, Video Services Div., Mass Media Bureau; Amy Nathan, senior counsel, Office of Plans & Policy; Robert Pepper, chief, Office of Plans & Policy; Ron Repasi, chief, Satellite Engineering Branch, International Bureau; David Sappington, chief economist, Office of Plans & Policy.

White House centralized coordination of infrastructure security, creating "cybersecurity czar" to report to National Security Advisory Condoleezza Rice and newly appointed Homeland Security Dir. Thomas Ridge (R) (former Pa. gov.) Richard Clarke, most recently National Coordinator for Security, Infrastructure Protection and Counterterrorism on National Security Council, will become Special Adviser to President for Cyberspace Security. Protection of "critical public and privately owned information systems" from terrorist attack was one specific function of office outlined in order. Order also tasked office to "coordinate efforts to ensure rapid restoration of public and private critical information systems after disruption by a terrorist threat or attack." Clarke also will be chmn. of govt.-wide board to coordinate protection of critical infrastructure systems, Ridge said.

"From the Top" is title of Oct. 23 panel discussion featuring 5 women communications executives, sponsored by Washington chapter of American Women in Radio & TV. Participants are Betty Hudson, former head of NBC PR and now of National Geographic Society; Rita Crosby, anchor, Fox News Channel; Damise Davis, pres., Close-Up Productions; Susan Fox, vp, Disney Washington; Linda Vilard, gen. counsel; Linda Sullivan, pres.-gen. mgr., WRC-TV Washington. Session begins at 6:30 p.m., NCTA hq in Washington.

Defections of major studios and syndicators from exhibit area at Jan. 21-24 NATPE convention in Las Vegas continue. Latest to leave NATPE floor (making 9 in all) is Columbia TriStar TV, whose Pres. Steve Mosko is immediate past chmn. of NATPE. Most programmers opting out cite expenses of major exhibit and sluggish economy and plan to host hospitality suites at Venetian Hotel on Las Vegas strip.

Cable modem subscribers are more satisfied than DSL and dial-up customers, report by cable industry association said. Report by the Cable & Telecom Assn. for Marketing (CTAM) says 80% of cable modem subscribers are satisfied or completely satisfied with their service, compared with 65% rating for DSL and 52% for dial-up. Report is based on online surveys of more than 4,600 Internet subscribers July 16-July 23. Survey also found that 95% of cable modem customers said they definitely or probably would continue service in next 6 months, vs. 87% for DSL and 82% for dial-up. Report said 69% of cable modem customers rated their provider's trustworthiness as excellent or very good, compared with 62% for DSL and 58% for dial-up.

Time Warner Cable shuffled its senior executives following appointment of Glenn Britt as CEO in Aug. John Billock, pres., U.S. network group at HBO, is new COO; Thomas Baxter is pres. Christopher Bogart, CEO of TW Cable Ventures, will remain responsible for broadband business ventures but gain responsibility for investments, new product development, human resources, IP telephony, Road Runner development. Landel Hobbs, vp-financial analysis and operations support at AOL-TW, joins TW Cable as CFO, replacing Tommy Harris, who moves to AOL-TW Interactive Video as exec. vp. Britt replaced Joseph Collins, who is leading AOL-TW Interactive Video. Fred Dressler, TW Cable senior vp-programming, was appointed exec. vp-programming.

Radio revenue "continued to tread water" in Aug. with national advertisers "showing the first signs of possible stabilization," Radio Ad Bureau (RAB) said. For month, local and national sales combined were down 6% from Aug. 2000, with national spot dropping 14% and local 4%. For first 8 months of 2001, national sales fell 19%, local 3%, RAB said.

JUMPTV.COM DEBATE NOT OVER: JumpTV's decision to drop its bid for copyright clearance to retransmit TV stations over Internet in Canada probably won't end debate over Internet's right to retransmit broadcast signals, sources said. Decision also wasn't result of either govt. process or opposition of broadcasters, CEO Farrel Miller said. Letter from JumpTV lawyers said company was "currently reviewing its business model and will likely be moving away from the banner advertising model upon which its application was based." JumpTV had been asking Canada's Copyright Board to set single, low copyright fee to be paid by JumpTV in return for streaming broadcast TV stations, including stations from U.S., on Internet. NAB and other broadcasters were vigorously opposing bid, saying free streaming threatened their economic viability.

Despite JumpTV pullout, "there may well be a son of JumpTV," said U. of Ottawa law prof. Michael Geist, saying legal issues on rebroadcasting TV signals over Internet still were unresolved in country's copyright laws. Canadian Film & TV Production Assn. Pres. Elizabeth McDonald agreed, saying withdrawal was "a win" but "I don't think it's a final victory. We need a permanent solution to the problem."

"The fact they would be a subscription model rather than an advertiser model changes nothing," Canadian Assn. of Bcstrs. Pres. Michael McCabe said. JumpTV still would need permission of Copyright Board to rebroadcast signals under subscription model, he argued: "We will continue to oppose any effort on their part to, in effect, use our signals for their business, pay us a pittance for it, and then open us to potentially significant damage by making them available all over the world on the Internet."

"We have changed our position, given what's happened with the advertiser-supported model," Miller said, and JumpTV site will begin charging subscription fees for channels it already owns broadcast rights to. "The reality is we have two different objectives. One of the two is the controversial channels (including ABC, CBC, CBS, CTV, Fox, Global and NBC), where we're going to hunker down and assess our options," Miller said. Other is more than dozen international channels available on JumpTV Web site, he said.

JumpTV lawyer Sunny Handa said he believed alternatives to planned revenue-generating model based on banner advertising might not require new tariff regime from Canadian Copyright Board: "I think that if we choose to do something that is a subscription model that looks very much like cable broadcasting, then there is no need to go through this process." Statutory licensing process "has been unnecessarily long, complex, drawn-out and extremely costly" and "creates immense transaction costs for new companies attempting to comply with Canadian copyright rules," Handa said in Oct. 10 letter. As to future of streaming broadcast stations, Handa said "if anyone else wants to pick up the ball and run with it, they're welcome to it, and they will have the assistance of JumpTV. But, right now, what happened is that JumpTV did not receive the participation or the assistance of anyone else."

Nearly 56% of office workers access streaming media at work, Nielsen/NetRatings said. Survey indicated that 21 million office workers used streaming media at work in Sept., vs. 17 million year earlier. Nielsen/NetRatings said figures indicated streaming media were "reaching critical mass at work."

CABLE AND DBS: FCC began examining whether it still was necessary for programmers affiliated with cable operators to sell programming to their competitors, especially DBS providers that appeared to be gaining ground on cable in market. Notice of Proposed Rulemaking (NPRM), which Commission adopted 4-0 Oct. 11, looks at rules that require vertically integrated programming vendors to make satellite-delivered programming available, not only to their affiliated cable operators in which they have financial stake, but also to satellite TV operators and other multichannel video providers in whom they don't have investment. That provision, in Sec. 628 of Cable Act of 1992, is to sunset Oct. 5, 2002. Law says rules should sunset unless FCC finds in proceeding that ban is necessary to preserve and protect competition and diversity in marketplace.

"Program access" rules were adopted when Congress was concerned by its finding that majority of cable operators enjoyed monopoly in program distribution at local level and concluded that use of exclusive contracts between satellite-delivered vertically integrated programming vendors and cable operators could inhibit development of competition among distributors. NPRM seeks comment on several issues, including: (1) What effect prohibition on exclusivity has had on competition in local and national markets. (2) Whether it's advisable, and consistent with FCC's statutory authority, to retain rules for only some types of programming or in some specific cases.

In adopting NPRM, Commission didn't set timetable for proceedings, but Cable Bureau Chief Kenneth Ferree said he believed staff would create proposed rule to present to Commission well before Oct. 2002 deadline. Although commissioners didn't comment on merit of current rules, both Chmn. Powell and Ferree previously had indicated support for extending them.

Industry critics of rules say there are several loopholes, including one that would allow vertically integrated programmers to maintain exclusive programming with affiliated operators as long as they delivered that programming terrestrially, rather than via satellite. Others have said 1992 law didn't envision explosion of growth in DBS market, so that, if DBS industry were to begin to create programming, it wouldn't have to abide by similar exclusivity ban on dealing with its own providers.

NCTA said rules had "outlived their usefulness." It cited rapid growth of DBS market share. Satellite TV industry feels rules should be extended. Spokesman for Satellite Bcstg. & Communications Assn. said cable still had 80% market share, compared with 16% for DBS. Spokesman said DBS industry was amenable to closing loophole on delivery systems, meaning rules should apply to all vertically integrated programmers, regardless of technology used to deliver programming.

By 2005, cable modem and DSL could account for more than half of all Internet connections to European Union homes and smaller businesses, European Commission (EC) said in report. Use of broadband access in homes and small-to-medium businesses will be faster in EU member states that have highest levels of Internet penetration, have been quickest to liberalize local loop and have highest degree of cross-platform competition, report said. However, EC said, cable modem and DSL will be only transitory solutions: By 2010, fiber could account for 30% of all Internet connections to EU homes.

TELEMUNDO GOES TO NBC: Tapping into rapidly growing Hispanic market in U.S., NBC announced Oct. 10 it was acquiring privately owned Telemundo Communications Group for \$2.68 billion, including assuming \$700 million debt, plus \$1.98 billion equally divided between cash and parent GE stock. Deal adds to NBC stable Spanish-language TV network with 40 affiliates, 11 full-power TV stations (including one in P.R.), cable channels Mun2 and Telemundo Internacional in Latin America (with 8 million subscribers combined). Other Telemundo-owned stations are in Chicago, Dallas-Ft. Worth, Denver, Houston, L.A., Miami, N.Y., San Antonio, San Jose. Because of rapid downward change in marketplace, acquisition would have cost NBC "a whole lot more 4 or 5 months ago," NBC Chmn. Robert Wright told news conference announcing purchase. Viacom also had been in bidding for Telemundo.

Purchase will give NBC new TV duopolies in several markets, including L.A., where it owns KNBC and Telemundo owns 2 stations — KVEA (Ch. 52, Corona) and recently acquired KWHY-TV (Ch. 22, L.A.). Wright said that's only situation where NBC will have to sell a Telemundo station or get FCC waiver of ownership rules. He said transaction "is a clear sign of our commitment to both over-the-air broadcasting and cable programming networks... The vibrant Hispanic market accounts for a significant and growing share of the nation's economy." NBC Pres. Andrew Lack said deal was largest in company history and "represents NBC's strong commitment to growing our network business."

Telemundo CEO James McNamara and COO Alan Sokol will remain with network after deal closes, reporting to Lack, NBC said. Telemundo owners include Liberty Media, Sony (35% each, for which they paid combined \$539 million 4 years ago) and private investors. Synergy possibilities of combined companies include Spanish-language versions of NBC programming on Telemundo, bilingual news teams with Telemundo stations having access to breaking news stories and feature material, and joint coverage of special events such as elections, NBC said.

"There are no plans to change Telemundo from what it is today," Wright told news conference. Asked about savings in combining 2 networks and station groups, he said "we have tens of millions of dollars worth of things" where money can be saved. He predicted savings would be "well over" \$200-\$250 million in first full year of NBC's ownership of Telemundo — expected to be 2003, subject to FCC approval. Wright also said acquisition didn't change in any way NBC's deal with Pax TV and its owned stations and network.

After it takes over Telemundo, Lack told reporters NBC expected to engage in "nice, interesting competitive battle with Univision" — No. 1 Spanish-language TV network by far in U.S. both in audience and billings. Third U.S. Spanish-language network — Azteca America — still is in start-up stage.

Motorola warned it expected loss of 4 to 5 cents per share in 4th quarter, projecting that sales from current operations would be flat to 3% higher. Projection is based on expected cost-cutting among its customers and "assumes no further deterioration in global political or economic conditions," company said. Motorola posted sales of \$7.4 billion in 3rd quarter, down 22% in year. With pro forma adjustments, it said it lost \$153 million in period vs. earning \$643 million year ago.

NCTA PROMOTING SET-TOPS: In what it called major step in promoting commercial availability of digital set-top boxes, NCTA announced industrywide initiative to give consumers option of purchasing rather than leasing set-top boxes. But Consumer Electronic Assn. (CEA) rejected plan as half-hearted attempt at best to meet spirit of law. While FCC is encouraged by efforts of cable industry to resolve some of issues involved with retail availability of cable converter boxes, several more steps need to be taken, Cable Bureau Chief Ken Ferree said.

Plan, approved by NCTA board, has 4 main elements: (1) Cable operators will encourage set-top box suppliers such as Motorola, Pioneer, Scientific-Atlanta and Sony to make available at retail stores same boxes with embedded security that they supply to cable operators. (2) Cable operators will provide and support boxes in their systems. However, to prevent theft of service, customers will be required to provide proof of purchase from retailer and serial number of set-top box. (3) Operators will buy back retail set-top boxes on depreciated basis from subscriber who moves outside operator's franchise area. (4) Set-top manufacturers can offer warranties and retailers can provide maintenance contracts for devices.

CEA spokesman said choice for consumer was limited to leasing set-top box from cable operator or purchasing same type of box from retailer and wouldn't allow competing manufacturers to enter market. As for portability, he said plan would allow only for exchanging box for money. Negotiating with cable operator is last thing consumer would want to do when moving, he said. Consumer should be able to take box and plug it in anywhere he or she goes, he said.

Ferree said while FCC was "encouraged the cable industry is making an effort to resolve some of the issues that plague retail availability of cable converter boxes," several important steps remained. They include completion of OpenCable Application Platform (OCAP) standard and commitment by major MSOs to support OCAP. "We will continue to monitor developments in this area and to look for ways in which we can speed that process along," he said.

NCTA Pres. Robert Sachs, in letter to FCC Chmn. Powell, said initiative addressed major concern of retailers that cable operator-leased boxes were superior to any digital box with separate security they could sell. Under new plan, boxes retailers sell would be identical to those leased by cable operators. Plan also addresses objections to copy protection and certification terms of CableLabs PHILA (POD-Host Interface License Agreement) because no PHILA signature is required with no point-of-deployment (POD) interface in boxes at issue. Retailer concerns that CableLabs OpenCable specifications don't produce set-top box that can work on any cable system is addressed with buy-back plan, he said, because customers receive "virtual portability" when they move.

Clear Channel Communications (CCC) said it was acquiring Seattle-based Ackerley Group in stock transaction valued at \$800 million. Ackerley holders will receive 0.35 CCC share for each Ackerley share (\$14.11 per share). Ackerley owns 4 Seattle radio stations (where none of CCC's 1,220 U.S. radio stations are located), 16 small-to-medium-market TV stations and 6,000 billboards in Boston, Seattle, Portland, Ore. "This acquisition enables us to offer our advertising customers more cross-platform advertising opportunities because we have a radio station, outdoor advertising operation or live entertainment venue presence in 15 of [Ackerley's] television markets," CCC CEO Lowry Mays said.

VOGEL TAKES CHARTER HELM: After weeks of uncertainty on leadership of Charter Communications, Chmn. Paul Allen announced former Liberty Media executive Carl Vogel would become CEO and would sit on Charter board and exec. committee. Former CEO Jerry Kent resigned Sept. 24, citing irreconcilable differences with Allen, co-founder of Microsoft and founder of Vulcan Ventures, major investor in Charter. Following departure, Wall St. sent stock down more than 20%, its lowest point of year.

Vogel began his duties immediately. But word of his arrival was accompanied by news that company's top marketing executive, Mary Pat Blake, would depart. Blake, ally of Kent's and considered one of most powerful women in cable industry, said her last day would be Oct. 19. Internal memo from COO David Barford to employees said Rick Lang, vp-mktg., would assume her responsibilities until replacement could be found. Analyst Keith Kennebeck of Strategis Group said turmoil in Charter stock price wasn't surprising since Kent was widely respected and credited "by and large with the success of Charter in past years in that it has become a formidable player in the MSO space." Analyst Michael Goodman of Yankee Group predicted stock would continue its erratic performance until new management team's strategy became clearer.

In effort to stabilize stock, Allen reaffirmed his commitment to senior managers by announcing Oct. 1 that Charter CFO Kent Kalkwarf and Barford had signed long-term employment agreements. Day after Kent's announcement, Charter was forced to ward off speculation that company would be involved soon in merger or acquisition with RCN Corp., cable overbuilder and country's largest facilities-based provider of bundled phone, cable TV and high-speed Internet services to densely populated areas. Only activity Charter admitted to was recent \$81.1 million bid for nearly all domestic assets of High Speed Access Corp. (HSA), which provides broadband Internet access for Charter Internet customers. Asked why Vogel was asked to take helm so quickly, spokesman said both company executives and Wall St. had been "surprised" by Kent's resignation.

Vogel was senior vp of Liberty Media and CEO of Liberty Satellite & Technology, related company. At Liberty, Vogel was able to navigate waters with another strong personality, Chmn. John Malone. Before joining Liberty, Vogel was exec. vp-CEO of field operations for AT&T Broadband and Internet Services, where he managed AT&T's cable broadband properties. He spent one year in late 1990s as chmn.-CEO of Primestar, national provider of subscription TV service, and led sale of that company to DirecTV, subsidiary of Hughes Electronics. Vogel was pres.-CEO of EchoStar 1994-1997. He began his telecom career in 1983 at Jones Intercable and held several senior executive posts there.

Ad Council said it formed Crisis Response Team to help advertising and related industries respond — primarily with public service announcements — to happenings such as Sept. 11 terrorist attacks. Task forces were formed on communications strategy, creative review, fund-raising. Pres. Peggy Conlon said Crisis Team would work closely with other ad groups and media organizations. Burtch Drake, pres. of American Assn. of Ad Agencies, said Crisis Response Team "will ensure that the industry is putting forth a united and coordinated communications effort" in emergencies.

RIGHTS MANAGEMENT 'KEY': Despite proliferation of broadband delivery systems, including cable, DSL and satellite, finding successful broadband business model has been difficult, panel of media executives at MIPnet conference in Cannes, France, said. Wolfgang Staehle, pres. of EMEA Akamai Technologies, said question of "how to make money" was leading to innovative business models as new media players tried to determine which content end users were willing to pay for.

Digital rights management will be key issue in near future, said Robert Feierbach of SES Multimedia, while Canal Plus Senior Vp Bernard Guillou called current broadband situation "a little schizoid." Hugh Williams, exec. dir.-programming & customer products, U.K.'s Video Networks, strongly believed TV, rather than PCs or PDAs, would remain focal point: "When people relax in front of their television sets, they expect to see entertainment. And the Internet remains more of an information medium. Now, these 2 things are going to converge." Williams said he believed answer was customer control: "Under a broadband system you can watch the program when you want, which we find is very popular with subscribers."

"What we're talking about is a broadband interactive network, a 4th platform which takes the huge advantages of broadband and allies it possibly has with other distribution systems such as digital terrestrial, but also on its own," Williams said: "DSL at 2.3 megabits straight into the home can provide an endemic interactive service that transforms the customer experience... We know the technology is there, but the technology is only as good as the content that it offers."

Set-top box that Williams believes will drive consumer acceptance has triple play capability for telephone, TV and PC use, he said, "so the customer has in his home a very simple box which connects him to a broadband gateway of limitless interactive capacity. And the advantage of this system is that it amortizes the costs of technology advancement and consumer upgrade across the whole subscriber base — if you can build a subscriber base of sufficient size." Advantage to consumer, he said, is that "constant upgrades are not always thrown back on to the customer."

"I am very proud of [broadcasting] for the work that you do for this country," House Telecom Subcommittee Chmn. Upton (R-Mich.) said at Media Institute awards banquet Oct. 10 in Washington. He praised TV and cable networks for agreeing to Administration request not to show unsolicited videotapes of terrorist leader Osama bin Laden and his followers without prescreening and editing. White House National Security Adviser Condoleezza Rice expressed concerns Bin Laden tapes could contain coded messages and instructions to followers. CNN correspondent Judy Woodruff, presenting award to RTNDA Pres. Barbara Cochran, said "we spent a lot of time discussing this issue and as result placed strict limits" on CNN use of tapes. Cochran said media had relayed "an atmosphere of calm" to public through their coverage of events. However, she expressed concern about govt. restrictions on coverage of continuing U.S. actions in aftermath of attacks: "Journalists should not be shut out. The American public needs as full access [for reporters] as possible."

House Telecom Subcommittee set Oct. 18 for rescheduled DTV transition hearing, 9:30 a.m., Rm. 2123, Rayburn Bldg. Witness list hadn't been finalized, but James Yager of Benedak Bcstg., immediate past NAB chmn., is scheduled to testify for Assn.

Personals

FX Networks promoted **Peter Liguori** to pres.-CEO... **Susan Scott**, ex-iN Demand, named Weather Channel senior vp-distribution... **Jeff Goldberg**, ex-MSNBC, appointed vp-program planning, TNN... Promotions at ESPN: **David Berson** to vp-program planning & promotion, **Marion Hanson** to vp-proprietary programming, **Doreen Staskelunas** to dir.-programming operations... **Paul FitzPatrick** advanced to exec. vp-COO, Crown Media... **Annie Howell** promoted to Discovery Networks U.S. senior vp-communications... **David Stoeffler** advanced to vp-news, Lee Enterprises.

Pedro Padilla, ex-Grupo Salinas, named CEO, TV Azteca, replacing **Ricardo Salinas**, who remains chmn... **Donne Fisher**, ex-TCI, joins Liberty Media board; **Miranda Curtis** promoted to senior vp... News Corp. promotes **Paul Haggerty** to exec. vp-finance & Latin American operations... Changes in office of Sen. Santorum (R-Pa.): **Robert Traynham** moves to deputy staff dir., Senate Republican Conference, which Santorum heads; **Susan Parrick** promoted to communications dir... **William Kolasky**, ex-Wilmer, Cutler & Pickering, named Deputy Asst. Attorney Gen.-international antitrust... **Bill Wright** advanced to pres., Loral's Xtar joint venture with Hisdesat... National Press Club lunch speech by Viacom Chmn. **Mel Karmazin** Oct. 26 has been canceled, no makeup date.

With 3rd U.S. Appeals Court, Philadelphia, joining 7th and 9th Circuits in ruling that more punitive damages afforded under Sec. 605 of Communications Act don't apply to cable signal theft, there's urgent need to add teeth to state signal theft laws, cable executives and lawyers said. Decision pits 3 Circuits courts against 2nd Circuit, N.Y., which said in 1996 that there was overlapping authority to punish cable pirates under both Sec. 605 and Sec. 553. Latest ruling greatly limits federal legal penalties for unauthorized manufacture and sale of cable descramblers and theft of service, said **Geoffrey Beauchamp**, lawyer for Broadband & Internet Security Task Force. He said Sec. 605 provided substantial statutory damage for cable operators that increased to as much as \$100,000 per illegal device. Sec. 553 didn't provide for computation of damages on per-device basis, with \$60,000 being maximum penalty allowed. Ruling wouldn't affect criminal prosecutions that provide for imprisonment for up to 5 years and \$10,000 fine, he said. Remedy is to have strong state laws on lines of those passed recently in Del., Md. and Pa., **Beauchamp** said. NCTA Senior Vp **Dan Brenner** said there was need to get federal agencies such as FBI to step up interest in dealing with cable theft.

Sirius Satellite Radio said it didn't violate SEC regulations, as claimed in class action lawsuit. Suit said Sirius violated rules by failing to disclose it wouldn't be able to roll out service by end of 2000 or early 2001. It called claims "frivolous and without merit" and "entertaining piece of fiction." Company said it complied with all SEC disclosure requirements and would defend action "vigorously." Rival XM has launched service and Sirius is due to start later this year. Some analysts were predicting 70% market share for first-to-market XM. Merrill Lynch analyst **Marc Nabi**, meanwhile, downgraded rating of XM and Sirius, expressing concern over "significant equity dilution." He said XM had cash stockpile that was expected to last until Feb., and with tough sledding in markets he expects private equity investors to request "significant equity stake," which would dilute value for current shareholders. Sirius faces 2nd-to-market problems, **Nabi** said.



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TV Critics Assn. (TCA) asked TV networks to provide "stronger news presence" at semiannual press tour Jan. 6-18 in Pasadena. TCA also has asked broadcast networks with cable news (Fox and NBC) to combine cable news presentations with those of parent over-air network. CNN presentation already is scheduled in conjunction with co-owned WB TV Network Jan. 15.

Discovery Channel has become world's most widely distributed TV brand, it said, reaching some 400 million households in 155 countries and territories around world, Discovery Communications said. Discovery Channel made debut in U.S. in 1985 with 156,000 subscribers.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Sept. 28 and year to date:

	SEPT. 22- SEPT. 28	2000 WEEK	% CHANGE	SEPT. 15- SEPT. 21	39 WEEKS 2001	39 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	1,067,047	1,177,323	- 9.4	639,946	18,688,199	37,237,827	- 49.8
DIRECT-VIEW**	1,028,986	1,125,059	- 8.5	619,324	18,026,375	20,365,958	- 11.5
TV ONLY#....	784,866	948,472	- 17.2	519,750	14,757,223	16,871,869	- 12.5
TV/VCR COMBO.	244,120	176,587	+ 38.2	99,574	3,269,152	3,494,089	- 6.4
PROJECTION TV	38,061	52,264	- 27.2	20,622	661,824	866,911	- 23.7
TOTAL VCR**...	982,782	1,194,186	- 17.7	399,576	14,267,529	19,560,418	- 27.1
HOME DECKS...	738,662	1,017,599	- 27.4	300,002	10,998,377	16,066,329	- 31.5
CAMCORDERS.....	182,198	287,021	- 1.0	145,577	3,732,900	4,116,830	- 9.3
DVD PLAYERS....	770,916*	617,952	+ 24.8	286,474*	7,546,553*	5,092,289	+ 48.2

Direct-view TV 5-week moving average#: 2001--478,758; 2000-541,738 (down 11.6%).

Projection TV 5-week moving average: 2001-22,253; 2000-31,132 (down 28.5%).

VCR deck 5-week moving average: 2001--369,648; 2000-530,665 (down 30.3%).

TV/VCR 5-week moving average: 2001--123,197; 2000-105,492 (up 16.8%).

Camcorder 5-week moving average: 2001--111,041; 2000-138,231 (down 19.7%).

DVD player 5-week moving average: 2001--353,764*; 2000-259,256 (up 36.5%).

* Record for period. ** 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; camcorder data includes analog and digital models.

MACROVISION BOLSTERS CD COPY PROTECTION: Additional methods to foil CD copying on PCs will be used in updated Version 3 (V3) of Macrovision's SafeAudio that's to be released soon. Based on patents we have seen and statements from Macrovision, it's apparent that company is reaffirming goal to let CDs play compatibly on PCs but to prevent copying.

New V3 copy protection methods will be offered in addition to current Version 2 (V2) of Safe Audio, Macrovision COO William Krepick told us. V2 is so-called "main channel approach" that permits PC playback but spoils any copy by adding noise. V3 offers 3 copy protection options that are selectable by record labels, Krepick said: "They will essentially be able to dial in the combination of playability and effectiveness that they want."

SafeAudio V2 stymies CD player's error correction and forces it to perform interpolation. That method has raised hackles in audio community, which contends that deliberately pushing player into interpolation can add distortion to music and upset shock protection in portables. If record labels elect to use V2, they would add bursts of hissy noise to digital audio signal by deliberately giving some of music code "grossly erroneous values," Macrovision said. Error-correction codes on disc — which normally would execute mathematical tricks to correct digital errors — are themselves distorted. Deliberate mistakes cause CD's error-correction to fail, leaving gaps in music.

Typical home or mobile CD player automatically performs interpolation or concealment to bridge those gaps. Hardware studies music signal on either side of missing data and builds replacement section. CD-ROM drives in PCs do same — but only during analog playback for listening through speakers or headphones. Because CD-ROM drives can't repair digital data going to PC's hard disc, PC either copies nothing or records grossly distorted sound.

Macrovision contends that by carefully tailoring deliberate errors, repairs made by regular music CD player are rendered inaudible. Krepick told us company's tests with labels had found no compatibility problems with legacy players. "SafeAudio V2 was designed to precisely locate the errors so that the CD audio players would know how to perfectly correct for them," he said. "One label has told us they experienced 99.99% compatibility. We believe this is far in excess of our competitors."

If record label or artist is apprehensive about using what Krepick called V2's "degrade ripped audio" protection, it may be disabled, he said: "However, since we've reached such a high level of playability with the V2, and since most of the record labels are comfortable that they haven't heard any degradation, we would hope that the majority of labels would decide to use V2 in conjunction with one or more features of V3."

New options in V3 would let labels apply additional effectiveness to copy protection and choose to make CDs where Red Book CD Audio file couldn't be played or copied on PC. Latter aspect is covered by Macrovision's AudioLok Red patent, Krepick said. He confirmed that V3 would incorporate methods described in 2 new patents and that, like V2, it would permit copying on home audio CD recorders.

Newly published patent applications (WO 01/61695 and 61696) hail from Macrovision's European research labs, co-located at CDilla subsidiary in England that first developed AudioLok Red copy protection we reported in July 1999. Each patent acknowledges that CDilla's previously patented plan — to prevent PC copying by making CDs unplayable on PCs — could be considered too extreme because it also prevented people from using their PCs to play music legitimately.

First new patent (61695) would prevent PC copying by altering data layout on CD, using 97 or 99 "frames" of data per sector of disc instead of standard 98. When disc is played on music CD player or PC drive used to play music, those ignore framing error. Patent states that player's time display becomes inaccurate, but CD sound isn't affected. But when PC tries to make copy, it attempts to correct incorrect amount of data coming from each sector of disc, for example by dropping data bytes. That introduces unwanted background noise into copy recording, thereby spoiling it.

Method described in 2nd patent (61696) alters Absolute Time and Running Time information, which is located in P and Q "subcode" data channels of music CD to control CD player. Normally, Absolute Time starts at zero when disc starts playing and continues to increase as disc plays, while Running Time starts at zero at beginning of each musical track, increases until track ends, then resets to zero.

Music player usually ignores time information once it has started to play track. But PC drives keep checking it and try to correct any errors. Macrovision method leaves timing information correct for start of every track, then, after about 5 sec., holds it fixed or lets it increase only in stepped jumps. Music CD player isn't disturbed by that behavior, but PC drives try in vain to make sense of it. To further confuse PC drive, amount of useless data overloads memory buffers used by PC drives for error correction. Consequently, buffer never can store enough data to correct timing errors. Overwhelmed by uncorrectable errors, PC drive either stops trying to read data from disc or delivers data with uncorrected errors that spoil copy.

Original AudioLok Red system developed by CDilla can prevent PC play. As described in recently published patent application (W0 00/74053), system exploits differences in how CD players and PC drives read CD's lead-in and lead-out tracks.

Lead-in carries electronic table of contents (TOC) listing music that follows and lead-out comes at end of music tracks. PC drives carefully check TOC, but music CD players usually just go on playing until disc ends. If deliberate errors are put in TOC, such as to indicate lead-out comes immediately after lead-in, music players ignore that but PC drives stop dead in their tracks. Also, if TOC wrongly describes music as PC data, music CD player disregards it as mistake, but PC drive becomes confused and doesn't play any music.

That aspect of AudioLok caused protests at time from people claiming right to play music CDs legitimately on PC, with no intent to make copies. AudioLok's inventors conceded shortcoming but justified it in patent filing with statement that "in view of the potential losses from piracy, the music industry is willing to accept this disadvantage."

Krepick told us AudioLok-style PC lockout still was option with V3 but said system had been modified to permit PC playback at content owner's discretion. That would be possible when content incorporated digital rights management (DRM) of label's choice, which would govern conditions of its use. In that case, CD could be copied to PC's hard drive for compression and transfer to portable devices, Krepick said. "We have tested our V3 option with the popular DRM solutions and have designed it to be compatible with them, so the labels can stay with their DRM solution of choice."

SafeAudio system contrasts with another for which Macrovision has sought patent (WO 00/62293). That system relies on future CD drives' being "compliant" and checking for signature codes that are embedded in disc but not transferred when copy is made. So original CDs play on all drives, but copies won't play on "compliant" drives because they don't give signature code.

Macrovision patent application concedes that that system would need cooperation of CD hardware manufacturers to make their drives compliant. That might be desirable in situation where hardware company also had programming arm and wanted to protect its own content. Sony, for example, is only PC company known to build Serial Content Management System into its PCs to prevent digital copying of digital copies. Sony has said it does so because it also is music company. Macrovision patent suggests that "a manufacturer of specialized Compact Disc players (for instance, for a specialized game or toy)" might contract with supplier of software for system to make sure signature and signature detection were in place.

DVD DEMOGRAPHIC CHANGING, VIDEO PANELISTS SAY: As DVD penetration reaches 20% range, consumer profile is changing but extra features are as valuable as ever, DVD Trends seminar panelists told video software dealers Oct. 10 at East Coast Video Show in Atlantic City.

"We've eclipsed 20 million households, and by January the DVD Entertainment Group believes there will be 25 million plus households that will be DVD adoptees," said Craig Eggers, dir.-DVD product planning and digital media for Toshiba and DVD Entertainment group board member. CE industry should be getting extra gifts thanks to President Bush this year, he said: "A good number of people say they will purchase a DVD player with their tax rebate check."

DVD, "most rapidly adopted" CE product in history, has been "massive savior" to industry for transitioning to high-definition TV, Eggers said. He also cited many products into which DVD is being incorporated, such as DVD-Audio, portables, combination systems, GPS navigation, others. "And 93% of PlayStation 2 owners say they use them for DVD-Video," he said.

Challenge for manufacturers is that while initial price of DVD players averaged \$619 in March 1997, as of Aug. 2001 it was down to \$178, Eggers said. He said 97% of DVD hardware sales now were \$299 and under, 77% at \$199 and under, 15% at \$99 and under.

Among trends Eggers is forecasting for next year are increase in carousel offerings and "aggressive integration of progressive scan. Progressive scan is important because it's highly compatible with HD televisions," he said. Eggers commended Sony's Columbia TriStar for its new Superbit high-resolution DVDs. "Superbit, married with progressive scan, will have long legs in the HD environment," he said.

Eggers also said that he expected to see more integration of DVD-Audio in future and that there would be more price erosion for DVD players. "You'll see entry-level players way below \$99 by Black Friday," he said.

Asked when he expected to see DVD recorders at viable price below \$500, Eggers said, "I heard a rumor that a manufacturer will be introducing a \$499 recordable player." But he said most DVD recorders would be in \$999-\$1,499 range.

As DVD penetration has increased, demographic profile of customer has changed. Mitch Lowe, vp-strategic alliances for online rental service Netflix, said owners originally were 2/3 male, 2/3 had no children, 2/3 made more than \$50,000 a year, 2/3 were collectors, 2/3 had stopped renting VHS movies. Now, he said, consumers are younger, there are more women, more families, more people with less disposable income, more people interested in renting. Lowe said he thought full household penetration for DVD would be reached after 2005-2006.

Extra features on DVD will continue to be important, New Line Home Entertainment Pres.-COO Stephen Einhorn said. New Line recently introduced patented Infinifilm DVD format that uses pop-up messages to alert DVD users when they can elect to click on extra features. Infinifilm was response to consumer desire to use extra features but unsure about how to use them, Einhorn said. He pointed to one million sales of Infinifilm DVD *Blow* starring Johnny Depp as evidence of demand for extra features.

Cost of producing such added-value discs can run \$35,000 to \$750,000, Einhorn said, yet New Line has increased its retail price for Infinifilm discs only to \$26.98, up from standard DVD \$24.95 and "still below many of the majors," he said. "The goal is revenue optimization. We'll keep that price as long as the economics makes sense for the retailers and for us."

Although suppliers on panel said their research showed preference among consumers for widescreen over pan-and-scan presentation when both couldn't fit on one disc, retailers in audience indicated opposite was true for newest DVD users coming into universe. Eggers encouraged suppliers to keep favoring widescreen, particularly anamorphic widescreen, which he said would help in transition to HDTV.

More than one billion DVD discs will be replicated worldwide next year, said Joshua Pine, vp-sales for replicator Technicolor. Technicolor's capacity increased from 150 million last year to 250 million discs this year — 60% increase, he said. While packaging generally has fallen along guidelines recommended by Video Software Dealers Assn., double-disc sets are becoming increasingly common, he said.

But VHS still has market because of its high penetration, Pine said. He cited recent Technicolor's direct marketing job for 2 million videocassettes on foot fungus. "You still can't do that with DVD," he observed.

VM LABS, FACING CASH CRUNCH, SEEKS BUYER: VM Labs is seeking additional financing or potential buyer after laying off 45 of its 100 employees in recent weeks, we have learned. Move comes after Wit Soundview investment firm hired by Mountain View, Cal., company failed in its attempts to raise \$40-\$50 million. At our deadline, CEO Richard Miller confirmed layoffs but declined comment on financial negotiations.

VM Labs had gained small amount of additional funding, but that wasn't enough to prevent layoffs in software development and Hollywood liaison staff, sources said. Among departures is Bill Rehbock, vp-3rd party development and veteran development executive. Exec. Vp Paul Culberg remains with company, despite rumors he would leave. Wit Soundview continues to represent VM Labs for financial negotiations.

"Like many companies in the semiconductor business times are very difficult," Miller told us Fri. "We have had cutbacks to reduce our expenses and to accelerate the point at which we become profitable. We have not been profitable to date but hope to be profitable in the not-too-distant future."

Most of layoffs were in sales and marketing and what Miller called more optional engineering projects. "We did not let go any of our key engineers. We did cut back our first party publishing operations and that included Bill [Rehbock]," he said.

VM Labs has met with other companies in recent weeks in effort to secure new funding or find buyer, sources said. Among VM Labs' assets are intellectual property on chip design and software for content interpretation, as well as Nuon brand for its technology. Even greater asset in opinion of some sources is VM Labs plan to open Nuon platform to all developers, as that could create flood of new content.

In DVD players, Nuon chip enabled enhanced movie playback features including smooth scanning, zoom and ability to strobe series of pictures from action scene. Another key selling feature was Nuon chip's ability to play games and other interactive content. Samsung introduced 2nd generation Nuon-equipped DVD players earlier this year. Toshiba also has player, and we're told Thomson will ship product next year. Zenith-parent LG Electronics is expected to ship Nuon-equipped DVD players in 2002, as is Oritron. About 20,000 Nuon-equipped DVD players had sold at retail through Aug., up 32% from year ago and representing 0.3% and 0.6% of total DVD hardware sales in units and dollars, respectively, NPD Intellect said. Samsung accounted for majority, and average selling price was \$258, NPD said. Other sources put Nuon sellthrough at 40,000.

Among potential candidates for bailout could be Taiwan Semiconductor Mfg. Corp., which makes Nuon chips and provided bridge loan that was to carry VM Labs through to new financing round, sources outside company said. They also told us companies outside semiconductor industry were considering acquisition or investment. In past, other investors have included Motorola, Samsung and Thomson. Thomson spokesman wouldn't comment on relationship with VM Labs, and Samsung and Toshiba couldn't be reached for comment by our deadline. Miller wouldn't comment on search for funding, saying only: "We have a very attractive piece of technology in a rapidly growing market and Nuon technology is not going to go away. I think it's very unusual for any company to comment on their exact plans for financing, especially a prepublic company."

Cash squeeze has prevented VM Labs for much of year from aggressively pushing movie and game industries to bring out Nuon-enhanced software. VM Labs also was hurt by sharp decline in overall price of DVD players. As result, many retailers have forgone demonstration areas that would have best showcased Nuon features, Exec. Vp Paul Culberg indicated. DVD players containing Nuon technology continue to be featured at Best Buy, but financial crunch has hampered further retail efforts, VM Labs Mktg. Vp Gregory LaBrec said.

As it seeks funding or buyer, VM Labs has moved to open Nuon platform to all developers in hopes of spurring creation of more content, LaBrec said. While details on move to open platform standard are lacking, sources indicated that it would enable wide variety of video, audio and photo applications. They could be available from packaged software vendors or be created by player's owner. Nuon hardware also could be upgraded easily when new applications emerged, thus ensuring installed base of players didn't become obsolete. Other uses for open platform could include small puzzle and board games. Company also hopes to entice small film studios to create Nuon-specific content by providing free tools and support. Nuon open platform "is surely going to be the most powerful Nuon asset," one source said.

Miller explained how VM Labs plans to jump-start open platform in anticipation of more content "much sooner" than 2nd half 2002. "We'll be offering a wide range of support services, including software development tools, hardware development systems, technical support, maintenance, compatibility testing and so forth to 3rd parties," he told us. "At the same time, we believe that VM Labs will be one of the premiere publishers for content for the Nuon platform, and we'll continue to build a business out of that."

Other major strategic shift for VM Labs is making its own chips. "We were what used to be called a chipless semiconductor company. We had licensed our processor to Motorola," Miller said. "But the latest generation of our processor, which has significant advantages over prior generations in terms of performance and cost of integrating, is now shipping in mass production and we're selling that directly ourselves. We're manufacturing through our foundry and partners and other suppliers," he said.

VM Labs also will proceed with plans for adding Nuon-enhanced content for DVD titles. They include Fox Home Video's *Planet of the Apes* (\$22.95) in Nov. and MGM Entertainment's special edition *The Adventures of Buckaroo Bonzai Across the 8th Dimension* (\$24.95) in Jan., Culberg said. Fox also will release Nuon-enhanced *Dr. Doolittle 2* later this month. To date, Fox's *Bedazzled* is only DVD movie containing Nuon technology.

On videogame front, VM Labs signed agreement with Activision earlier this year to license rights to 3 games, but it was unclear whether it would meet earlier goal of introducing first title by year-end. Similar deal being negotiated with Electronic Arts was scrapped. VM Labs also dropped plans for *Iron Soldiers* title following Sept. 11 terrorist attacks, LaBrec said. "It wouldn't have been right to bring out a game that featured people running around blowing up buildings," he said.

After struggling to remain competitive and adapt to new digital technology, Polaroid Fri. filed for Chapter 11 bankruptcy protection. It said it would use Chapter 11 process to restructure its business operations and finances and it and its lenders had "agreed to accelerate and intensify its exploration of a possible sale of all or parts of the company." Polaroid said it believed "such a sale would be in the best interests of all constituencies, including employees." Company has been attempting to restructure \$950 million in debt. It lost \$109.9 million in its 2nd quarter ended July 2 but CEO-Chmn. Gary DiCamillo at that time predicted return to profitability next year (TVD July 23 p14). Company recently laid off 35% of its staff — nearly 3,000 employees. Polaroid has been in negotiations with lenders since July when it failed to make scheduled interest payments. Commenting on Fri. filing, DiCamillo said: "After a thorough analysis of Polaroid's financial condition and the rapidly changing outlook in our key markets, the board of directors and senior management concluded that today's court filings by our U.S. operations were both prudent and necessary. Despite our best efforts to stabilize revenue, reduce costs and maximize cash flow, the company's financial condition deteriorated further in recent weeks." Polaroid received commitment for \$50 million in new financing and DiCamillo said it planned "to continue shipments of our core instant imaging products to customers as normal and meet our postpetition obligations to suppliers, vendors and other business partners."

DVD version of Bonnie Raitt's *Road Tested* concert home video will ship Oct. 23, Capitol Records said. Company said video was digitally remastered and reconfigured for DVD.

BJ's Wholesale Club said electronics was among strongest-selling categories for Natick, Mass.-based wholesale chain in Sept. It said "underperforming categories included computers, software, major appliances, best-seller books [and] TVs." BJ's said Sept. sales increased 7.2% to \$458 million from \$427.1 million year ago. Comparable club sales were up 3.3% in month and 4% year to date. Pres.-CEO Jack Nugent said: "After September 11, sales in such underperforming categories as major appliances and software weakened further, while sales of food and other consumables continued to rise. The result was that comparable club sales for September were relatively consistent with levels for the previous 4 months." Company said all 5 weeks in Sept. sales report saw "positive comparable club sales, with the weakest comparisons in the first 2 weeks and the strongest in weeks 3 and 4." By region, sales were strongest in New England and weakest in Southeast. BJ's plans to announce 3rd quarter results on Nov. 20.

Hewlett-Packard will abandon market for add-on CD-R/RW drives early next year to focus exclusively on DVD+RW recorders. Company said it would continue to sell PCs with built-in CD-R/RW for foreseeable future.

THIS WEEK'S YEN RATE

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

LOEWE, SONICBLUE SCRAP PACT: Loewe and Sonicblue have parted ways on licensing agreement as former prepares to establish U.S. subsidiary to sell branded product.

Loewe's licensing agreement with Sonicblue, which carried over from latter's acquisition of Sensory Science (SS), expired in Sept. Sonicblue will continue marketing existing inventory of 27-38" direct-view digital TVs (DTVs) through year-end, with Loewe scheduled to formally debut subsidiary Jan. 1. Current inventory of Loewe product isn't expected to have "negative impact" on Sonicblue earnings, spokeswoman said.

New Loewe subsidiary will be headed by current SS Senior Mktg. Vp Paul Frederickson and Vp Kevin Sullivan and is likely focus on expanding product line that has consisted of direct-view DTVs since rollout in 1998. Loewe officials weren't available for comment.

Among new product offerings likely to be considered will be plasma display panels, DVD players and audio components, all of which Loewe sells in Europe. SS also showed prototype of 50W rear-projection set at CEDIA in Sept. that used three 0.7" microdisplay panels based on JVC's Direct-Drive Image Light Amplifier (D-ILA) technology (TVD Sept 17 p12). Loewe has pact with Bose for speaker technology in Europe and it's not clear whether that now will apply to U.S. as well.

Loewe has made small dent in U.S. market — 0.2% of direct-view sales in dollars in 2000, NPD Intellect said. SS's share of direct-view DTV market plunged to 1.1% last Dec. from 15% in July as new competitors entered market. It sold slightly more than 3,000 TVs in 2000 (TVD Feb 12 p14). But it nevertheless gained distribution through specialty CE chains including Good Guys, Harvey Electronics, Tweeter's Sound Advice. Loewe brand accounted for less than 5% of Sonicblue's revenues, sources said. Sonicblue spokeswoman declined comment on Loewe revenue, but said it wasn't "material" amount.

While Sonicblue Pres. Kenneth Potashner earlier this year lauded Loewe sets as having "strong product benefit" (TVD June 18 p19), difference between companies appeared to involve branding strategy. Sonicblue, which operated as S3 when it was in graphics chip business, is focusing on building own brand, spokeswoman said. Strategy would appear to put it at odds with Loewe, which has its own ambitions for U.S. market. Unclear is whether Sonicblue will continue marketing dual-deck VCRs and high-end audio gear under SS's Go-Video and California Audio brands respectively, although spokeswoman said there were no immediate plans to make changes.

Loewe's new subsidiary is expected to maintain tube supply and assembly agreements with Thomson and Five Rivers Mfg., sources said. Loewe has manufactured small screen sizes itself at factory in Germany, but relied on Thomson for 36-38".

Retailer The Wiz opened its 43rd store in metro N.Y.C. market. New 25,755-sq.-ft. location in Manalapan, N.J., is chain's 14th in N.J. It also is 5th store in Cablevision's CE retail chain featuring Wiz Kids Corner room that includes software, toys and other entertainment products geared to children 12 and under and their parents. Store features chain's new design concept, first introduced in Nov. 1999 at in Plainview, L.I., that invites customers to interact with latest technology in comfortable, easy-to-shop setting. Video wall measuring 20' wide x 7-1/2' high is store's focal point.

Video Display Corp. (VDC) has purchased Christie Digital Systems' (CDS) CRT-based front-projector business as another long-time purveyor of technology drops from market. Acquisition, terms not disclosed, includes existing inventory of CDS's Marquee projectors largely targeted at commercial and military applications as well as manufacturing equipment, CDS Mktg. Vp Rocco Fondacaro said. Projectors, priced at \$20,000-\$36,000, have 8-9" CRTs. Purchase also includes OEM contracts including one with Harman International's Madrigal Imaging, which bought 2 front projectors from Electrohome (TVD Sept 27/99 p17), company CDS acquired in 1999. CDS CRT back orders stretch out 2-3 years, VDC CEO Ronald Ordway said. Deal is forecast to add 13-15% to VDC's annual revenue of \$70.8 million for fiscal year ending Feb. 28, he said. VDC's CRT-based data display business generated \$10.4 million in revenue in fiscal 2001. VDC's Display Systems group has manufacturing facility in Cape Canaveral that will install CDS equipment, Ordway said. CDS, which has sold CRT projectors under Marquee brand for 5 years and has been in business since early 1980s, now will focus on marketing models based on Texas Instruments' Digital Light Processing (DLP) and JVC's Direct-Drive Image Light Amplifier (D-ILA) technologies. Latter will be in 3-panel front projector that ships in early 2002 with 1,280x1,024 resolution and 1,000 lumens, Fondacaro said. "We have been focusing on flat-panel technology," he said. "We did our due diligence and analysis and felt that in the best interests of our customers we should turn the [CRT] business over to a new steward that has a primary focus on that type of market." CDS was said to have 20% share of CRT front-projector market, trailing Barco (80%).

Tower Records has reached agreement with J.P. Morgan and Chase Manhattan that boosts credit facility to \$205 million through year-end from \$195 million and amount available after Dec. 31 was increased to \$195 million from \$100 million. Tower, which has closed its book store business in reducing chain to 173 outlets from 185, had been negotiating with banks for much of year. It reached agreement in April on \$225 million pact, but was required to get debt or equity funding by Oct. to meet gradual reduction in credit facility (TVD June 25 p18). New agreement eliminates latter requirement, it said in SEC filing. Tower also slashed 250 jobs at retail and corporate level ranging from clerks to management as it struggled after posting \$34.3 million 3rd quarter net loss. It also said it had reached agreement to sell stores in Argentina (4) to Condor Records and in Taiwan and Hong Kong (2) to Cosmo Records, terms not disclosed. Cosmo and Condor will operate stores under franchise agreement. Tower had said earlier this year that it also would close or sell stores in Canada (2) and Singapore (3). Tower also has closed one of 2 outlets in Singapore and its only 2 stores in Canada, spokeswoman said. It continues to operate remaining store in Singapore, she said.

Staples is liquidating PCs at U.S. stores and will focus on build-to-order (BTO) sales. About 200 stores had stopped selling desktop PCs Sept. 15 and another 200 will complete liquidation by Jan., spokesman said. Staples has 1,130 stores in 44 states in U.S. Move is part of its effort to focus on small business customers, who are more likely to buy BTO machines and follows lead of rival office superstores chains OfficeMax and Office Depot, which also have scaled back PC offerings in face of declining sales. Staples will continue BTO sales of Hewlett-Packard and Compaq PCs, brands it also carries in its stores. Staples entered BTO business in 1998 with Proteva and Compaq (TVD Aug 17/98 p13). PCs and related products accounted for 23.9% of Staples' \$2.5 billion sales in fiscal year ended Feb. 3, up from 23.1% year earlier.

MICROSOFT, SEGA TAKE TOKYO STAGE: Sega and Microsoft once again topped news at Tokyo Game Show when they announced Fri. variety of new initiatives to strengthen their alliance in game market. Announcements came as Tokyo Game Show 2001 Autumn kicked off at Nippon Convention Center, where it was scheduled to continue through Sunday.

First, they said Sega-AM2 Co. — new subsidiary of Sega Corp. — and Sonic Team were developing titles for Xbox game console. Titles will include *Shenmue II*, follow-up to Sega's *Shenmue*, which Japanese game maker said sold 1.2 million copies worldwide as of last week. Version of *Shenmue II* already is being sold for Sega's Dreamcast console and companies said Xbox version would take advantage of "the full potential of Xbox." Sonic Team also is developing version of networked role playing game (RPG) *Phantasy Star Online* (working title) for Xbox. Title already had attracted more than 300,000 Dreamcast registrants as of last week. Companies said title would "provide content that will be a major factor in Microsoft's broadband strategy."

Microsoft Chief Xbox Officer Robbie Bach said: "In addition to the numerous Xbox game titles previously [announced] by Sega, the significance of major titles such as *Shenmue II* and *Phantasy Star Online* being added to the lineup is just enormous." Sega of America (SOA) Pres.-COO Peter Moore said that by bringing 2 titles to Xbox, "we are bringing Sega's renowned franchises to even more gamers worldwide. We expect that both titles will be killer apps on Xbox and that the technical capabilities of the platform will surely bring both games to new levels in terms of graphics and experience." Masanao Maeda, Sega's senior officer, told Reuters: "The additional collaboration with Microsoft is aimed to boost our sales and to help Xbox lure Japanese game users."

At spring Tokyo Game Show, Microsoft and Sega announced "long-term alliance" that included 11-title commitment to develop and market Xbox software (TVD April 2 p12). Microsoft also said then that Sega would explore opportunities "to harness the Ethernet port and hard disc drive inside every Xbox console to create new online game experiences." Companies since then, including at Electronic Entertainment Expo (E3) in May, have continued to talk about their alliance. But Sega also has emphasized that, in its new role as 3rd party publisher, it was just as committed to making titles for game systems of Microsoft competitors Nintendo and Sony. Maeda told Reuters last week that PlayStation would "remain our main platform" for time being "because it is likely to be the best-selling machine for a while."

Companies also said at news conference Fri. they would be working together to develop motherboard based on Xbox technology for arcade game machines and to create new online PC games to be marketed in N. America. Sega COO Tetsu Kayama said: "We will join forces to boost our broadband online game business for both PCs and game consoles by combining our expertise." He admitted at show that there was plenty of room for improvement in Sega's PC game software sales results.

Meanwhile, Hirohisa Oura, managing dir. of Microsoft's Japanese Xbox division, said company wasn't overly concerned about impact of Sept. 11 terrorist attacks and consumer fears on sales of Xbox. System still is scheduled to roll out Nov. 15 in U.S. and has been given Feb. 22 debut date for Japan. Company had largest exhibit booth at show, featuring 150 Xbox systems set up for gamers to use.

Sega also used Tokyo show to announce it planned to start selling online soccer game for mobile phones that would allow gamers in Japan and Korea to play each other.

Tokyo Game Show Secretariat said in Aug. number of exhibiting companies and booths at this year's fall show — 52 and 1,358, respectively, as of then — already surpassed "last show substantially." Only major videogame console maker not at show was Nintendo. But it often has skipped show since starting its own Space World event, last held in Japan this last summer. Reports recently indicated that spring Tokyo Game Show for 2002 had been canceled because of lack of interest.

Debt-plagued Hynix Semiconductor is selling 28.33 million shares of hard drive maker Maxtor's stock as part of effort to raise \$820 million. Stock sale is expected to raise \$78.8 million. Hynix, formerly Hyundai Electronics, is said to have total debt of 8.7 trillion won or which 1.9 trillion will come due by year-end. Maxtor was Hynix subsidiary from Jan. 1996-July 1998 and former parent owned 40.8 million shares prior to proposed sale. Of total being sold in offering, Maxtor will repurchase 5 million shares at \$4. Hynix also signed non-compete agreement with Maxtor of hard drive business that runs through July 31, 2003. It acquired MMC, former Hynix subsidiary that makes media for hard drives and supplies components to Maxtor, in Sept. for \$1 million. Maxtor is hard supplier to PC industry as well as PVRs from EchoStar, Microsoft's WebTV and TiVo. Its largest PC customer is Dell, which accounted for 13.8% of revenues during 6 months ended June 30. Matsushita is Maxtor's primary hard drive supplier, representing 59% of its inventory as of June 30.

BestBuy.com opened digital download Web site powered by application service provider RioPort last week that can be accessed via www.bestbuy.com or directly at www.rioport.com/bestbuy. E-commerce division of retail chain Best Buy said site "positions Best Buy as the first traditional retailer with the ability to provide commercial downloads from all 5 major labels." But as of Oct. 8, site was offering only downloads from BMG, EMI, Warner — not Sony and Universal Music. BestBuy.com said it "hopes to make content from other major labels available in the near future." BestBuy.com Entertainment Vp-Gen. Mgr. Scott Young said: "Best Buy is committed to expanding our consumer offers of digital entertainment products and services. Our new digital download site will provide music customers compelling digital media offers from a broad group of label sources, and provide us with another tool to drive the market for new digital services as they develop."

Gemstar-TV Guide Chmn.-CEO Henry Yuen and CFO-COO Elsie Leung have exercised 1 million and 250,000 options respectively each representing 4% of their totals outstanding and vested. Neither executive has sold any portion of stock "nor do we have any current intentions to do so," Yuen said. Exercising represents executives' "strong confidence" in "long-term performance" of company's stock price, he said. Gemstar also recently announced \$300 million stock buy-back program as part of effort to boost stock price. It closed week up 16¢ at \$22.81. Yuen and Leung own 36.5 million (8.3% of outstanding common) and 6 million (1.45%) shares respectively. Meanwhile, Gemstar board member Douglas Macrae, who joined company after it acquired VideoGuide in 1997, has filed with SEC to sell 20,000 shares valued at \$575,098. Macrae previously sold 190,000 shares in 3 separate transactions earlier this year and owns 894,000.

SILICON IMAGE SLASHES JOBS: Silicon Image (SI), seeking to sharpen focus on CE and storage products, has slashed 60 of 300 jobs and will shift to licensing its integrated monitor controller technology.

SI will continue to market controller as discrete chip, but won't continue R&D for integrated version, COO Steve Tirado said. Decision to abandon integrated chip for flat-panel displays resulted largely from drop in volume pricing for XGA resolution version to \$9 from \$12-\$15, Tirado said. Market for FPDs also is slowing, with 14 million units projected to be sold this year, 21 million in 2002, he said. About 6 million units were sold in 2000, he said.

"The revenue margin opportunity [in integrated monitor controllers] isn't worth our pursuing the business," Tirado said.

SI also reached agreement with Thomson to integrate its digital visual interface (DVI) in set-top box, presumably DirecTV receiver, and digital TV, Tirado said. JVC has adopted DVI for 61W rear-projection TV based on its Direct-Drive Image Light Amplifier (D-ILA), while Thomson also has used it with 60W plasma display panel (PDP). EchoStar and Samsung have shown satellite receiver and high-definition decoder, respectively, with DVI connector. Thomson officials weren't available for comment.

At same time, SI has reached agreement with Thomson to integrate its digital visual interface (DVI) in set-top box, presumably DirecTV receiver, and digital TV (DTV), Tirado said. Thomson spokesman confirmed plans for DVI in DirecTV receiver and DTV, but said screen size for latter hadn't been set. Thomson also has used DVI in 60W plasma display.

JVC has adopted DVI for 61W rear-projection TV based on its Direct-Drive Image Light Amplifier (D-ILA) while EchoStar and Samsung have shown satellite receiver and high-definition decoder, respectively, with DVI connector.

DVI and its High-Bandwidth Digital Copy Protection (HDCP) has been jockeying for position in CE market with IEEE-1394 DTV interface and Digital Transmission Content Protection (DTCP) that received backing of Mitsubishi and Sony.

While DVI has been slow in gaining adherents among CE manufacturers, Tirado said transmitter sales were "strong" in 3rd quarter ended Sept. 30 and adoption of technology was "accelerating." He said SI, in addition to DVI, would make push into storage/semiconductor sales, which could produce 40% of revenues in 2002.

Meanwhile, SI forecast 3rd quarter revenue of \$14 million, down from earlier projection of \$15.5-\$16.5 million, and expected earnings to be 9-11¢. It can turn profit with revenue of \$23.5 million, CFO Daniel Alter said. Even with "minimal" revenue growth, net loss would be around \$4 million, he said. SI didn't disclose savings from restructuring, and spokeswoman declined comment.

NxtWave Communications secured \$12.5 million in 4th equity round of financing. Among those participating were Alps Electric, Mitsubishi International Corp., NEC, Walt Disney Corp. NxtWave markets VSB and COFDM demodulators.

RENT-A-CENTER BUYS STORES: Rent-a-Center (RAC) has purchased 8,000 rental accounts from 27 Rent-Way (RW) stores, terms not disclosed.

RAC, which operates 2,288 stores, retained 4 of 27 RW outlets — in Morgan City, La., Portland, Ore., St. Johnsbury, Vt. and Seymour, Ind. — and closed rest, Pres. Mitchell Fadel said. Those closed operated in markets where RAC had existing stores, he said. RW has 1,087 stores.

RAC bought accounts of half-dozen stores from rival RW earlier this year (TVD Feb 5 p18) as latter struggled to right itself following accounting scandal last fall that forced it to restate earnings for previous 3 fiscal years (TVD July 2 p17). RW, which reached agreement with RAC in late Sept., had said it would sell or merge 30-40 stores this fall (TVD Aug 27 p15).

RW said it reached agreement with bank group led by National City Bank of Pa. to amend credit facility and replace forbearance pact that expired Oct. 5. New facility provides \$360 million credit line. Previous credit agreement allowed RW to borrow maximum of \$76.1 million under revolving portion of facility.

Meanwhile, RAC has begun test sales of digital TVs through 110 stores in Dallas, L.A., Las Vegas. RAC, which began selling 46W Mitsubishi DTV Sept. 1, expects to complete test and make decision on whether to expand sales chainwide by Jan., Fadel said. RAC had planned to sell DTVs through 35 stores (TVD Aug 6 p14), but increased size of test to "gain even greater detail" on interest in technology among rental customers, he said.

RAC also cut 3rd quarter earnings forecast to 50-52¢ from 66¢, citing economic slowdown after Sept. 11 terrorist attacks. Same-store sales in quarter ended Sept. 30 rose 4.6% as revenue was expected to be at low end of \$433.5 million forecast, it said.

Chain also will pay \$25 million to repurchase 2.9 million shares held by Chmn.-CEO Ernest Talley, who is retiring. RAC will buy \$10 million worth of Talley's shares at end of 10 trading days, another \$15 million by Nov. 30. Talley's remaining shares will be locked up from sale until Feb. 5, RAC said. Talley founded Talley Lease-to-Own in 1987 and merged it with Renter's Choice in 1995 before leading purchase of RAC from Thorn Americas 3 years later. Talley owns 4.9 million RAC shares, 19.5% of those outstanding.

News Corp. remains in talks for control of Hughes Electronics and its DirecTV business, but predicted that deal had only "50-50" chance of going ahead, Chmn. Rupert Murdoch said after company's annual meeting last week in Australia. He also criticized EchoStar's rival bid, arguing that it would have trouble winning regulatory approvals. "I have no hesitation in saying that what we would produce in synergies, efficiencies and prospects are in every way superior to what EchoStar could do," Murdoch said. News Corp. has been seeking sale agreement with Hughes parent General Motors for year, but proposed deal was thrown into question when EchoStar made \$30 billion rival bid in Aug. News Corp. and GM continue to hold "friendly and useful" discussions, Murdoch said. But GM has said that recent drops in Hughes share price make deal "more difficult in this changed environment." Ironically, News Corp. and EchoStar once had agreement to merge, but deal collapsed. EchoStar later acquired satellite slots from News Corp.

CD WAREHOUSE FRANCHISE FIGHT: CD Warehouse franchisee has filed arbitration claim seeking to dissolve agreement with music retailer contended it had failed to provide support and services.

Paul MacDougall, who operates CD Warehouse stores in Cape Girardeau, Mo., Carbondale, Ill., and Paducah, Ky., filed claim with American Arbitration Assn. (AAA) Oct. 9 charging that Oklahoma City-based franchisor hadn't provided, among other things, promised point-of-sale (POS) software. CD Warehouse franchisees pay 4% royalty on sales of new CDs and DVDs, 5% on used products.

"At this point, I see no advantage in being part of the CD Warehouse system," MacDougall said.

Overall, 65-70 CD Warehouse franchisees operate 201 stores, while company has 65. While CD Warehouse Franchise Assn. hasn't taken position on MacDougall's claim, group plans to meet by month's end to discuss issues, said Assn. Pres. James Boushka, who operates 24 stores. "We need to be prepared because there are a lot of moving parts right now," he said. "I have a lot invested in this business and I need to protect it."

Franchisor also is weighing Djangos.com's offer to buy chain for \$1 per share — \$3.6 million. Proposed purchase represents 100% premium over chain's 50¢ share price. Portland, Ore.-based Djangos.com operates Web site selling new and used CDs and DVDs and has 17 stores — Chicago (3), Los Angeles (7), Portland (1) San Diego (2), Seattle (4).

CD Warehouse Senior Vp-CFO Doyle Motley wasn't available for comment. CD Warehouse has franchisees in 36 states as well as Canada, Guatemala, Thailand, U.K. and Venezuela operating under CD Warehouse, Disc Go Round, CD Exchange and Music Trader banners.

CD Warehouse has had volatile relationship with franchisees since launching concept in 1996. Jimick Products sued CD Warehouse in 1999 claiming that chain had breached its franchise agreement by allowing Disc Go Round stores to "encroach" on its development area. CD Warehouse later filed unrelated claim with AAA alleging that Mark Kane and Compact Disc International had violated noncompete clause of 1996 asset purchase agreement.

In addition to struggling to implement new POS system, CD Warehouse abandoned online business last year after pouring \$2 million into developing it. It had hoped to have its 314 stores online by fall 1999, but year later had only 35 that were able to dial into Internet and upload inventory.

Vaio MX multimedia PC from Sony with extended AV functions made debut last week at \$2,800. Model PCV-MXS10 is Pentium 4-based 1.7 GHz PC with 80 GB hard drive, 512 MB of RAM, 40 w amp. Vaio MX has DVD-R/RW and CD-R/RW recorder, MiniDisc and Memory Stick recording. TV and FM tuner and MPEG-2 real-time encoder are built in, and hard disc acts as PVR for recording from TV or other non-copy-protected video sources. Free Web-based programming guide permits time-shift programming 2 weeks in advance. PC has 2 IEEE-1394 connectors, analog and digital video outputs, analog S-video input and output, optical audio input and output.

Samsung signed agreement with Universal Display Corp. to jointly develop organic light emitting diode (OLED) technology. Deal calls for development of color active matrix OLED in next 12 months as possible prelude to Samsung's signing licensing agreement and introducing product in 2003, Universal Exec. Vp Dean Ledger said. Companies will work to combine Universal's high-efficiency phosphorescent materials and top-emitting device structures with Samsung's low-temperature polysilicon active matrix architecture. Universal, which has similar pact with Sony, doesn't expect to realize licensing revenue until 2003, he said. Agreement will give Samsung OLED venture with NEC — Samsung NEC Mobile Display Co. (TVD Dec 25 p19) access to Universal's patent portfolio, which includes its own as well as 78 acquired from Motorola earlier this year. Samsung, which is expected to develop active matrix OLED technology for handheld PCs and electronic game devices, already has licensing agreement with Eastman Kodak for use of its technology in passive matrix OLEDs. Samsung NEC venture was scheduled to start production of 2.2" passive color OLEDs in June for cellular phones with 128x128 resolution and 100 lumens. Universal itself has begun pilot production at Ewing, N.J., plant of 2" passive OLED, but is expected to shift to 4-5" as it moves into active matrix versions, Ledger said.

CRL Opto is shipping evaluation kits for its 0.8" microdisplay that has 1,280x1,024 resolution and 60 Hz refresh rate. Display uses liquid crystal on silicon (LCOS) technology and supports conventional and wide-screen picture formats. MicroVue Ltd., which is building displays, is expected to start volume production in first half 2002. MicroVue is U.K.-based joint venture of MicroPix, Picvue Technology, Prokia and Xcitek and is forecast to have monthly production capacity of 8,000 units by March. Picvue, which owns 20% of joint venture, will take over production by 2003 with maximum monthly capacity of 150,000. MicroVue contracts United Microelectronics to process 8" wafers with 0.3-micron technology.

Barnes & Noble said strong videogame sales in its GameStop division helped it weather retail impact of Sept. 11 terrorist acts and it expected 3rd quarter same-store sales to rise slightly overall. Bookseller said sales dipped 1.1% in Sept. but it remained optimistic about 4th quarter. Videogame same-store sales were up 12.8% in Sept. and up 19.9% for 3rd quarter thus far. Barnes & Noble said it expected same-store game sales to fall in Oct. against tough comparisons with release of Sony's PlayStation 2 videogame console year ago. But based on those trends, Barnes & Noble said it expected videogame same-store sales to be up 3-4% in 3rd quarter. J.P. Morgan retail analyst Danielle Fox told Reuters: "The videogame business is very volatile and, previously, that volatility had worked to Barnes & Noble's detriment. Now it's working to its favor in that it's offsetting earnings downside at the bookstore business." Comparable superstore sales in Sept. declined 1.1% from year ago. Based on trends to date, company expects comparable sales in quarter ending Nov. 3 to be in range of flat to up 1%. Comparable sales at its B. Dalton mall bookstore division, which constitutes only 8% of its total sales, were running at -4.4% in quarter to date. Separately, company announced new Barnes & Noble superstores would open Oct. 17 in Riverside, Cal. and Wyomissing, Pa.

Digital watermarking provider Digimarc said it expected to report 3rd quarter loss from operations Oct. 17. It said slowing economy and Sept. 11 terrorist attacks had reduced revenue. Several agreements with new customers Digimarc expected to close in Sept. were postponed, it said. It's also in patent dispute with watermarking company Verance.

ACCESSORIES TO BEAT CONSOLES: Intent on carving out mind-share as well as picking up early sales from impatient consumers, game accessory maker InterAct plans to have controllers, memory cards and other accessories for Xbox and GameCube on shelves full week before formal hardware rollouts Nov. 15 and 18, respectively.

InterAct Business Development Vp Ken Tarolla told us: "It's done in conjunction with retail. They've got shelves opening up for the new hardware so they have to have all their pegs filled or else it looks a little naked."

Tarolla said that contrary to common wisdom, consumers who had preordered new system didn't spend that much time in stores looking for accessories and games to go with them. Therefore, he said: "The goal for both us and the retailers is to maximize revenues by going after the early adopters who go into stores looking to buy products before others buy them. We do some percentage of sales prehardware launch date and [on] the launch date we see sales depending on how much hardware each retailer has."

While much of focus has been on first quantities for Xbox and GameCube, Tarolla said real key was "how quickly they keep filling the channel with hardware for the next 3 to 6 months." He said: "We're planning our productions based on what we think the launch quantities are going to be and how well we can keep our quantities matched against what we think the continued allocation will be for each retailer."

InterAct and other 3rd party accessory makers find themselves in unusual position with hardware makers that increasingly see peripherals as consistent and high-margin revenue stream to offset potential losses in hardware. "It's an intriguing give-and-take program," Tarolla said. For example, he said: "Even with Microsoft's licensing program with us, they're very aggressive in selling their own peripherals into the channel. So it's a complicated relationship in that we're partners and we're competitors."

"Nintendo tends to be more quiet," Tarolla said. "They've always stayed with their baseline of product — their controllers and memory and cables. They don't do a lot of finagling to keep 3rd parties out. They don't hack you directly." But even with more aggressive stance by first party accessory makers, Tarolla said: "Most retailers — and I don't believe this will change — want competition. They want first party peripherals on shelves but, especially the mass merchants, want mass market pricing. Also, you can't have stocks out and that's been a problem with every one of your first parties. That's how InterAct has built our business. We fill the gaps. Retailers do not want to be out of stock ever and so they will not live by the first party peripherals alone."

One long-term cash cow for InterAct has been its uncensored but very popular GameShark line, which contains cheat codes and other passwords that provide gamers with unlimited weapons or lives when playing games. Despite some grumbling from hardware makers in past, Tarolla said InterAct continued to aggressively push GameShark and would be bringing out versions for Xbox and GameCube in first half of 2002.

Nuon-enhanced movie on DVD will arrive at retail Jan. 4 when MGM releases special edition of 1984 cult classic *The Adventures of Buckaroo Banzai Across the Eighth Dimension*.

Texas Instruments (TI) and RealNetworks said mobile version of latter's digital media player — RealPlayer Mobile — would be optimized for TI's Open Multimedia Applications Platform (OMAP) for mobile handsets and made available to wireless service operators and mobile phone handset manufacturers. TI platform is designed to support audio and video by using greater bandwidth provided by new cellphones and other wireless devices. TI also said it became first hardware company to license new MP3Pro digital audio codec from Thomson. Format was shown by Thomson at CES in Jan. Separately, TI unveiled new DSP — TMS320C54x — at PC Expo in Japan that will be used in first reference design by e.Digital supporting DataPlay digital media. TI said e.Digital's reference design decodes multiple formats, enabling secure playback of Advanced Audio Coding (AAC), MP3, QDX, Windows Media Audio formats.

Panasonic introduced SV-SD80 2nd-generation e-wear SD audio player at \$329.95. Manufacturer first unveiled e-wear line of small, wearable MP3 music players last year. Panasonic said new model — at 1-11/16" (width) x 1-3/4" (height) x 11/16" (depth) — was smallest on market and weighed 0.92 oz. without battery. Company said device could provide up to 50 hours of uninterrupted play using rechargeable Ni-MH battery and one AAA battery. Included 64 MB SD card holds up to 64 min. of what Panasonic called "near CD-quality music" in High Quality mode, 129 min. in Extended Play mode. Device is compatible with MP3, Advanced Audio Coding (AAC) and Windows Media Audio (WMA) formats. Also bundled with unit is new Panasonic SD audio PC recording kit, including enhanced version of RealJukebox software and USB reader/writer that connects to PC's USB port.

Microsoft is considering increasing capacity of Xbox hard drive to 10 GB from 8 GB. It was unclear at our Fri. deadline why company decided to stick with 8 GB drive and when final decision would be made. Spokeswoman didn't return call for comment. Reuters reported that while Microsoft spokesman admitted some thought had been given to upping hard drive GB capacity, he said specifications for game console consistently had said drive would be 8 GB.

Returning NBA superstar Michael Jordan will be included in upcoming Sega Sports *NBA 2K2* title in versions for Dreamcast, PS2, Xbox, GameCube, Sega of America said. Dreamcast version will ship Oct. 23, followed by PlayStation 2 version in Nov., Xbox version in Jan., GameCube version next spring. Title is first time Jordan's likeness will be featured in Sega game. He will appear in title in same role he's taking on his un-retirement from NBA — as starting guard for Washington Wizards.

Various retailers and game retailers are to take part in PlayDate 2001 Oct. 16 at Metropolitan Pavilion in N.Y. Among exhibitors set to take part are Acclaim, Amazon.com/Toysrus.com, Bandai, Hasbro, KB Toys, Nintendo, Radica, Rockstar Games, Take-Two Interactive, THQ, Toys "R" Us. Retailers once again will offer predictions on what items will be best sellers this holiday season.

Musicmaker.com and other investors acquired 6.3% stake in digital audio technology company Liquid Audio (LA). Musicmaker.com and other investors, who weren't identified, also said they intended — "depending on market conditions" — to try to acquire up to additional 8.6% of LA's common stock, nearly 2 million shares. LA provides software applications and services for secure delivery and sale of digital music online.

Consumer Electronics Personals

Matt Yoshimi, Pioneer mobile entertainment product planning mgr., advanced to vp-mktg. & product planning, replacing **Andy Yamaguchi**, who returns to hq in Japan; **Mktg. Vp Keith Burnett** named vp-product planning; **Michael Townsen** returns as vp-mktg... **John Macdonald** promoted to dir., digital authoring services, Sony Disc Mfg., Springfield, Ore... **Randy Dowis**, NHT dir.-sales, home and pro audio products, shifts to mktg. dir., replaced by **John Johnsen**, ex-Parasound... **Carl Vogel**, ex-Primestar and Liberty Media, named pres.-CEO, Charter Communications... **Casey Cowell**, Durandal pres. and ex- U.S. Robotics, resigns from AMX Corp. board, no replacement named... **Robert Fay** retires as CFO, Cirrus Logic, succeeded on interim basis by Senior Administration Vp-Gen. Counsel **Steven Overly**... **Gerald. Quindlen**, Eastman Kodak U.S.-Canada regional business gen. mgr., adds vp title... **Ernest Talley** retires as chmn.-CEO, Rent-a-Center, replaced by Vice Chmn. **Mark Speese**... **Dennis Kenny**, ex-Transamerica Leasing, joins TDK Mediactive board and will serve as game maker's 3rd independent dir... **Glenn Halseth**, ex-Interactive Imagination, named vp-U.S. sales & mktg., Kemco... **Roger Farah**, Polo Ralph Lauren pres.-COO and **Peter Georgescu**, Young & Rubicam chmn. emeritus, appointed to Toys R Us board.

Japanese game developers Koei and Enix raised their profit estimates for 6 months to Sept. despite disappointing consumption in Japan. Koei said it had raised group net profit forecast for April-Sept. period 21.4% to \$14.1 million, while Enix — best known for its *Dragon Quest* games — said it expected \$6.8 million parent net profit, up from \$3.7 million forecast. Revisions by both companies reflected strong sales of Sony's PlayStation 2 (PS2) and Nintendo's Game Boy Advance systems as well as cost-cutting measures such as scrapping unpromising games that were under development. Sept. 11 attacks have affected their game sales little so far, both companies said. Koei said latest title in its popular *Dynasties Warriors* history action series had sold 415,000 units since it shipped Sept. 20. Enix attributed upward revision to lower costs due to canceling some of its future games and postponement of promotional activities for its *Dragon Quest* games for PS2, set to be released Dec. 22 in Japan.

Halloween cross-promotion with Hershey Foods was announced by Sony Computer Entertainment America (SCEA). As part of \$1 Million PlayStation Videogame Giveaway, consumers will have opportunity to win one of 25,000 PlayStation and PlayStation 2 videogames and will find videogame strategy tips in specially marked Hershey's snack-size bags. Promotion is backed by national freestanding insert in newspapers that SCEA said would reach more than 54 million consumers. More than 35,000 retailers also are receiving 50,000 point-of-sale signs for promotion.

Macrovision invested \$8.5 million in 3 companies with technology for video-on-demand (VoD), AV streaming and online gaming, it said last week. Companies are Widevine Technologies (real-time VoD encryption), Digital Fountain (streaming), NTRU Cryptosystems (encrypted delivery for mobile devices).

Pirated CDs seized by RIAA's Antipiracy unit totaled 1.26 million in first half of this year, Assn. said. That's 113% increase over 2000 period. Group also shut down 8,716 online auctions offering pirated recordings in first half, up 418% in year.

Nokia 5510 phone, due to ship in 4th quarter at 399 euros (about \$363), was designed specifically for mobile entertainment and would feature digital music player, stereo FM radio, games, enhanced messaging capabilities. Nokia spokeswoman told us last week company planned to market device in Europe, as well as Africa and Asia-Pacific. Whether or not phone or comparable model would reach U.S. was unclear. Nokia Mobile Phones Exec. Vp Anssi Vanjoki said new phone reflected "fundamental transition that our industry is going through." He said "phones are no longer only voice and sms [short message service] driven, but are increasingly functioning as platforms for other services, such as entertainment. With this phone, we're introducing a new category of devices functioning as integrated entertainment platforms, which are complemented by related relevant services from Club Nokia." On digital music side, device will be compatible with Advanced Audio Coding (AAC) and MP3 audio files. Provided Nokia Audio Manager PC software and connectivity cable will allow users to rip music files from their own CDs and download them to Nokia 5510. Users can listen to music either on music player or FM radio and simultaneously play games, Nokia said. Device will include game controls for 2 hands and keys located on either side of screen. It will ship with 5 embedded games: *Bantumi*, *Bumper*, *Pairs II*, *Snake II*, *Space Impact*. Game functionality of device will be enhanced by services available from Club Nokia. Members of Club Nokia will be able to download animated screensavers as well as new and more challenging game levels via Wireless Application Protocol (WAP). Members also will be able to compete with other players by sending in their high scores to Club Nokia. Latter is online community and loyalty program for Nokia phone owners that currently offers exclusive services to owners of Nokia mobile phones in Africa, Asia-Pacific, Europe, Middle East.

Amazon.com sales of Sony CE products in Europe are limited to U.K. and Germany and don't include PlayStation 2 videogame console, spokesman said. Amazon, which has yet to land distribution agreement for Sony in U.S., began European sales in July, spokesman said. "We view it as another means for expanding sales of our products in Europe," he said. But Sony in Europe thus far has limited online business to Amazon.com and its own direct sales. Latter accounted for less than 1% of Sony's \$10.4 billion in European sales in fiscal year ended March 31, spokesman said.

LG Electronics, seeking to continue expand display business, was expected to demonstrate 52W TV based on Texas Instruments' Digital Light Processing (DLP) technology at Korean Electronics Show. Specs and pricing weren't available, but LG would join Marantz in 2nd flight of manufacturers to introduce DLP-based sets. Hitachi, Matsushita and Mitsubishi shipped 55W, 52W and 65W TVs with TI's technology in 2000. LG, which has LCD joint venture with Philips, also has made push in plasma display panels.

Best Buy has lowered forecast for 3rd quarter same-store sales, and earnings are expected to be 34¢, at low end of previous 34-36¢ range. Same-store sales now are expected to be flat to down 2% vs. flat to up 2% that BB had projected Sept. 18. Chain said it was difficult to predict impact of Sept. 11 terrorist attacks on consumer spending in quarter.

LucasArts Entertainment said its upcoming game *Star Wars Rogue Squadron II: Rogue Leader* would incorporate Dolby Labs' Pro Logic II sound technology. Title is to ship for Nintendo GameCube console in Nov.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

CARRIAGE ON DIRECTV, ECHOSTAR stirs flood of complaints to FCC. Public TV, commercial stations affected. (P. 1)

ANTHRAX DISTRACTS GOVT.: No more business as usual for Hill, networks. Congress shut down, delaying TV issues. FCC changes deliveries policy, delays deadlines. (P. 2)

CH. 60-69 HEATS UP: Wireless industry opposes broadcaster payments. Hollings warns FCC. New auction date set. (P. 4)

TV SPECTRUM TARGETED by public safety groups post-Sept. 11. Acceleration of DTV transition urged. (P. 4)

FEWER MSOS, PROGRAMMERS head for Western Cable Show. Attacks, economy take toll. Broadband technology highlighted. (P. 5)

COPPS SEES BIGGER FCC ROLE following Sept. 11. Broadcasters lauded for efforts. Redundancy said to be needed. (P. 5)

STREAMING MEDIA TO JUMP in wake of Sept. 11. Internet-based video service more attractive than travel. Hughes sees opportunity. (P. 6)

DOZENS OF TV CARRIAGE REQUESTS TURNED DOWN: FCC has been inundated by complaints from local broadcasters charging EchoStar and DirecTV had rejected their requests for carriage out of hand. Avalanche of complaints came as Jan. 1 date for federal "carry one, carry all" requirement neared. Must-carry issue also is at core of DBS industry lawsuit against FCC. Oral argument in case was heard Sept. 25 by 4th U.S. Appeals Court, Richmond, with decision pending.

Commission order that set up satellite carriage cycle, in keeping with Satellite Home Viewer Improvement Act (SHVIA), established July 1 as date broadcasters had to make their wishes known for carriage in 2002-2006 cycle. Commercial broadcasters had to elect either must-carry status or retransmission consent from satellite providers, while non-commercial broadcasters could ask for must-carry status. FCC officials said they had received 37 special relief and show cause petitions since Sept. — 26 against EchoStar and 11 against DirecTV. Most rejections cited quality of signal and/or said station in question was not in DBS designated market area (DMA). Unlike cable operators, satellite providers are subject to rules only in markets where they offer local-into-local service.

Rejected stations run gamut, from Christian outlet in S.C., to several in L.A. area and P.R. FCC Cable Bureau has been documenting complaints. Industry sources have said there may be as many as 200 independent stations that have been rejected by EchoStar and DirecTV together since carriage requests started.

Spokesman for DirecTV disputed notion that company was rejecting carriage requests in aggregate, saying they represented only "small fraction" of some 300 requests company received before July 1 deadline. "With the exception of a

Consumer Electronics

PHILIPS DRAWS LINE on copy-protected CDs, saying discs that don't play compatibly can't use format name or logos. (P. 8)

DVD+RW FORMAT IS DISAVOWED by DVD licensing authority as first Philips recorders ship to retail. Statement warns of compatibility concerns. (P. 9)

SIRIUS SCRAPS DARS LAUNCH for 2001 as CEO resigns. XM expands service to southern tier, but cuts unspecified number of repeaters in austerity move. (P. 10)

RETAILERS UPBEAT ON HOLIDAY GAME SALES: New Microsoft and Nintendo consoles expected to be factors but supply won't meet demand on either until spring. (P. 11)

CORNING POSTS LOSS in 3rd quarter amid restructuring and slumping revenues that stretch across company. (P. 13)

U.S. IS CULPRIT for Philips CE 3rd-quarter losses, senior executives say. Company will give remedies only 'limited time,' they say. (P. 13)

few, we have pretty much reached agreements or finalized agreements with all of the stations that have requested must-carry or retransmission," spokesman said, although DirecTV supported satellite industry lawsuit that contended must-carry/retransmission rules were unconstitutional and breached satellite operators' First Amendment rights to carry stations they chose. Spokesman said company followed FCC standards to determine what was good quality signal and stations weren't entitled to automatic carriage unless they could demonstrate they met those standards. EchoStar refused comment.

As of Aug., EchoStar had turned down all but 2 of 122 requests for carriage by PTV stations, basing its decisions largely on quality of signals, APTS told FCC in ex parte filing. Even carriage of 2 PTV stations was based on extenuating circumstances, with stations either being already carried or having retransmission agreement with EchoStar. DirecTV had granted carriage for 52 of 125 stations that had requested it.

KM TV of Flagstaff, Ariz., which owns KCFG there, filed complaints against both EchoStar and DirecTV. Attorney Jeffrey Timmons, who represents KM TV, was particularly critical of EchoStar for using form letter in which company needed only check off reasons for denial. "They're just not trying to make the process easy for stations," Timmons said. He acknowledged that signal strength was problem for KCFG, but said station officials informed DBS operators that they intended, as they are allowed by FCC rules, to deliver their signal by "alternate means."

Curtis Dear, chief engineer of noncommercial WATC-TV (PBS) Atlanta, which is owned by Community TV Inc., said EchoStar, despite must-carry requirement, "wants to pick and choose" what stations it carries. He disputed EchoStar claim that WATC-TV's signal was too weak to be covered by rule, contending satellite company had conducted inadequate signal-strength tests.

EchoStar and DirecTV have 20 days from day of public notice of FCC complaint to respond, stations that made complaints have 10 days thereafter for rebuttal and FCC has 120 days to issue decision. Agency can order DBS operators to take remedial action by offering carriage, dismiss complaint if Commission finds it's without merit or, in extreme case, where satellite company repeatedly has flouted carriage rules, can impose fines or forfeitures.

HOUSE VACATES, SENATE SCRAMBLES IN WAKE OF ANTHRAX: It wasn't business as usual on Capitol Hill last week as House Speaker Hastert (R-Ill.) announced he would end week's session one day early to allow hazardous materials (hazmat) crews to sweep every square inch of House office space for anthrax spores. Move came as health inspectors said 31 individuals — mostly staffers of Senate Majority Leader Daschle (D-S.C.) and handful of U.S. Capitol Police officers — had been exposed to anthrax that arrived by mail in Daschle's office. However, Daschle said he and Minority Leader Lott (R-Miss.) "will not let this stop the work of the Senate."

Senate operations were disrupted, however, as staffs were asked to vacate temporarily office by office to allow hazmat inspectors to perform tests, after it was determined that anthrax spores had entered Hart Senate Office Building air circulation system (Daschle said air circulation had been shut down). As result of disruption, several telecom-related hearings and markups — notably including DTV transition hearing — were postponed and several floor votes of interest were put off until this week, including economic stimulus package.

FCC, meanwhile, said it no longer would accept hand-delivered filings at Portals location after Oct. 18. Agency said hand-delivered filings would be accepted starting Oct. 22 at its warehouse in Capitol Heights, Md., where it moved its mailroom for security purposes. Because location change could create delays, deadline for all filings due Oct. 18-19 has been extended to Oct. 22. Agency also extended daily filing deadline to 9 p.m. and said it was looking for filing site in D.C. to use on more permanent basis. FCC moved entire mailroom to new location Oct. 16. All mail — not just filings — is being opened there by staff with additional training on how to spot suspicious packages and letters, then transported back to FCC's main building in Washington, spokeswoman said. Agency said documents sent through U.S. mail should continue to be addressed to Portals location because Commission itself will divert them to Capitol Heights facility. FCC urged parties "to make full use of the Commission's electronic filings systems."

While actual instances of anthrax's being mailed to news studios at broadcast networks have received huge national media and govt. attention, there also have been anthrax scares at radio stations in N.Y. state. Studios of WGY(AM) Schenectady were evacuated Oct. 15 for what turned out to be false anthrax report. Employees of 2 Cox Radio-owned FMs — WBAB and WBLI Long Island — were tested for anthrax bacteria after suspicious white powder was found at stations in jar containing donations for victims of attacks on World Trade Center. Two women who found powder were given antibiotics after early tests were inconclusive and stations were sealed off by police officials, with no one permitted to enter building except employees.

House Telecom Subcommittee postponed hearing scheduled for Oct. 18 on "Transition to Digital Television: Progress on Broadcaster Buildout and Proposals to Expedite Return of Spectrum." FCC Mass Media Bureau Assoc. Chief Rick Chessen and broadcast, cable and consumer electronics industry panelists had been slated to testify. Hearing hasn't been rescheduled.

After "complete environmental sweep" of U.S. Capitol and all House office buildings, Hastert told reporters House would return to session Oct. 23. Despite vacating day early, Hastert said "it is not our intention to close up shop" and end this session of Congress early: "The terrorists would love that." However, shutdown comes at bad time in terms of passage of appropriations bills, and House approved 2nd continuing resolution (H.J. Res-69) that would continue funding govt. operations through Oct. 31 to allow more time to clear FY 2002 funding bills.

Capitol Hill was eerily quiet last week, longtime observers agreed. Most news conferences were cancelled. Secret Service, D.C. Police and U.S. Capitol Police have become ubiquitous presence in area, with officers of last group telling us they were being asked to work double shifts. Streets surrounding Capitol have been restricted to automobile and small truck traffic. Federal and private buildings around Hill and in other parts of Washington have been subject to evacuations. Parking is prohibited within about 4 blocks of Capitol and House and Senate office buildings, and access to pullthrough drives in front of those buildings has been blocked off completely with concrete barriers. Press passes have been examined more closely, although long lines at security checkpoints visible in recent weeks have thinned as there seemed to be fewer people on Capitol grounds.

ALTV postponed its 2002 convention in Las Vegas to place and date to be determined. Convention has been held in conjunction with NATPE for last 9 years and was scheduled Jan. 21. Postponement was decided on Oct. 18 in conference call meeting of ALTV board, held via telephone because many dirs. didn't want to travel to Washington, we're told. ALTV Chmn. Ray Rajewski, exec. vp of Paramount Stations Group, said postponement "had to do with the general economic climate in the country" and fact that many ALTV member stations weren't planning to be in Las Vegas for Jan. 21-24 NATPE convention. ALTV Pres. James Hedlund said drop in TV advertising and reluctance of many broadcast executive to travel led to expectation that "far fewer attendees at our meetings" in Las Vegas. Another official of assn. cited FBI warnings that more terrorist attacks were expected, "and we don't know when or where that might happen," as another reason for postponement. ALTV had financial arrangement with NATPE, which expired after Jan. 2001 conventions, that currently is being renegotiated, Rajewski said. ALTV board plans another conference call in about 2 weeks to discuss new time and place to hold convention, he said. In interim, ALTV source said, stations and program syndicators will be consulted "to see what they want to do." Several FCC staffers had agreed to participate in ALTV Jan. 21 convention.

Citing recent anthrax attacks on broadcasters, NAB asked FCC to temporarily waive rules requiring broadcasters to retain written comments and suggestions in their public inspection files. In letter e-mailed and faxed to FCC, NAB said stations were attempting to follow FBI suggestions about screening material mailed to stations, and some were refusing to open some mail. Broadcasters have worked hard to meet public's needs during crisis, NAB said, but in this case "strict compliance" with FCC rules "could place station personnel and visitors... in danger of exposure to anthrax or other threats.

Sinclair Bcst. said it hired investment banker Bear Stearns to advise it on business opportunities for its TV station group. CEO David Smith said action was to prepare Sinclair for expected deregulation of TV station ownership rules, including advising on new market opportunities and markets it should exit, "if any." Sinclair owns, operates or programs 62 TV stations in 40 markets.

AT&T has collected sales tax from @Home customers in Ia. since July 1999 in violation of state law and is declining to rebate money to customers, state Dept. of Revenue & Finance charged. Problem is being compounded by sale of AT&T systems to Mediacom this summer, Wayne Cooper, dept. mgr.-taxpayer services, said. Ia. dropped sales tax on Internet access sales in July 1999. On receiving complaints from customers, dept. directed AT&T to cease collection of sales tax, but by that time carrier had finalized sale of its system to Mediacom, Cooper said. Company said @Home didn't qualify for sales tax exemption, challenging dept.'s interpretation of rule, he said. AT&T also chose not to act on dept.'s direction to make refunds to customers. Money was deposited with dept., Cooper said, but dept. couldn't disburse it to customers because it didn't receive list of names and amounts to be refunded, Cooper said. Tax collected was \$2 per month per customer, he said, and dept. was trying to work out some arrangement with Mediacom. AT&T spokesman declined comment.

Microsoft rolled out Intertainer video-on-demand (VoD) subscription service in nation's top 35 broadband markets at www.intertainer.tv. Intertainer will be promoted through co-branded Web pages Oct. 24 on MSN Entertainment. Intertainer offers films, TV shows, music videos and concerts for broadband-connected PCs. Companies touted service as better than VHS quality, with no titles ever out of stock, no worn-out tapes or late fees. Intertainer library has programming from more than 70 content providers and its partners include A&E TV Networks, Discovery Channel, Dreamworks, EMI Music, ESPN, NBC, New Line Cinema, PBS, Universal Pictures, Warner Bros., others.

Comcast, Cox, AT&T Broadband, Mediacom all said they reached separate agreements with Excite@Home on providing for new high-speed Internet customers, details not announced. Excite@Home, which recently declared bankruptcy, said week ago it would stop taking new customers. Excite@Home provides service to more than 3.6 million Internet-over-cable customers.

NTIA Dir. Nancy Victory appointed Michael Gallagher, formerly of Verizon Wireless, to be her deputy starting Nov. 2. She also named William Bailey, formerly of Coreexpress, as senior adviser and Stephen Madden, ex-Agriculture Dept., as asst.

CH. 60-69 HEATS UP: FCC will be “bending the law” if it allows broadcasters to take payments from wireless carriers for vacating Ch. 60-69, Senate Commerce Committee Chmn. Hollings told FCC Chmn. Powell in letter Oct. 17. Letter came after FCC Wireless Bureau set June 19, 2002, for start of auction of Ch. 60-69 spectrum. Hollings warned against allowing private sector to set terms of spectrum transfers, saying law required FCC to reassign 746-806 MHz band only through auction: “Allowing industry to negotiate private marketplace deals that dictate the governance and the transfer of spectrum and to earn profits on the spectrum through such arrangements is outrageous. Such action clearly violates the standards and mandates to which the FCC is required to adhere.”

New auction date is close to June 15 auction opener that Paxson Communications had sought for bidding on 747-762 and 777-792 MHz bands. Paxson Chmn. Bud Paxson had asked FCC last month to set mid-June to allow 7 months for band-clearing efforts by wireless bidders and analog TV incumbents. In July, bureau had postponed Sept. 12 start for spectrum, marking 5th time that bidding had been delayed. Other new dates set by bureau include: (1) April 30-May 8 filing window for short-form application. (2) May 28 for upfront payments. (3) June 14 for mock auction. New auction date followed FCC's order last month that added flexibility to earlier policy designed to ease voluntary clearing of incumbent broadcasters in upper 700 MHz band. That order granted petition of Paxson-led Spectrum Clearing Alliance that had asked Commission to give incumbent broadcasters that gave up one of their channels to accommodate band clearing flexibility to continue operating in analog mode until Dec. 31, 2005.

CTIA Pres. Tom Wheeler said FCC's rescheduling of Ch. 60-69 auction for June 19 didn't mean spectrum was “any closer to being put to higher uses, like public safety, as Congress directed... Protecting reruns of *Bonanza* on UHF television pales in comparison to using the spectrum for 911 calls and better communication for police, fire and rescue.” In 700 MHz band, FCC has set aside 24 MHz for public safety users, which also are subject to efforts to have analog TV broadcasters vacate spectrum in advance of DTV transition deadline of 2005. “Even after the auction, the broadcasters will have to be paid extortion money to move. It's a sad state of affairs when broadcasters have to be bought off what they promised to give back and Congress has directed to a higher public safety use,” Wheeler said.

Federal judge granted preliminary injunction that stopped Southwestern Bell from continuing ad campaign claiming cable modems were susceptible to slowdowns in peak Internet usage hours. U.S. Dist. Judge Catherine Perry in St. Louis said that while Southwestern Bell's ads were “very funny” and even memorable, Charter probably would win its suit on false advertising claims at trial and was suffering irreparable harm from ads. Southwestern Bell is enjoined from airing its “Cable Modem Slowdown” ad campaign, which included TV commercials showing drowsy family scheduling Internet use after 10 p.m. to avoid peak usage times. Charter filed its suit in Aug., contending Southwestern Bell had violated federal Lanham Act, which governs truth in advertising and unfair competition. Spokesman for SBC, Southwestern Bell's corporate parent, said that while company executives were disappointed with decision, they intended to prove their case at trial. Although company said it would honor decision and pull ads, spokesman said: “What we continue to attempt to do is educate our consumers about broadband choices.”

SAFETY SPECTRUM TARGETED: Sept. 11 attacks are focusing increased attention on using broadcast spectrum for public safety. Assn. of Public-Safety Communications Officials-International (APCO) wrote to House Telecom Subcommittee Chmn. Upton (R-Mich.) last week, urging that DTV transition in 700 MHz band be accelerated to make way for public safety services allocated in Ch. 63, 64, 68 and 69: “The nation's public safety agencies cannot wait until some future, unknown date when 85% of television households have access to DTV signals.” Source said “there's clearly sort of a recognition after the events of Sept. 11 that the importance of these has gone up a level.”

On moving analog broadcasters from 700 MHz band in advance of DTV transition, International Assn. of Chiefs of Police told Upton that public safety users should be considered. Until 24 MHz of channels are vacated as part of DTV transition along with rest of Ch. 60-69, “nationwide use of the new public safety spectrum is blocked in many of our largest metropolitan areas,” Chiefs wrote. “Law enforcement and other public safety agencies require this additional spectrum now, especially in light of the terrible events of September 11.” APCO asked Upton to urge subcommittee to “take immediate steps to accelerate the nationwide availability” of those channels for public safety.

“Certainly in light of the Sept. 11 situation, there was a renewed interest by the NCS and emergency response community to have some sort of emergency access on wireless networks,” CTIA Vp-Industry Operations Kathryn Condello said in interview.

New study sponsored by NCTA tries to discredit earlier research by NAB that minimized burden of dual digital must-carry on cable operators. In filing at FCC, Daniel Brenner, NCTA senior vp-law and regulatory policy, said findings by PDS Consulting showed NAB study didn't make effort to determine how much capacity was available without displacing existing or new cable services. NAB study also ignored costs that would be incurred by programmers, new service providers and consumers as result of displacement, Brenner said. PDS study said burden on cable companies would be so great as to seriously hamper their competitiveness with DBS. NAB spokesman called NCTA study “same tired argument” and said digital dual must-carry would “be even less of a burden” than analog because of increase in channel capacity digital technology provided. However, NCTA's study said that with increased capacity came increased demand, much of it already set aside for enterprises focused on video-on-demand (VOD), pay-per-view, cable telephony, high-speed Internet access, HDTV and other services that consumers wanted. FCC is conducting 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.

Ruling on 6-year-old rate complaints, FCC directed CableOne and Suburban Cable TV to refund to customers in 2 communities in Okla. and N.J. amount paid in excess of permitted cable programming service tier (CPST) rates. In Nowata, Okla., complaint was against CableOne's Oct. 1, 1995, CPST rate increase, while in Margate, N.J., subscriber had complained against April 1995 rate increase. In both instances, agency found CPST rate unreasonable and ordered refund of excess amount to customers.

WESTERN SHOW FORGES ON: Organizers of 2001 Western Cable Show acknowledge this is "tough year" but say they will forge on, refocusing their show on broadband technology as MSOs and mature programmers drop out. In deciding to move forward with show after Sept. 11 attacks, Spencer Kaitz, pres. of Cal. Cable TV Assn. (CCTA), which organizes show, said President Bush had asked Americans to move forward with their daily lives and business. Western Show will "occur as planned," Kaitz said, but number of attendees is likely to be down 20-25% from last year, although organizers declined to release precise numbers. Number of exhibitors is 336, down 80 from this point last year. Show at Anaheim Convention Center is to be Nov. 27-30.

Many of those cancelling cited slumping economy or stricter company travel policies in wake of terrorism. "Our mature programmers that have been a solid part of our show for a long time have decided to market in other ways," spokesman said. Programmers that have dropped out include HBO, Showtime, Disney/ABC, Turner Bcstg., Viacom and Fox networks, but younger programmers with something to prove, such as Fashion TV, Golf Channel and Outdoor Channel, have signed up. AT&T has said it won't go, but other MSOs, including Charter, Comcast, Cox and Mediacom intend to have representatives. Some have agreed to host company meetings in conjunction with show: Adelphia has 40 of its senior managers meeting there. Charter is holding its annual budget meeting with 30 of its top managers, and Cox, Insight and Mediacom say their top managers will attend.

Show organizers have altered format to meet change in demand, cutting exhibit space to 3 convention halls (524,000 sq. ft.) from 4 halls (670,000 sq. ft.). CCTA has partnered with other groups to attract other events to Western Show fold. Cable Center will hold its Hall of Fame induction dinner and Bandies awards, which honor evolution of broadband, will be larger than last year. Cable & Telecom Assn. for Marketing (CTAM) will hold its conference in Anaheim and Cable Center will host luncheon featuring Ted Turner. CNN founder is to record his video history as part of Center's Oral and Video History Program.

In effort to change some past exhibitors' minds about attending, organizers are offering new "nonexhibiting participant" opportunity. That category, which costs \$14,000, will offer organizations some of same amenities, including listing in official program guide and Web site, 2 delegate registrations and other benefits such as hospitality suites, meeting spaces and ability to schedule news conferences. Among those that have signed on in that category are Game Show Network, iN Demand, Lifetime, Oxygen Media, Scripps Networks, USA Cable.

Organizers also are highlighting technology. CableNET 2001 again will exhibit high-speed cable modems and digital set-top boxes, among other products. CableNET Interactive will feature hands-on demonstrations involving broadband interactivity, enhanced TV, hypervideo, personal video interactive devices, home wireless technology, streaming video, others. Microsoft, Motorola, nCUBE, OpenTV and Sun Microsystems will be showing products, organizers said. "What our show has really become is a tighter broadband technology show, at least on the exhibit floor," spokesman said.

FCC ordered Willis Bcstg. to pay \$25,000 fine for failing to comply with Emergency Alert System rules for WGRM(FM) Greenwood, Miss. Decision confirms notice of liability issued in July.

COPPS SEES BIGGER ROLE FOR FCC: FCC has much bigger job — to protect public's interest, chiefly its safety — than anyone could have imagined just 5 weeks ago, Comr. Copps said Oct. 15. In speech to FCBA, he said Sept. 11 attacks meant FCC now "must be in the vanguard of our homeland security efforts." Among first tasks, Copps said, is for Commission and industry to determine which parts of nation's telecom networks performed well, which failed, repair damage, establish "redundancies" in networks that will allow citizens to communicate during crises, even when one system fails. "If Sept. 11 was about anything other than evil, it was about communications," Copps said, citing "desperate outreach from each of us as citizens to find out what was going on, where our loved ones were, what other threats were coming our way."

Copps lauded telecom industry for its "heroic effort" to keep people informed. He said some broadcasters whose towers were destroyed were able to continue on air because their competitors, both cable and DBS, offered to carry their signals in interest of getting as much information to public as possible. Other companies lost vast amounts of money to remove commercial interruptions from vital news coverage, he said.

Terrorist attacks have prompted Commission to address issue of convergence with new sense of urgency, Copps said. "I really don't think it exaggerates much to characterize access to communications in this modern age as a civil right," he said. He said term "public interest" appeared 110 times in Communications Act and difficulty in defining term didn't obviate Commission's duty to serve that end. If FCC stops making decisions based on public interest because that interest is difficult to quantify, "it will be breaking the law," he said. "I didn't take an oath to do that."

FCC won't ask U.S. Supreme Court to reinstate its EEOC rules requiring cable companies and broadcasters to provide equal opportunities for women and minorities. FCC Gen. Counsel Jane Mago said that after consulting with Justice Dept., Commission decided not to ask high court to review decision of U.S. Appeals Court, D.C., that vacated agency's rules (TVD Jan 22 p2). However, Minority Media Telecom Council and National Organization for Women (NOW) filed their own petition at Supreme Court Oct. 17. NOW spokeswoman Terry O'Neill said D.C. Circuit substituted its own "poor judgement" for that of agency that knew situation best. MMTC's David Honig said that while it perhaps would have been better for FCC to join fight, he believed high court would take case because of important issues involved, specifically whether federal agency had power to seek broad recruitment and outreach to minorities. Commission had asked for rehearing before D.C. Circuit, but was denied. Agency intends to come up with new rules, although it hasn't begun proceeding. FCC has been criticized by some members of Congress for claiming jurisdiction on issue that already belonged to Equal Employment Opportunity Commission (EEOC) and Justice Dept.'s Civil Rights Div. NCTA has said its MSO members will comply voluntarily with FCC's EEO rules (TVD April 16 p 5). NCTA had backed FCC rules, while broadcasters fought them in court. NAB spokesman didn't comment.

TV public service announcements (PSAs) are being distributed by e-mail as part of campaign created by Ad Council and ad firm GSD&M. PSAs, which were created in response to Sept. 11 attacks and feature tag line "I Am An American," are being sent to e-mail accounts of more than million Americans, groups said. E-mails is using helloNetwork's streaming media platform, which doesn't require player installations.

STREAMING MEDIA TO JUMP: Revenue will increase more than 500% for companies that provide streaming media services, to more than \$5.3 billion in 2005 from \$900 million this year, with satellite-based services making up significant portion of that growth, Cahners In-Stat Group said in report. "It's driven by basic business principles. Either it saves you money or it makes you money," said author Gerry Kaufhold.

Interest in streaming media has increased since attacks Sept. 11, but process began before then, report said: "The slowing global economy is driving applications for streaming media onto corporate networks... Travel budgets have been slashed, head counts are down and competition for customer dollars is increasing." Kaufhold said streaming media service providers reported in Aug. that orders for 2002 were up 30-50% from 2001, indicating growth phenomenon already was in place before attacks. There was "spike of interest," though, after attacks, he said.

Hughes Network Systems (HNS) is "at the top of the food chain" for providing streaming media to business customers, Cahners said. HNS will make concerted and focused effort to exploit streaming media and video-on-demand services, HNS Vp-Enterprise Emil Regard said. Company's DirecWAY service takes advantage of much of infrastructure that's been in place, he said. HNS will announce "over the next month or two" who it will partner with for its new product SpaceWAY that will switch to Ka-band platform from current Ku-band that HNS uses for DirecWAY, Regard said.

Satellite service will increase dramatically as streaming media service becomes more widely deployed, Kaufhold said: "10% of today's streaming media traffic is delivered by satellite, but that number could go up to 35 to 45% over the next 5 years." Fiber operator Williams Communications recently bought assets of IBeam, satellite delivery service which has several thousand points of presence. Williams, which already owned Vyvx satellite service that delivered video to TV stations, now has more satellite capacity and more capacity on ground and can offer customers solution for transmitting data and/or video in "a way that makes sense," Kaufhold said.

Satellite companies have decisive advantage over fiber on many fronts when it comes to delivering streaming media, including lower costs and quicker set-up time, Kaufhold said: "Satellites are already in the sky with traffic running. It costs less per bit to go on satellite than it does to pull fiber." There will be significant opportunities for "slimmed-down" media players and support products from providers of alternative technologies and flexible new applications, even though "Big 3" consumer-oriented streaming media companies (Apple, Microsoft and Real) have established relationships with corporate customers, report said.

FCC roundtable on media ownership limits is set for noon Oct. 29, Office of Plans & Policy (OPP) said. Following opening by FCC Chmn. Powell, panel on ownership policies and competition will include Stanley Besen of Charles River Assoc., Mark Cooper of Consumer Federation of America, Robert Majure of Justice Dept., Bruce Owen of Economists Inc. Panel at 2:30 on ownership policies, diversity and localism includes Douglas Gomery of U. of Md., Philip Napoli of Fordham U., Joel Waldfogel of U. of Pa. FCC Gen. Counsel Jane Mago and OPP head Robert Pepper will conclude at 4:15 — 202-418-2030.

NORTHPOINT FACES OPPOSITION: CTIA and AT&T Wireless have joined Northpoint-DBS spectrum debate on amendment to Senate appropriations bill that would prohibit FCC from auctioning satellite spectrum in 12.2-12.7 GHz band. CTIA sent letter opposing move to Senate and House leaders, including Senate Appropriations Chmn. Byrd (D-W.Va.), ranking Republican Sen. Stevens (Alaska), House Appropriations Chmn. Young (R-Alaska) and ranking Democrat Rep. Obey (Wis). Meanwhile, AT&T, in ex parte filing at Commission, opposed effort by Northpoint to gain "free nationwide license" and spectrum allocation.

Northpoint supporters have been holding discussions with members of Senate Appropriations Committee on adding rider to 2002 fiscal year spending bill, industry sources said. Draft language would mean spectrum sought by Northpoint couldn't be auctioned because DBS operators, including DirecTV and EchoStar, were licensed auction-free. Northpoint believes it should be exempt from auction as innovator of technology.

CTIA said bill would "give away valuable" spectrum to certain private entities without recovering value of resource for taxpayers and could cost taxpayers billions of dollars. It also said FCC would be unable to recoup spectrum if companies such as Northpoint were unable to deliver services as promised.

AT&T Wireless said FCC must hold auction if it reallocated satellite bands for terrestrial use: "There is absolutely no policy or legal basis to permit any party to obtain or use satellite spectrum for terrestrial services for free." Commission also should reject Northpoint request for pioneer's preference as "reward for efforts in arguing for feasibility of service" because Congress had abolished practice, it said.

In sharp slap at FCC and saying it was acting on its own motion, U.S. Appeals Court, D.C., ordered agency to tell court within 40 days why it had taken no action on Sinclair Bcstg.'s application to buy Sullivan Bcst. Holdings' 15 TV stations for \$1 billion. Furthermore, court told Commission not to exceed 20 pages in its response. Sinclair application for approval has been pending at Commission for more than 3 years, and month ago Sinclair filed for writ of mandamus asking court to order FCC to act (TVD Sept 17 p5). In that filing, Sinclair charged FCC had taken no action because of agency's "hostility" toward group owner because Sinclair didn't sell any of required spin-off stations to minorities. Sinclair was given 10 days to respond to FCC filing. In separate order, Appeals Court permitted 5 other group owners to intervene in case.

FCC notification procedures for stations to assert nonduplication rights for DBS are unnecessarily burdensome, Emmis TV Bcstg. said in ex parte filing at Commission. Emmis suggested procedures should be more like those for asserting nonduplication rights in cable environment. Cable rules originally also included demand for information about specific programs, but Emmis said requirement was modified since network-affiliate relationship wouldn't allow providing information. It called current satellite rules "unworkable."

Comcast completed 2,900-mile fiber upgrade in central Pa. that will allow 150,000 customers to get new cable channels and high-speed Internet access. Comcast Cable customers in Harrisburg and Hershey areas will receive 6-14 additional channels, while digital customers will have access to more than 30 new channels, company said.

HUGHES LOSS GROWS: As EchoStar reportedly lined up \$5.5 billion in financing for its bid to buy Hughes Electronics, Hughes said 3rd quarter net loss plunged to \$227.2 million from \$93.8 million year earlier. Loss includes \$65 million charge on 2% work force reduction. EchoStar declined comment. Overall revenue rose to \$2.1 billion from \$1.6 billion year ago. Net loss was partly offset by \$108 million pretax gain on sale of 4.1 million shares of Thomson Multimedia stock that Hughes had acquired in 1998. Earnings before interest, taxes, depreciation and amortization (EBITDA) fell to \$76.5 million from \$107.9 million.

Hughes's DirecTV business, which took one-time charge of \$48 million in eliminating 20% of work force in quarter, said EBITDA dropped to \$20 million from \$36 million year earlier. It added 953,000 gross new subscribers in quarter, 425,000 net when adjusted for monthly churn of 1.7%. DirecTV ended quarter with 10.3 million customers, up from 9 million year ago. It also increased forecast for net subscribers for year to 1.2-1.3 million from 1.1 million. Number of net new DirecTV subscribers is likely to decline in 4th quarter as satellite service embarks on program requiring that new customers commit to 12-month programming contract but receive 6 months of Showtime free.

In other financials: AOL-Time Warner had wider net losses but said subscriber growth in its cable and Internet units helped offset steep declines in advertising. Company said net loss grew to \$996 million in 3rd quarter from \$905 million loss year ago. It said \$134 million of loss was due to expenses related to merger of AOL and TW. Revenue increased 13% to \$2.2 billion. TW Cable revenue rose 17% in year to \$1.8 billion as it ended quarter with 12.7 million basic cable subscribers... Tribune Co. broadcast and entertainment revenue dipped 3% in 3rd quarter ended Sept. 30 to \$354 million and EBITDA earnings fell 17% to \$107 million. Overall net loss was \$145.6 million in quarter vs. \$73.7 million profit year ago... Scientific-Atlanta earnings plunged to \$37.1 million in 3rd quarter from \$113.3 million year ago. It said it would restructure in response to difficult economic climate, reducing payroll by 750 people — 10% of its work force... C-COR.net reported quarterly loss of \$2.4 million, reversing earning of \$5.8 million in same period year earlier... Shaw Communications had 4th quarter loss of \$188 million vs. net income of \$7.8 million year ago. It attributed downturn in part to losses on sale of investments... PanAmSat said it doubled 3rd quarter net income and raised revenue projections for 2001 because of increased demand for satellite services following Sept. 11 attacks. Company said net income jumped to \$19.5 million from \$9.3 million and total revenue to \$253 million from \$199.3 million.

Personals

Kathleen Letterie promoted to WB Network exec. vp-talent... Dan Stein advanced to Clear Channel TV vp-programming... Lisa Schwartz promoted to senior vp-affiliate sales & mktg, MuchMusic USA... Manford Leonard, ex-Excite@Home, appointed vp-finance and controller, Leap Wireless... Klayton Fennell, ex-TESS Communications, named Comcast Cable dir.-govt. affairs, new position. Bruce Stein, ex-Sony Interactive Entertainment, elected to MindArrow Systems board... Carlos Pratola, ex-Galaxy Entertainment, named DirecTV Latin America gen. mgr.-Southern Cone, replacing Douglas Carter, resigned.



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Bondholders are taking hard line with AT&T on its bid for essentially all of Excite@Home's assets, threatening to shut down network unless AT&T raises its \$307 million bid. They say more appropriate benchmark figure would be \$1.2 billion, which would allow Excite to pay off its creditors. Excite@Home recently filed for bankruptcy protection. Attorney Martin Bienenstock, who represents committee of bondholders, said group asked Excite@Home to stop taking new customers because "it was a cash-flow loss from our viewpoint." But as soon as Excite did that, cable companies called up "begging" Excite to keep taking new subscribers, he said: "That corroborated our theory that this company is worth a lot and the cable companies would pay a lot to keep it going."

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Oct. 5, and year to date:

	SEPT. 29- OCT. 5	2000 WEEK	% CHANGE	SEPT. 22- SEPT. 28	40 WEEKS 2001	40 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	308,771	419,839	- 26.5	1,067,047	18,996,970	21,652,308	- 12.3
DIRECT-VIEW**	294,463	404,479	- 27.2	1,028,986	18,320,838	20,770,437	- 11.8
TV ONLY#....	252,225	333,398	- 24.3	784,866	15,009,448	17,205,267	- 12.8
TV/VCR COMBO.	42,238	71,081	- 40.6	244,120	3,311,390	3,565,170	- 7.1
PROJECTION TV	14,308	14,960	- 4.4	38,061	676,132	881,871	- 23.3
TOTAL VCR**...	140,969	623,717	- 77.4	982,782	14,408,498	20,184,135	- 28.6
HOME DECKS...	98,731	552,636	- 82.1	738,662	11,097,108	16,618,965	- 33.2
CAMCORDERS.....	73,712	77,859	- 5.3	182,198	3,806,612	4,194,689	- 9.3
DVD PLAYERS....	237,542	183,653	+ 29.3	770,916	7,784,095	5,275,942	+ 47.5

Direct-view TV 5-week moving average#: 2001-548,009; 2000-606,622 (down 9.7%).

Projection TV 5-week moving average: 2001-20,382; 2000-27,098 (down 24.8%).

VCR deck 5-week moving average: 2001-297,484; 2000-545,315 (down 45.4%).

TV/VCR 5-week moving average: 2001-106,090; 2000-100,881 (up 5.2%).

Camcorder 5-week moving average: 2001-105,583; 2000-126,956 (down 16.8%).

DVD player 5-week moving average: 2001-314,793; 2000-248,751 (up 26.5%).

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

Note: DTV shipments are not included in above tables because at present, CEA releases DTV sales data only on monthly schedule (refer queries to CEA Mkt. Research Dept., 703-907-7600). Only analog TV sets are included in figures for direct-view TVs, TV/VCR combos, projection TVs. Camcorder figures include analog and digital models.

PHILIPS DRAWS LINE ON CD COPY PROTECTION: In long-awaited comment from CD co-licensor Philips last week, company told us music discs that imposed playback restrictions in interest of copy prevention can't be called Compact Discs without violating its trademark.

Assertion came just as 4th copy-protected CD has emerged on market — Greek title *Mia Nyxta Mono* by Antonis Ramos. It joins 'Nsync's *Celebrity*, Charley Pride's *Tribute to Jim Reeves* and promotional airplay single *You Rock My World* by Michael Jackson among those acknowledged to be copy protected.

All major record labels and some independents admit they are testing one or more technologies for copy prevention. BMG, Sony Music and Universal have announced they will implement copy protection in future. All methods prevent PC copying; they include Macrovision's SafeAudio, Midbar Tech's Cactus Data Shield, Sony's key2audio, SunnComm's MediaCIOq and unnamed system from International Federation of Phonographic Industries. At least one, Sony's key2audio, is known to prevent CD playback even in PC drives in order to foil PC copying.

Moves to copy protect CDs come as patents expire on format. Philips, which co-developed CD with Sony, administers those patents and Red Book standard that defines format's technical characteristics. Despite expiration of patents, Philips's trademarks on Compact Disc name and logo remain in force indefinitely.

"We are aware of what the record labels are doing, but we were not involved or informed," Philips spokesman told us. "We are investigating because we are concerned about any technology that limits or blocks playback in CD playback drives," he said, confirming that Philips considered PC drives to be music playback devices.

"Any technology that changes the essential characteristics of a disc to put it outside the audio CD standard results in a disc that should no longer be described or marketed as a CD," spokesman said. "If there is a reasonable chance of playability problems, we believe it is a necessary requirement that the record companies provide a clear warning to customers."

Philips spokesman didn't say whether company would take legal action under its CD trademarks. But given pronouncement, consumers who encounter playback problems could complain to relevant authorities about mislabeling and misrepresentation of disc product.

Philips' comments on standard put company in uneasy position with Sony, its former and current ally on many technologies. Guy Demuyne, Philips CEO-CE Mainstream, conceded as much to us at recent Internationale Funkausstellung in Berlin, but didn't shy away from company's rights and responsibilities to CD format.

"Yes, we will defend the Red Book for sound quality and universal compatibility," Demuyne told us. "We own the Red Book and the trademark that protects the CD logo."

DVD LICENSOR ISSUES STERN DISAVOWAL OF DVD+RW FORMAT: As first DVD+RW recorders ship to stores from Philips, DVD Format/Logo Licensing Corp. (DVD FLLC) has posted advisory distancing itself and DVD Forum's DVD-RAM and DVD-RW standards from proprietary DVD+RW recording system.

In "Important Notice" issued by DVD FLLC, group said "+RW is not the DVD Format created and authorized by the DVD Forum. Likewise, although strikingly similar in appearance to the DVD-RW, there is no DVD Format called DVD+RW or +RW among the formats created and authorized by the DVD Forum." Statement was laced with boldface type to emphasize points, which isn't reproduced in otherwise-verbatim quotes here.

DVD FLLC has responsibility for supervising use of DVD logo and conducting verification tests for product compliance with DVD standards. Group's statement said "no DVD Logo for +RW and DVD+RW products" and "no verification process for +RW and DVD+RW products" had been authorized either by DVD Forum or DVD FLLC. In same vein, it said no verification labs or test specifications for DVD+RW had been established under Forum's auspices or were available from DVD FLLC.

By statement's tone, DVD FLLC seemed to be washing its hands of any accountability for what Forum considered to be maverick video recording format developed by Hewlett-Packard, Philips, Sony and others and supported by Dell, Thomson, Yamaha. It said "DVD FLLC cannot accept and respond to any inquiry... nor offer a license" for DVD+RW.

Licensing entity also raised specter of incompatibility among DVD recording systems. "DVD FLLC does not represent, guarantee nor state the quality or appropriateness of the above-mentioned technology. Also, there is no guarantee for compatibility between the products employing the DVD Forum-approved formats and the products employing the +RW or DVD+RW technology."

Philips and DVD+RW Alliance partners insist that recordings made with their format will play compatibly in virtually all legacy DVD-Video players — and even in DVD-RAM and DVD-RW decks. Meanwhile, DVD-RAM proponents admit recordings made in that format won't play in majority of existing players, and DVD-RW camp claims 80% backward-compatibility with installed DVD-Video base. Exception in each case is if consumer records with write-once DVD-R blanks, which are considered to be compatible with all but earliest DVD-Video players.

In using terms +RW and DVD+RW, DVD FLLC seemed to suggest licensor's aversion to use of "DVD" identification by Philips and partners because that connoted affiliation with authorized formats. DVD+RW camp had no comment on DVD FLLC's position by our deadline. But in past, Alliance repeatedly has said it didn't need Forum's sanction for +RW system or its permission to label product as DVD, although it conceded it couldn't use Forum's logo for recordable DVD systems. In fact, sample of Philips DVDR1000 we obtained for testing does carry "DVD-Video" logo, indicating product's compatibility verification as DVD-Video player. But Philips deck doesn't bear Forum-owned logos for recording function, which is variously labeled as "DVD+Rewritable" and "DVD Video Recorder" and "DVD Recorder" on \$2,000 DVDR1000.

Separately, DVD FLLC has posted Version 1.0 specification for DVD Multi Recorder, which it has described as platform that "can play all the discs within the specifications approved by the DVD Forum" and record on any compliant, Forum-approved blank media.

SIRIUS SCRAPS 2001 LAUNCH, CEO RESIGNS: Problems continued mounting last week for Sirius Satellite Radio, which announced resignation of CEO David Margolese. Meanwhile, another senior Sirius executive confirmed company would miss its Dec. commercial launch target.

Sirius Senior Vp Doug Wilsterman said Margolese's departure after 10 years as CEO was unrelated to latest delay in company's commercial introduction. Doubts about Sirius's ability to start service in Dec. following several delays had caused value of company's shares recently to hover near 52-week low of \$2.53. Wilsterman echoed wording of resignation statement when he said Margolese, whom he praised as "visionary," had been expected by company insiders to "pass the baton" to others when Sirius was ready to make transition to operational from developmental firm. Announcement said Margolese would remain nonexecutive board chmn., with his duties assumed by CFO John Scelfo and Gen. Counsel Patrick Donnelly until permanent replacement was found.

As for Dec. commercial debut of limited base of receivers, Wilsterman said it had been scrapped for variety of reasons, including economic factors such as decline in consumer confidence. He said Sirius also wanted to wait to evaluate results of its in-vehicle testing program, which company said would be expanded to 6 additional markets by end of Oct. — Columbia, S.C., Houston, Indianapolis, Miami, N.Y.C., Seattle. Sirius said expanded vehicle testing program represented final phase of tests, with company determining new commercial launch date only after completion. Wilsterman declined to discuss specifics, but company said it would update investors on status in conference call Nov. 14.

Revelations came only week after Sirius said it would vigorously defend class-action suit that alleged it had violated SEC rules by failing to disclose it wouldn't be able to roll out service by end of 2000 or early 2001. It called claims "frivolous and without merit" and "entertaining piece of fiction."

Margolese recently has had rocky relations with investor community over many delays and Sirius's failure to land comprehensive receiver agreements with major automakers. Problems came to head last April when he said fewer than 20,000 Sirius receivers would reach retail shelves this year, and only very late in 4th quarter. That revelation came in company's 2nd conference call in as many weeks to "clarify" comments in earlier call in which Margolese and others counseled investors to act conservatively in buying Sirius shares because possible receiver delays would inhibit growth in consumer subscriptions for calendar 2001. Targeted Dec. launch date for limited quantities of Sirius receivers stood until company's announcement last week.

Meanwhile, XM Satellite Radio last week carried through with earlier announced plans to expand commercial service across southern half of U.S. and said it had agreement on \$66 million financial package that company said would be sufficient to fund operations "deep into" 2nd quarter of 2002.

Company suggested it was tightening its belt in light of poor economic conditions and "aftershock" of Sept. 11 attacks. For example, it said it was managing operating expenses carefully and "due to the outstanding coverage being provided by its satellites, has been able to eliminate many of its planned terrestrial repeater sites." Spokesman said company wouldn't disclose specifics on terrestrial repeater cutbacks until it filed 10-Q report with SEC in few weeks. Senior XM executives have said network would have 1,200-1,300 repeaters nationally, all of which would be operational when commercial service was started throughout U.S. in early Nov.

XM also said that in light of poor market conditions, it had "refocused its market strategy on key early adopter segments, while maintaining adequate financial resources to sustain its business momentum until a stable financial climate is reestablished." Spokesman said statement shouldn't be read as XM's scaling back its projections on receiver shipments or consumer subscriptions for calendar 2001. Although allocations reportedly were tight in introductory markets of Dallas and San Diego, spokesman said XM hadn't changed its forecast that 100,000 receivers would reach 6,000 storefronts nationally by year-end.

Financing package announced Oct. 16 included deal for \$35 million in new debt financing from Boeing Capital Services and agreement with Boeing Satellite Systems for \$31 million in restructured obligations. XM said it expected deal to be completed later this month.

As for expansion of commercial service across southern tier, XM said 6 new territories encompassed popular 136 million. Receivers are available now in Southwest and will arrive in next 2 weeks in Southeast, it said.

XM shareholder Motient, which has struggled financially in recent months, transferred registration right (852,243) and Class B (4.1 million) shares to Rare Medium Group to satisfy two \$25 million loans in April according to Oct. 12 SEC filing. Before transferring registration, Motient owned 9.7 million shares of XM (those outstanding).

RETAILERS UPBEAT ON HOLIDAY VIDEOGAME SALES: Retailers attending PlayDate product showcase in N.Y. expressed confidence last week that upcoming holiday shopping season would be strong, helped in large part by videogame category.

KB Toys Senior Mdsgr. Vp Tom Alfonsi told us "it's going to be a record year for videogames," saying "Game Boy Advance is still doing great [and] that's going to be real strong" through holidays. Same is case for Sony's PlayStation 2 (PS2), he said. He predicted Nintendo GameCube and Microsoft Xbox were "going to sell out completely" this season and were "going to be difficult to get" for consumers into next year. Supply won't meet demand on either system, he said, until "some time in the spring" in "April or May." Situation will be similar to what happened with PS2 when that console was rolled out in N. America late last year, he said.

Alfonsi told us KB had decided not to run preorder selling campaign for GameCube that's scheduled to start appearing in N. America Nov. 18. Consumers will be able to find at least some of 700,000 GameCube consoles Nintendo said it would make available on KB shelves on Day One, although not enough to satisfy everybody who will be looking for one.

However, KB already has started taking orders for Xbox but Alfonsi told us company was "probably going to have to stop selling it in another week or so" because initial allotment would be gone by then. All Xbox consoles probably will be sold out by time of that system's N. American debut Nov. 15, he said. He said only consumers who had preordered system would be able to get their hands on console via KB on first day. In fact, he said, consumers who hadn't already ordered Xbox probably wouldn't be able to buy console from KB for first few days after introduction — until another allotment arrived from Microsoft.

Meanwhile, supplies on PS2 and Game Boy Advance may get somewhat tight at certain points this holiday, but Alfonsi said all consumers who wanted to buy one of those systems should be able to find one. While Game Boy Color and PlayStation One continue to sell, he said sales weren't quite as "robust" as last year. As for Sega's defunct console system, Alfonsi said KB was "still selling Dreamcast" and some game titles would continue to be sold for that system, but KB probably would be through selling Dreamcast hardware by year-end.

Also expected to help boost sales this season is KB's online business, which Alfonsi said was "going through the roof" and performing "well above plans. It's been running well all year, but since September 11 we've seen a big increase of shoppers on the Internet." He wasn't sure why business jumped, but speculated that many customers were preferring to stay in their homes out of fear. But he said KB brick-and-mortar business picked up in last week to 10 days and customers seemed to be out shopping again.

KB also is running 2 separate Web sites — one for KBKids.com and one for eToys. Chain bought assets and inventory of failed dot-com eToys last spring and added eToys name to KBKids.com site in summer. Alfonsi said KB then created separate site for eToys that opened earlier this month. "With our buying power, we're going to buy smarter and more efficiently" than eToys did in its original incarnation, he told us, saying KB also wouldn't be spending big bucks for TV ads as eToys did. KB, he said, is "more interested in the bottom line" than "top line."

Alfonsi told us he expected "it's going to be a real good Christmas" for traditional toys and learning toys. He said KB continued to find success selling exclusive items, such as \$24.99 U.S. Presidents interactive game that he expected to perform well this season, in part because of patriotic climate in nation. In addition to providing KB with way of differentiating itself from its competitors, Alfonsi said it continued to have exclusive products made for it because "customers are looking for more than the traditional learning toys" that are being sold elsewhere.

Also expecting strong holiday season is Toysrus.com and online partner Amazon.com. Toysrus.com Vp-Gen. Mgr. John Sullivan told us companies had seen "tremendous consumer interest" in GameCube and Xbox. On Oct. 15, he said, they took orders for Xbox console and game bundles for 3rd time and sold out of allotment in about 5 min. More bundles of Xbox are scheduled to be offered at companies' joint Web site Nov. 5. They recently took orders for GameCube bundles online and quickly sold out of initial allotment of that system as well. More GameCube bundles were to be available at Amazon.com/Toysrus.com site late last week and more were to be made available Nov. 12.

But Sullivan told us: "We're not going to presell all of our inventory. We want to make sure we have product for the launch day [of each system] and we will." But he admitted it wouldn't have enough to satisfy demand at outset. Although Toysrus.com, like KB, doesn't discuss its allotments of each system, Sullivan said whatever they were for each system wouldn't be enough to meet demand. He said he didn't know when supply would equal demand for consoles, predicting only that it wouldn't be until "next year."

Although many analysts have expressed doubts about Microsoft's chances for success with Xbox, Alfonsi and Sullivan said they were convinced there was room on market for 3 game consoles. Sullivan said although 3 competing consoles never had flourished at same time, this would be first time when they would be marketed by companies as strong as Microsoft, Nintendo, Sony. While Sega has had long history in videogame industry, Sullivan said it wasn't in same positive financial situation when it offered Dreamcast as Microsoft was now. Microsoft, he said, is "in a great position. I find it hard to underestimate Xbox [and] count them out."

But many analysts still weren't convinced Xbox's success was so assured. PlayDate co-founder Sean McGowan, who also is analyst at Gerard Klauer Mattison, told us he thought GameCube was in position to "do substantially better" than Xbox. Nintendo, he said, has library of established characters that are well-known to gamers — especially younger ones. While McGowan said Nintendo had "been able to succeed with recent platforms largely with their own products," he said 3rd party support for GameCube was "going to be staggering." Although 3rd party game makers were hesitant to develop games for Nintendo 64 system because of high cost of making cartridges, McGowan alluded to fact that GameCube features DVD-based platform that wouldn't be as costly for game makers to produce software for. Very healthy sign for GameCube arrived early when Electronic Arts (EA) quickly threw its support behind that console, he said: "There's going to be a level of support [Nintendo has] never had before."

Although McGowan said it was "certainly a possibility" that Xbox would flop completely, he pointed out that many also predicted same disaster would befall Sony before it introduced initial PlayStation platform and that went on to become most successful console to date. But while there has "always been room for 3 consoles, I don't think there's room for 3 to make money." He said he was surprised that Microsoft chose to enter hardware market on its own and didn't just opt to acquire Sega or Nintendo.

Meanwhile, McGowan at PlayDate announced findings of annual survey in which toy and videogame retailers were asked what they thought best-selling items would be this holiday season. They expected PS2 would be top videogame system, followed by Game Boy Advance, GameCube, PlayStation One, Xbox. On videogame software front, Konami's *Metal Gear Solid 2: Sons of Liberty* for PS2 was expected to finish first and best-selling computer title was predicted to be EA's *The Sims Hot Date*.

McGowan also revealed that more than 6,000 toys and videogames were being donated to Kids in Distressed Situations (K.I.D.S.) by companies participating in N.Y. event last week. Making monetary contributions to same charity were PlayDate and NPD Group. K.I.D.S. has been working to distribute children's products to organizations helping families affected by World Trade Center disaster.

SanDisk revealed it would be cutting 15% of its staff as it tried to return to profitability, reduce product costs, minimize operating expenses. SanDisk CEO Eli Harari said job cuts would come once all card assembly and test manufacturing operations were transferred offshore "by the end of the current quarter." Announcement came as Sunnyvale, Cal., flash memory data storage supplier said revenue dropped 39% to \$65.9 million in 2nd quarter ended Sept. 30 from \$107.1 million year ago. SanDisk posted \$170.5 million loss (-\$2.50 per share) compared with \$25.6 million profit (38¢) year ago. Harari said: "Pricing pressures accelerated during the quarter due to continuing excess supply." He said that while sellthrough in retail channel "was strong in the first 2 months of the quarter," it fell off "sharply in the weeks after the events of September 11." Although company saw improvement "in recent weeks," he said it was "too early to say if retail sales in the 4th quarter will meet our previous expectations for the holiday season." Company also announced it had filed patent infringement suit against Micron Technology. SanDisk accused Micron of "infringement of a fundamental solid state flash memory system patent" held by it — U.S. patent 6,149,316 ("Flash EEPROM System"), issued Nov. 21, 2000. Meanwhile, SanDisk said Targa Electronics storage systems equipped with SanDisk flash memory cards were being used in growing number of U.S. military helicopters, jet fighter planes, bombers.

Latest DVD-Audio supporter in U.S. is EMI Music, which will issue first 3 pop titles in Dec. Label already has shipped 9 titles in Europe, all classical. Like those, pop titles for U.S. are remastered for surround sound from original analog multitrack recordings for stereo, EMI spokeswoman told us Fri. Titles are *Al Green — Greatest Hits*, *Leon Russell — Retrospective* and *Dave Koz — The Dance*. Spokeswoman said titles were mixed and mastered by Capitol Studios, authored by Henninger and would be replicated by Panasonic Disc Services Corp. That company's parent, Matsushita Electric, is providing other support that industry sources characterized as subsidy to EMI for releasing DVD-Audio titles. EMI wouldn't comment on nature of Matsushita's support. Matsushita spokesman gave us following statement but declined further comment: "Matsushita Electric is offering the music industry technical support such as authoring services, marketing support such as hardware/software joint promotions, and also promotion of DVD-Audio in general."

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥121 = \$1, except where noted.

CORNING REPORTS LOSS: Corning posted 3rd quarter net loss amid restructuring and slumping revenue that stretched across entire company from telecommunications to CRTs. Glass maker, which increasingly has relied on optical fiber and components related to telecom to drive its business, said it had net loss of \$220 million, down from year-earlier net income of \$254 million. Revenue plunged 21% to \$1.51 billion. It said latest results involved \$339 million pretax charge that included \$236 million for writing down fixed assets in closing plants related to telecom business in North Wales, U.K., and Henrietta, N.Y. Charge also covered layoffs that are expected to affect 12,000 employees by end of year. Restructuring will yield \$400 million in annualized savings, Corning said.

Revenue in Corning's CRT business, which includes State College, Pa., TV glass plant, dropped 50% in quarter. Industrywide TV sales were forecast to decline 15% in year that will "be the worst market the TV business has faced in 25 years," CFO James Flaws told analysts in conference call. At Corning Precision Lens, which makes lens for projection TVs, revenue was "up slightly," he said.

Unit volume for LCDs increased 15% in quarter but demand for notebook PCs that used them slowed, Flaws said. While Samsung-Corning joint venture said revenue climbed 30% in quarter, sales at subsidiary that supplies Japan and Taiwan market were up just 5%, Flaws said.

To combat slowdown in business, Corning temporarily is shutting down optical fiber plants and reducing work schedules at others, Flaws said. Indeed, State College factory is weighing shutdown despite having been idled for 3 weeks in Aug. for annual maintenance.

In telecom business, net income plummeted 87% as revenue fell 23% to \$1.1 billion in quarter, it said. Sales of optical fiber declined 2% to \$779 million and unit volume 15%, Flaws said. More telling was that Corning's Leaf premium optical fiber accounted for 10% of revenue in quarter, down from 30% year earlier.

Photonics operation, which counts Nortel and Lucent among its customers for amplifiers and other components, saw revenue fall 57% to \$69 million.

Corning lowered overall inventory to \$958 million at quarter's end from \$977 million in 2nd quarter and said it would reduce inventory another \$100-\$150 million by first quarter.

Eight class-action lawsuits against Morgan Stanley and its Internet analyst Mary Meeker were dismissed by U.S. Dist. Court Judge Milton Pollack in N.Y. Morgan Stanley said suits couldn't be refilled. Initial suits were filed against Morgan Stanley and Meeker last summer by disgruntled Amazon.com and eBay investors accusing her of issuing false and misleading statements and failing to disclose material information on her relationship with dot-coms. They charged that Meeker's ratings, recommendations and positive statements about dot-coms weren't based on objective analyses but rather on her desire to attract and retain them as clients. Also charged was that Meeker's compensation was directly tied to amount of investment banking business she generated for companies. Judge Pollack found complaints flawed but, on Aug. 21, gave plaintiffs 30 days to refile. Morgan Stanley said it and Meeker agreed not to seek sanctions against plaintiffs and their counsel.

U.S. BLAMED FOR PHILIPS CE LOSSES: Philips overall consumer electronics operations would have been profitable for 3rd quarter if not for losses in U.S., senior executives told financial reporters last week.

Royal Philips CFO Jan Hommen, responding to questioner, said "we have a number of activities in consumer electronics that are doing quite well," but U.S. market has been "the main problem." He said Philips had "a very focused program" in place to address problems and had installed new management, studied retail positioning, reviewed production and all supply chains: "If we can solve the U.S., we have a very profitable business in consumer electronics."

Hommen said Philips management board would visit U.S. soon to gauge progress of remedial efforts: "We have given ourselves a limited time. We are not going to take a long time to solve that problem." He wouldn't discuss specific timing or fallback strategies if situation didn't improve. "We have had 50 years of problems in the U.S. and we're not going to solve them by clipping our fingers." Hommen said there were "very basic, fundamental issues that need to be addressed, and we need to take the right steps at the right time with the right people."

Overall CE sales in quarter fell 18% to 2.6 billion euros (1 euro = 90 cents), with sharpest declines in VCRs, audio, monitors, set-top boxes and mobile phones, Philips said, but DVD sales "sustained strong growth." CE losses amounted to 45 million euros vs. year-earlier profit of 98 million euros.

Hommen sidestepped questions on how Philips planned to achieve goal of cutting overhead 25%. He said company couldn't rule out new job layoffs in addition to 10,000-12,000 posts eliminated thus far this fiscal year. But he said other areas to be cut would include general and administrative expenses, marketing and PR costs, consulting fees.

TDK Mediactive (TDKM) reported \$94,918 loss in 2nd quarter ended Sept. 30, reversing \$153,669 profit (2¢ per share) in same quarter last year, but revenue for game maker rose to \$4.6 million from \$1.2 million. CEO Vincent Bitetti said: "Although our sales improved substantially over the prior year and the prior quarter, the results were somewhat impacted by slower than anticipated sales of Game Boy Advance hardware at retail, the natural next-generation cycling of the Game Boy Color marketplace and a general disruption of business during the month of September, exacerbated by the tragic events of September 11." Company said its exclusive *Shrek* game for Microsoft's Xbox would be available on store shelves Nov. 15 — Day One of console's U.S. rollout — at \$49.99. Separately, TDKM tapped investment banking company Wedbush Morgan Securities to be its financial adviser, terms not revealed. But TDKM said "highlights [of deal] include pursuing future growth opportunities, possible future financings and relisting on Nasdaq." Bitetti said Wedbush already had served as "market maker" in his company's common stock and companies would "work diligently to achieve our mutual objectives on behalf of our shareholders. Over the past 12 months, our firm has made significant enhancements to our overall strategy and capabilities. Wedbush Morgan will help to facilitate our communication with the investor community and assist in making the key decisions needed to meet our goals of increasing financial flexibility and valuation."

TIVO AND SONY SIGN NEW AGREEMENT: TiVo signed new 7-year worldwide licensing agreement with Sony that's forecast to generate \$10-\$15 million in incremental revenue for TiVo in next 12 months, CEO Michael Ramsay said.

Sony, which signed first agreement with TiVo in 1999, said it paid upfront fee that gives it access to TiVo's client source code. Separate fee is required for server source code, Ramsay said. TiVo also will receive per-unit royalty, he said. Sony spokeswoman declined comment on when first products developed under new agreement would ship, but sources indicated it would be next year. Among items said to be under consideration are set-top boxes (STBs) including one being deployed in Cablevision Systems' digital cable TV service in N.Y.C. area.

New pact represents major departure from original terms and presumably is being used in negotiating new agreements with other licensees including Philips and Thomson. Philips has had discussions with TiVo on "future possibilities," but no agreement has been reached, spokesman said. "We are focusing on getting existing product out, but we have to keep our eye on the future and we have to take careful steps," spokesman said. Earlier in year, Philips said it would narrow STB offerings in U.S. and speculation had been that standalone TiVo PVR would be dropped in favor of combo products such as existing Philips brand DirecTV/PVR. While Thomson does sell TiVo product in U.K., it still has no immediate plans for U.S., spokesman said.

Under new agreement, Sony is licensing technology and will design and build products based on TiVo personal video recorder (PVR) platform. Previously, TiVo designed product and Sony built it, Ramsay said. Sony currently markets standalone TiVo PVR as well as combo DirecTV/PVR. Unclear is impact Sony's new agreement with TiVo might have on UltimateTV product it also markets as part of agreement with Microsoft.

Sony products will continue to carry TiVo brand, but will be given greater access to latter's patent portfolio, Ramsay said. TiVo received broad patent in May covering PVR technology including method for simultaneous playback and recording of TV programs. "They will be given access to the technology as-sets with the purpose of doing their own designs that are Sony-specific," Ramsay said. "Clearly, the issuance of the patent was an important factor for us in general."

While Sony's agreement is for worldwide applications, other pacts may cover specific regions or markets, said Senior Business & Revenue Development Vp Morgan Guenther. TiVo will continue to charge \$9.95 monthly fee or \$249 lifetime for service, but Sony may gain share of revenue by integrating own services into platform, Ramsay said. TiVo has gained more than 200,000 subscribers since starting service last year.

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Retail sales of PVRs, including those marketed by ReplayTV, TiVo and Microsoft's UltimateTV, totaled 84,000 units through Aug., NPD Intellect reported. Sony had 45% share of overall PVR market, followed by Philips (27%), Thomson (19%), Panasonic (10%). Sony sells both UltimateTV and TiVo devices, while Philips supports TiVo, Thomson backs UltimateTV and Panasonic is behind ReplayTV. Within TiVo, Sony had 61% marketshare, followed by Philips, 39%.

SEPT. 11 HIT \$135 MILLION — THOMSON: Hit by Sept. 11 attacks, Thomson Multimedia 3rd quarter revenues was about 150 million euros (\$135 million), company said last week.

Thomson said it suffered no major interruptions in supply chain as result of attacks. However, it said sales activities of its key N. American retailers were "disrupted" for 10 days, although they since have returned to "normal activity levels." Overall revenue climbed 1.8% to 2.4 billion euros (\$2.16 billion), despite 21% decline in sales of consumer products to 1.4 billion euros (\$1.26 billion).

Thomson said decline in CE sales reflected decision to preserve market share and limit price erosion "as much as possible." Retail inventory control in N. America was "particularly tight" in July and Aug., but returned to "more normal levels" in early Sept., company said. It said that core analog TV and video sales were hardest hit by slackened retail purchases in summer and that mix "showed an unfavorable trend" in wake of attacks. However, it reported sales growth in some digital products, including doubling of DTV set sales in U.S. and strong high-end TV sales in Europe. Audio and communication products "continued to gain market share" in Europe and U.S. in quarter, Thomson said.

In displays and components, consolidated OEM sales fell 19% to 378 million euros (\$340 million) as operations were hit hard by price competition and overcapacity in U.S. picture tube industry. Despite "this difficult market environment," Thomson said, company managed to increase market share in large tubes in U.S. and Europe. Digital Media Solutions Div., which includes operations of Technicolor acquired in first quarter, generated sales of 526 million euros (\$472 million) vs. 31 million euros year earlier.

Toshiba and Matsushita will combine LCD manufacturing operations in most recent instance in wave of mergers that has roiled display business as manufacturers seek to cut costs. Toshiba will hold 60% stake in venture, Matsushita 40%. Alliance, scheduled to formally debut in April, extends agreement announced earlier this year under which companies were building \$1 billion LCD plant in Singapore. They said they would aim for profit in fiscal year starting in April and target sales of \$2.8 billion. Venture will encompass Toshiba's low-temperature polysilicon LCD business, which recently unveiled 14.1" model as well as organic light-emitting diode (OLED) technology. Venture also will operate Toshiba LCD plant in Fukaya, Japan, as well as Matsushita factories in Ishikawa and Uozu. Not part of agreement are plasma display panels (PDPs), which Toshiba already sources from Matsushita for 42W and 50W models. In forging alliance, Toshiba-Matsushita joins NEC-Mitsubishi and LG Electronics-Philips in merging LCD operations in effort to better compete in price-driven market that has seen retail prices for desktop PC monitors drop below \$500. NEC also sources some LCDs from Taiwan manufacturer Chi Mei Optoelectronics. Matsushita and Toshiba also established joint venture for buying parts and materials for CRT production. Company, which will make bow in April, will be based in Osaka, Japan. Agreement follows Matsushita's signing in Sept. of 3-year cooperation agreement with Thomson for CRTs.

Effective Nov 1, Advanced Product Evaluation Lab moves to 354 Bennetts Farm Rd., Box 355, Ridgefield, Conn. 06877. Telephone is 203-431-3585, fax 203-438-5081, Web site www.fbarrapel@aol.com.

INFOCUS NET INCOME SHRINKS: InFocus reported 3rd quarter net income shrank to \$2.7 million from \$16.7 million year ago as projector maker took \$6.1 million charge to cover layoffs in U.S. and Norway and merger-related expenses. Revenue slid 3% to \$180.2 million.

InFocus closed facility in San Diego that had housed Proxima and "streamlined" U.S. sales and marketing operation. It also trimmed 125-150 jobs at former Ask plant in Norway. InFocus acquired Proxima, which had purchased Ask, in 2000. InFocus had 1,235 employees as of Feb. 28 and will have reduced work force 20% by year-end, CFO Scott Hildebrandt said. Third quarter charge included last expenses of Proxima acquisition, he said. InFocus forecast taking \$6-\$8 million in one-time charges in 3rd and 4th quarters to cover restructuring. It recognized \$1.9 million of charge in 3rd quarter.

Gross profit margin slipped to 25.5% from 26% in 2nd quarter as average selling prices fell 8%, decline that was partly offset by introduction of higher margin items. Prices for projectors with SVGA resolution fell 12%. Inventory skidded to \$125.4 million, down from \$144.7 million in 2nd quarter, but up from \$95.1 million year earlier. Finished goods represented 35% of total inventory.

As part of restructuring, InFocus said it would narrow product assortment to 11 SKUs from current 29 by year-end 2002. Projectors will be marketed under Proxima and InFocus brands in U.S., InFocus and Ask in Europe.

InFocus also signed supply agreements with Runco and Toshiba for front projector based on Texas Instruments' Digital Light Processing (DLP) technology that will target CE retailers. Details of product (\$4,999), including specs, weren't available, but it's scheduled to ship in Nov. InFocus is expected to rely on OEM partners to bring its DLP-based projectors to market while it focuses own brand on Cedia dealers and select number of existing A/V equipment resellers. Toshiba has dabbled in DLP market dating back to 1998 and recently introduced front projector for home theater market with 1.2W LCD panels with 1,280x720 resolution. Toshiba also is InFocus customer for front projectors aimed at business market. Runco has marketed DLP projectors for home theater applications. InFocus will develop technology jointly with Toshiba while it supplies projectors to Runco, CEO John Harker said. OEM customers accounted for 9% of revenue in quarter and InFocus said it was likely to cap it at 20%.

Harker told analysts in conference call that while InFocus would gain first revenues from home market in 4th quarter, it "won't be a significant part" of its business in first year. Home market for front projectors is "one that is going to evolve, but it's not quite there yet today," he said. Sales to consumer market are forecast at 100,000 units this year, growing to 300,000-750,000 by 2004, "depending on how fast the industry scales the price/performance issue," Harker said. Initial \$5,000 price will decline to \$2,000-\$3,000 within 2-3 years, he said.

"We have a program to drive to a \$999 price [for front projector], but right now all the component costs add up to more than that," Harker said. Such product could be based on DLP, liquid crystal-on-silicon or polysilicon LCD technologies, but won't be available in "near term," Harker said. InFocus is investor in LCoS developers Three-Five Systems and Zight.

In attacking consumer market, InFocus is expanding reliance on Flextronics for production of lower priced models.

Flextronics produced 7,000 units in 2nd quarter and accounted for 1/3 of 62,300 units shipped in 3rd quarter. Flextronics is expected to account for 50% of units by 4th quarter, Harker said. InFocus will continue building higher priced front projectors at plants in Ore. and Norway. It also will add another Asian contract manufacturer with "strong engineering design house" to production mix, Harker said.

In 3rd quarter, DLP technology represented 57% of units shipped and polysilicon LCD 43%. XGA resolution was 65% of mix, SVGA 35%. About 65% of revenues were generated from meeting room applications (5-10 lb. projectors), followed by mobile (20%, under 5 lb.) and systems (15%). Harker conceded that market for InFocus's 3-lb. DLP front projector "didn't take off like we thought it would" due to perception that "if it's small it should cost less," he said.

New DLP application for InFocus will be 60W rear-projection set that OEM customer Shanghai General is expected to ship in China this fall at \$3,000. Set, which is based on InFocus-supplied DLP engine, has 1,024x768 resolution.

Plasma display panels (PDPs) remain on InFocus's "radar screen," Home Entertainment Product Mktg. Mgr. Brian Carskadon said. While InFocus hasn't disclosed product plans, PDP is likely to be smaller than 42W it showed at Infocomm trade show in June, he said.

Company also is continuing to pursue liquid crystal on silicon (LCoS) microdisplay technology through investments in Three-Five Systems and Zight (formerly Colorado MicroDisplay), Carskadon said. LCoS probably will be deployed as InFocus enters home theater market late this year because of its ability to deliver high resolution.

Jaks Pacific reported \$10.9 million profit (56¢ per diluted share) for 3rd quarter ended Sept. 30, up from \$9.8 million profit (48¢) year ago. Revenue inched up to \$92.8 million from \$91.8 million. CEO-Chmn. Jack Friedman said: "In light of recent world events and the slowdown that is affecting virtually all segments of the economy including retail, we are well satisfied" with results. Malibu, Cal., company makes videogames and toys. Friedman said company's key videogame franchise — World Wrestling Federation (shared with game maker THQ) — would spawn 3 new titles in 4th quarter, including SKUs for Game Boy Advance, PlayStation 2, Xbox: "As the installed base for the new hardware systems increases, it bodes extremely well for sales of our World Wrestling Federation videogames for the 4th quarter, fiscal 2002 and beyond."

Lexar Media loss narrowed to \$3.5 million (-6¢ per share) in 3rd quarter ended Sept. 30 from \$14.3 million loss (-46¢) same quarter year ago. But Fremont, Cal., removable digital storage media provider said revenue dropped to \$18.1 million from \$31 million year ago. Lexar Pres.-CEO Eric Stang said results "exceeded expectations on all fronts," adding: "Our 3rd quarter gross margin, at 29%, and our substantial bottom line improvement were achieved through ambitious cost reduction measures, strong supplier partnerships and improved product mix." Stang said company was "on track" to reach profitability on operating basis in 4th quarter excluding stock-based compensation. It recently began bundling its digital memory cards with high-end consumer and professional digital cameras from Minolta, Nikon, Olympus, Pentax.

CE BILL DELAYED: Senate Commerce Committee Chmn. Hollings (D-S.C.) would like more feedback from CE industry and other affected sectors before introducing his bill to require CE devices to include copyright protection, with technology standards mandated by govt. "The chairman wants to enter into a public dialog" with all parties, his spokesman said last week, process that could include tentatively scheduled Oct. 25 hearing.

Hollings previous week sent angry letter to 3 trade associations that had declined to offer witnesses for proposed hearing. CEA Pres. Gary Shapiro was one of several association heads invited to testify but declined. CEA Vp-Govt. & Legal Affairs Gary Klein said then it wasn't appropriate for Shapiro to testify in place of industry executive.

Proposed Security Systems Standards & Certification Act (SSSCA) remains in draft form, Hollings' spokesman said, with Hollings not planning to introduce bill until after feedback from at least one hearing. Still, SSSCA has created concern among CE and Internet industries, with grass-roots lobbying under way against it growing steadily.

SSSCA essentially would require that any CE product capable of playing digital media contain govt.-approved encryption device. Anyone caught disabling encryption device, according to one draft circulating in Washington, would face up to 5 years in prison and \$500,000 fine. SSSCA would have National Institute of Standards & Technology (NIST) spearhead development among CE manufacturers and copyright holders to develop security standards, with criteria including reliability, renewability, resistance to attack, ease of implementation and applicability to multiple technology platforms.

Some personal use copies would be permitted under SSSCA, with draft bill saying that creation of "a personal copy for time-shifting purposes of programming at the time it is lawfully performed, on an over-the-air broadcast, nonpremium cable channel or nonpremium satellite channel, by a television broadcast station" would be legal. There was no language in draft on personal use rights for audio.

Hollings spokesman said bill was "work in progress" and, assuming witnesses could be found, hearing Oct. 25 would help its development. He said Hollings didn't want merely to hear opposition to SSSCA, but instead "constructive feedback" on how bill could be improved, as chmn. was determined to introduce measure to protect copyrights.

LodgeNet Entertainment revenue increased to \$57.7 million in 3rd quarter ended Sept. 30 from \$52.9 million in same quarter year ago. But Sioux Falls, S.D., interactive service provider to lodging industry said its loss deepened to \$4.7 million (-38¢ per share) from \$4.1 million (-34¢) year earlier. LodgeNet CEO-Pres. Scott Petersen said: "Despite the tragic events of Sept. 11 and the subsequent impact on the overall travel industry, we posted our 32nd consecutive record quarter for revenue and cash flow as we continued to solidly execute on our long-term strategic growth plan." Company's services include Nintendo videogames on demand.

DVD rentals in U.K. have grown to 15% of market, British press reported. Rental share for DVD was 9% at beginning of year and is expected to reach 20% by year-end. U.K. DVD Committee and others attributed increase to greater number of titles available, rental price that's same as VHS and influx of entry-level DVD players at \$149.

HANDSPRING POSTS LOSS: Handspring said first quarter loss widened to \$32 million from \$16.3 million year ago as revenue declined to \$61.4 million from \$70.5 million. Gross profit margin slid to 8.6% from 12.6% as Handspring cut prices on handheld PCs to clear out inventory for arrival of new Neo and Pro models.

Inventory rose in quarter to \$6.7 million from \$2.8 million June 30. International revenue declined to \$4 million, 7% of revenue, from 24%. Sales in Japan suffered from Handspring's lack of color screen version of its handheld, while models sold in Europe encountered stronger competition from Microsoft's Pocket PC platform, CEO Donna Dubinsky said.

New Treo handheld PC, first of which ships in Jan. at \$399, combines organizer, cellphone and Web browser and will be based on GSM standard at start. Color screen version of Treo is expected to be available by mid-2002 at \$599. Treo, which is based on 3.5 version of Palm operating system, isn't compatible with Springboard modules used in other Visor devices. Software upgrade to GPRS standard will be completed in 2nd quarter when Handspring also expects to add always-on e-mail feature.

Treo also has full on-screen keyboard that allows user to dial phone number. With introduction of Treo, Handspring said it would close out largely unsuccessful VisorPhone by year-end.

While Handspring has studied adding Java to handheld platform, it has "no immediate plans" to do so, Chief Technology Officer Jeffrey Hawkins said: "We're always looking at Java and we can support it if we need to."

Right Start (RS) funded purchase of retailer Zany Brainy (ZB) by issuing preferred stock to Athanor Holdings and Kayne Anderson Investment Management, it said in SEC filing. RS issued 11,919 shares of Series E convertible preferred stock to Athanor that could be converted into 8.3 million shares at \$1.43. Kayne Anderson was granted 2,200 shares of Series G preferred that could be converted to 2.2 million shares at \$2.50. Athanor also gained right to name 3 people to RS board. To accommodate conversion, RS said it would file proxy asking shareholders to approve expanding number of common shares outstanding to 75 million from 25 million. On fully diluted basis, Athanor could control 40.5% of RS's outstanding common before effect of employee and director options was factored in. In acquiring ZB earlier this year, RS paid \$11.7 million cash, issued 1.1 million shares, assumed \$85 million in liabilities. RS, which operates 68 stores in 13 states, has said it would maintain ZB as standalone chain of 175 stores in 34 states. In buying ZB out of bankruptcy, RS closed 12 stores and planned to construct "boutiques" inside ZB outlets with its mix of developmental toys for infants and toddlers.

Kimball International said first quarter net income plunged to \$4.8 million from \$10.8 million year ago as sales slid to \$285.7 million from \$320.8 million. Sales of Kimball's furniture and cabinets business, including rear-projection TVs and electronic contract assemblies, dropped. Furniture revenue fell to \$193.5 million from \$223.7 million as sales shifted to lower margin products, company said. Operating profit improved at Kimball's projection-TV cabinet plant in Juarez despite downturn in sales. Kimball bought Juarez factory from Zenith in late 1990s as CE company disposed of manufacturing businesses. Electronic contract assemblies sales declined to \$92.2 million from \$97.1 million in year.

SHARP HAS DOMINANT LCD TV SHARE: Sharp Electronics had 86% share of worldwide market for LCD TVs in 2nd quarter as industry shipments rose 170% to 146,000 units, market researcher DisplaySearch reported.

Sharp was followed by LG Electronics/Zenith (5%), Panasonic (3%), Sony (2%) and Sanyo (1%), DisplaySearch said. Sharp has been especially aggressive in marketing Aquos LCD TVs, recently cutting price across line of 10"-20" models, with first size moving below \$1,000 for first time. LCD TV revenue rose 220% in quarter to \$152 million, it said. Industry will hit 753,000 units and \$630 million revenue by 2nd quarter 2003, DisplaySearch predicted.

In 2nd quarter, average display size for LCD was 15.2", although 13" had dominant share with 36% of market. By 2nd quarter 2003, 13" is forecast to fall to 25% of market as 15" gains share and 20" represents 20% of unit sales and 24% of dollars, DisplaySearch said. Average screen size is likely to grow as LG Electronics and Sharp, which have shown 28" LCD TVs, and Samsung, which has prototype 40", expand production. Widescreen format is expected to grow to 35% of market by 2003 from current 15%, DisplaySearch said.

Japan represented 77% of market for LCD TVs in 2nd quarter and share is forecast to remain in 76-81% range for next 2 years, DisplaySearch said.

Electronics Boutique (EB) revised its earnings estimate last week for 3rd quarter ending Nov. 3. Computer and videogame chain based in W. Chester, Pa., said although it still expected to report year-over-year improvement in income, result would be at low end of earlier estimate of 11-14¢ per share. Company posted 6¢ per share profit in same quarter year ago. EB said it probably would report 3rd quarter sales would fall below estimates but with better-than-expected gross margins due to enhanced operating efficiencies and benefits from expansion of its preowned videogame business. Chain said comparable-store sales would "be in the negative single-digit range" after "delays in consumer purchases attributable, in part, to the events on and after September 11." EB Pres.-CEO Jeffrey Griffiths said mall traffic was "not at last year's level [but] appears to be improving and we remain optimistic that the last few weeks of October, a traditionally robust sales period, will be strong." But he said it was "difficult to gauge the continued impact of recent events on consumer spending." EB, he said, still expected "videogame market will grow more than 25% annually over the next few years." Griffiths said "a number of software title introductions were delayed to late in the quarter or have been shifted by publishers from the 3rd to the 4th quarter." He said that would coincide with U.S. rollouts of GameCube (Nov. 18) and Xbox (Nov. 15). Griffiths also said sales of PlayStation 2 console had "been particularly strong in Australia and Europe since Sony's price reduction in late September." Meanwhile, shares in U.K. Electronics Boutique dropped Oct. 17 after it sold its 18% stake (66.4 million shares).

Digital still camera size of Zippo lighter is being marketed in Japan by Nichimen Corp. and NH Japan Holdings. New Che-ez! Spyz camera (\$65) has aluminum body and weighs 1-1/4 oz. excluding batteries and chain. It uses 350,000-pixel CMOS pickup and 4-layer glass lens. Capacity of internal memory is 26 sec. still or 28 sec. of video. Export sales plans weren't disclosed.

Three-Five Systems scaled back forecast revenue from liquid-crystal-on-silicon (LCoS) microdisplay business for current fiscal year to \$3-\$4 million from \$15 million as OEM customers start to bring product to market. Thomson had been expected to deliver first 50W rear-projection TVs containing Three-Five's 0.78" microdisplay to West Coast dealers by late Sept., but since has postponed move until late this year. "We had some refinements we had to make before the product met our specifications," Thomson spokesman said. Samsung and 3M have licensed technology for PC monitors and front projectors, respectively, but have yet to deliver product. Samsung was to deliver product year ago, but pushed it back as it sought to improve resolution of microdisplay panels. "The revenues [from LCoS] will be below plan, but the demand remains high," CEO Jack Saltich told analysts in earnings conference call. Some issues remain with components of display, including color quads and lamps, he said. Ramp-up for volume production of microdisplays is expected to begin in Tempe, Ariz., in first half next year, Saltich said. Three-Five, citing costs of developing LCoS, said it lost \$4 million in 3rd quarter, reversing \$4.3 million profit year earlier, as sales fell to \$26.6 million from \$40.2 million. Earnings downturn was result of lower selling prices for LCD modules that Three-Five builds for cellular phones, including those marketed by Motorola, which accounted for 75% of revenue in quarter. While Three-Five had hoped to reduce Motorola to 60% of revenue by 4th quarter, slower-than-expected rollout of LCoS will prevent it from meeting target, Saltich said. Three-Five's LCD production, most of which has been switched to Far East after shutdown of Ariz. facility, is expected to break even in 4th quarter, he said. LCoS business will break even with sales of \$15-\$20 million, he said. Three-Five's organic light-emitting diode (OLED) joint venture with DuPont is expected to start pilot of production of 1-5" passive matrix displays in 4th quarter, shifting to volume quantities by 2nd half 2002 at contract manufacturer Ritek's plant in Taiwan. While Saltich earlier this year indicated OLEDs would target cellular phones at start, he told analysts that "power and lifetime" issues remain with that application and that joint venture would look at other products. OLEDs will generate \$2 million revenue in 2002, Saltich said.

Policy on parallel imports of Region 1 DVDs from N. American was published by U.K. piracy watchdog Federation Against Copyright Theft (FACT). Group concedes there's "no difficulty" in hacking Region 2 Europe players to run Region 1 discs and that practice isn't illegal. FACT also said personal imports purchased abroad or by mail order don't violate U.K. law, and conceded that "individual film enthusiasts are eager to obtain the latest titles". But association said consumers should pay customs duty and value-added tax on imports, which would add 21% to cost of original purchase. It said collecting those tariffs would be at discretion of Customs officials. Meanwhile, importing Region 1 DVDs for resale or rental in U.K. is illegal on 3 counts, FACT said. Practice breaks copyright law because (1) movie studio hasn't given permission for release in U.K., (2) movie parallel imports infringe on rights of authorized distributor and (3) movie imports violate British censorship laws. Unless imported title contains exactly same content as title legitimately available in U.K., it can't be rated as "classified" by British Board of Classification. Selling unclassified videos is criminal offence under Video Recording Act 1984, which was passed to curb pornography. Penalty for selling unclassified videos can entail heavy fine and up to 2 years' imprisonment.

Despite rumors of cancellation, Comdex computer trade show will be held as scheduled Nov. 12-16 in Las Vegas, spokeswoman for organizer key3media told us. Plans for company's other conventions around world also remain in place, she said — www.key3media.com.

Consumer Electronics Personals

Promoted at Kenwood USA: **Sally House** to mktg. communications mgr., **Brian Towne** to national product mgr., home and mobile electronics, **Jim Yamasaki** to product mgr., navigation... **Gary Wesley** advanced to dir.-planning & business development, eBridge direct-marketing project at Sony Digital Authoring Services... **David Margolese** resigns as Sirius Satellite Radio CEO, will remain nonexecutive chmn., his duties to be assumed by CFO **John Scelfo** and Gen. Counsel **Patrick Donnelly** until permanent successor is found... **Takeshi (Tim) Harada**, onetime CEO, Capcom USA, appointed Warner Home Video managing dir. for Japanese operations... **Hsing Tuan** resigns as AU Optronics pres., plans unknown... **Webster Howard**, eMagin technology vp, promoted to chief technology officer... **Andrew Smith** ex-LiquidWit, named Dolby Labs global brand mktg. dir..

Charles Brown promoted to Office Depot CFO from senior vp-finance... **Stacey Sujishi**, Namco Hometek senior mktg. mgr., advanced to mktg. dir., replacing **Mike Fischer**, who recently moved to Sega of America... **Cang Tran**, ex-Hitachi Semiconductor of America, joins Oak Technology as vp-ASIC technology, Optical Storage Group... **Timothy Donahue**, Nextel pres.-CEO, elected to Kodak board... Former PolyGram Pres. **Alain Levy** joins EMI Group in London as CEO of its recorded music operations and is elected an EMI dir... AOL Time Warner Co-COO **Robert Pittman** to give CES keynote Jan. 10, 8:30 a.m., Las Vegas Hilton Theater.

4Kids Entertainment signed long-term agreement expiring Dec. 31, 2005, with Nintendo of America (NOA) to serve as exclusive merchandising licensing agent for Nintendo's game systems, "Nintendo Classic" characters including Donkey Kong, certain new characters including Pikmin. Companies said deal gave 4Kids exclusive rights worldwide with exception of Japan. It also granted 4Kids exclusive rights to license live action and animated TV rights, home video rights and theatrical movie rights to Nintendo Classic properties and select new Nintendo properties. 4Kids also gained right to produce TV series and other productions based on those Nintendo properties. New accord replaces year-to-year deal but doesn't affect Pokemon, which is covered by separate agreements between 4Kids and Pokemon Co. Separately, 4Kids said it signed new 5-year agreement with Pokemon Co. subsidiary Pokemon USA allowing it to continue serving as exclusive merchandising licensing agent and exclusive representative of TV broadcast and home video rights for Pokemon TV series outside of Asia. 4Kids also acquired 3% equity stake in Pokemon Co., organized in 1998 by creators of Pokemon — Nintendo, Creatures Inc., GameFreak Inc.

Electronics Boutique online subsidiary EBWorld.com signed definitive agreement with Microsoft to provide PC games on broadband games-on-demand Web site EB1, www.eb1.com. As part of deal, visitors to site will be able to rent full retail versions of recently shipped games published by Microsoft. Other game makers that have signed similar deals with EBWorld.com include Eidos Interactive, Infogrames, Take-Two Interactive.

First online game for PlayStation 2 (PS2) console from Activision will be *Tony Hawk's Pro Skater 3*, game maker said last week. Activision said it would ship game on Oct. 30 at \$49.99. Non-online version will ship on same day for PlayStation at \$39.99. PS2 version of title is rated T (Teen) and PlayStation game E (Everyone).

XBOX TO SHIP MARCH 14 IN EUROPE: In announcing details of European rollout for its Xbox videogame console, Microsoft last week declined to say how many pieces of hardware actually would move on Day One. Company said Xbox would ship March 14 at 479 euros (1 euro = 90 cents) in 16 major European markets.

Microsoft did say, however, that through end of June it planned to ship 1.5 million Xbox hardware units in Europe. Shipments there will include weekly replenishment from Xbox manufacturing facility in Hungary, it said. Majority of Xbox games will cost 69 euros but it didn't say how many titles would ship at European debut.

Details were announced by Microsoft at X01 show in Cannes, France, where company spotlighted 40 games. It also announced other games for first time and demonstrated some on video. New games announced included Xbox exclusive *BC* from Lionhead Studios division Intrepid Games. Lionhead also demonstrated role-playing game *Project Ego* for first time. Both games are being published by Microsoft Games. Microsoft also announced more new first party titles, including *Brute Force* and *Rallisport Challenge*. Games were announced and/or demonstrated by Activision, Eidos, Electronic Arts, Infogrames, Sega, Tecmo, THQ, Ubi Soft.

X01 was held at Maison Bulles mansion designed almost 30 years ago by Pierre Cardin.

Meanwhile, Microsoft reiterated its plan to ship 1-1.5 million Xbox consoles in N. America by year-end, but, as in Europe, it remained unclear how many would ship here on first day.

Microsoft CFO John Connors told analysts in conference call company would move as many as 6 million consoles during its fiscal year ending in June. He also said 15-20 games would be available for Xbox at introduction next month.

Connors's comments came as Microsoft said it had income of \$1.3 billion (23¢ per diluted share) for its first quarter ended Sept. 30. Result included \$1.2 billion after-tax investment charge. It reported \$2.2 billion profit (46¢) before charge year ago. Revenue in first quarter increased to \$6.1 billion from \$5.8 billion year ago.

But upcoming quarters could provide major obstacles for Microsoft. Company admitted that PC sales were likely to be flat or to dip slightly and Connors admitted Xbox and MSN businesses wouldn't be profitable in near future either.

Correction: Tabulation error in last week's State of the Industry table (TVD Oct 15 p8) caused us to list incorrect figure for color TV shipments in year's first 39 weeks. According to CEA, total color TV shipments for year through Sept. 28 actually were down 13.6% to 18,688,199 from 21,232,869 in same year-earlier period. We regret the error.

Promotional and educational campaign for DVD Forum-sanctioned DVD-RAM and DVD-RW video recording formats will be outlined at briefing by Recordable DVD Council during Comdex PC show. Event is scheduled for Mon., Nov. 12, 2-4:30 p.m., Las Vegas Hilton's Ballroom G.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

OCTOBER 29, 2001

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SUMMARY-INDEX OF WEEK'S NEWS

Broadcast - Cable

MEDIA REGULATION 'DATED,' Powell says. Over-air, scarcity no longer best rationales. Potential changes not specified, will be based on changing environment. (P. 1)

GOVT. DTV SUBSIDY urged by panelists to clear spectrum. Viewers choosing to pay money to subscribe to cable and DBS in droves rather than relying on free broadcasts. (P. 3)

CHANNEL PLAN DEFENDED: Powell says allowing broadcasters to be paid for Ch. 60-69 is good policy. Hollings, others disagree. Sept. 11 cited. (P. 4)

SATELLITE IMAGES BLOCKED from news media by govt. deal involving Afghanistan. Broadcast groups claim censorship. (P. 5)

TV PRODUCERS REGROUPING: Six-month 'slide' in production seen. Networks lose big. Productions staying closer to home. (P. 5)

S-VoD WORTH BILLIONS, cable conference told. Subscription service said more attractive than pay-per-view. (P. 6)

POWELL SEES BIG CHANGE IN BROADCAST ENVIRONMENT: In speeches in L.A. and Washington, FCC Chmn. Powell said basic underpinnings of media regulation were "dated" because of their focus on scarcity and over-air broadcasting: "Much of the regulatory structure and analytical foundations that exist today were built around television and radio as it existed in the 'golden age.'" He said rules "do not take account of the very dramatic changes in the media landscape."

Powell didn't specify changes in broadcast rules that FCC should make in response to changing environment, but did say: (1) Current policy focuses on over-air free broadcasting when most Americans pay for TV. (2) Media markets such as broadcast and cable have converged, but rules still treat them as separate. (3) Focus on diversity doesn't consider trend toward greater consumer choices: "Diversity remains a vital objective, but the instruments for preserving it must be reconsidered." (4) Rules don't consider business viability or ability to harness new technologies.

"The time has come to re-examine and rebuild the factual foundations that support a contemporary regulatory regime for media," Powell told reporters in Washington. He said FCC would conduct "very comprehensive examination" of media marketplace, though he didn't set exact timetable. He said review would include all ownership rules, examination of public service obligations, review of overall media market.

Powell also said that within year he planned to structure FCC proceedings with goal of widespread deployment of broadband services and how that goal was affected by issues such as how much advanced services should be regulated and how to encourage multiple broadband platforms. He said proceedings such as cable open access and 3rd generation

Consumer Electronics

PVR'S MONTHLY SERVICE FEE should be dropped as annual sales rise into millions and be replaced by targeted ads and other revenue-generating options, panelists say. (P. 9)

SONY POSTS \$111 MILLION LOSS on weak electronics sales. Results slide in all geographic markets, hurt by weak demand and severe price competition. (P. 10)

MICROSOFT SHOWS NEW OPENNESS at XP debut but operating system has flaws. Bugs include installation problems, incompatibility with *Snow White* DVD. (P. 12)

RADIOSHACK INCOME PLUNGES in 3rd quarter to \$43.8 million from \$77.1 million after it takes charge to cover layoffs of 308. (P. 13)

PACE SET-TOP BOX WITH GAMES feature will support multiple formats when delivered for on-demand applications in 2003. (P. 13)

NINTENDO DENIES U.K. DELAY: GameCube still on track for spring 2002 rollout, company says. British reports say console may not ship until Sept. (P. 14)

spectrum fell into that category of policy goals. He said there also was need for spectrum allocation policy that wasn't "politicized reactive process." Powell said he favored shift to more market-oriented policy with more flexible allocations. Interference standards should be strengthened and agency should explore new regulatory approaches to spectrum efficiency, such as spectrum leasing. In addition, agency ought to catalog what spectrum was being used for what services, he said: "Nowhere is there a map. We will create such a map."

Broadcasters have right to feel anxious in current technological, regulatory and economic climate, he said, but urged industry to adapt to times. Speaking at Hollywood Radio & TV Society lunch, he said broadcasting had switched to watching diverse array of programming genres from collectively watching specific networks.

Powell characterized TV now as age of "personalized diversity: television that is tailored to me... And the real judgment by consumers is that if the content is right they will pay for it." He said 84% of Americans received cable or DBS, with consistent annual 3-4% increases in penetration, "and that trend has been consistent for a long time. So if extrapolated, it seems clear to me that at some point on horizon, all Americans — perhaps in 10 years — will have pay-TV." He said free-to-air broadcasters "as an entity they may and probably will be there but as a program supplying interest more than a distribution platform."

There was "a scramble in the marketplace" as companies and creative community tried to figure out how to deliver personalized diversity, Powell said. He noted changing example of TV: "A corollary to that is, the hallmark of the television policy has always been scarcity. There are always more people who want to broadcast than there is spectrum available. The significant challenge now... is not scarcity but abundance. I think industries and governments will have to figure out how to deal with whole new set of dynamics. More importantly, the business of the media is going to have to figure out how to make it profitable. More diversity means more fragmentation; more fragmentation means it's going to be harder to make money."

Powell responded to concerns that independent voices were being squelched in face of 5 or 6 high-powered gate-keepers, with impact of Sony's bowing out of prime-time programming as most recent casualty. "I don't believe in deregulation for its own sake," he said. "It's also important to note there are no absolutes about concentration. Big can not, in and of itself, necessarily be said to be bad, nor can small, in and of itself, be said to be good. What government officials should do is ask that question in the context of how it affects the consumer, not how affects a particular company. People are often shocked to learn that under the antitrust laws, monopolies in and of themselves, are not illegal. They are only illegal if it manifests itself in a way that has a negative effect on the consumer."

Admitting "it's very difficult as an analytical matter to quantify or rationalize choice all along those lines," Powell said that "for example, we have rules that say you can only own this many stations in this market. But I'd be hard-pressed to explain why we picked 8 and not 7. Or 6 and not 9."

Chmn. challenged audience to name era in TV history that had more diversity than now. "Which is it that we're recalling that was so much more diverse? When the 3 networks controlled every channel Americans saw? Today, we've gone from 3 networks to 7 — and 9 if you count the Spanish-language networks. At the local station level we have a greater number of outlets than had never existed before in both radio and television. Cable channel capacity, the average system in America, has 56 channels or more and passes 98% of the homes in the United States and 2 of 3 of every new subscribers purchases DBS, which goes up to 300 and 400 channels."

It's important to "ensure that the battle for carriage is a fair one and high-quality products succeed," Powell said, "but I would be very concerned if government were trying to write rules based on value judgments made for the consumer." Although he did reiterate that no deal was unthinkable and that "you have to take each case on its own merits as arises," he elicited laughs by adding he would like to see CBS's Mel Karmazin get deal to buy NBC past him.

On ownership caps, Powell said: "Those rules were written 30 years ago in an entirely different economic and market context. I sure hope you want your government to be willing to put those rules back on the table and justify them in the current marketplace, because if you don't, you have rules existing in perpetuity just out of inertia. These rules had their genesis before the time of cable, when the Internet was still science fiction, when Blockbuster video didn't exist, or VCRs were available in every home in America, or DVD players were the hottest selling consumer item — all of that has happened since most of these rules were created."

"Politicians and some of us in Washington love to cut broadcasting away from the rest of media and put it over to the side and develop regulations as if it exists in isolation," Powell said: "But I can assure you that on Madison Avenue broadcasters are fighting cable to get that contract." He dismissed concerns that if the cap were raised there would be

heavy loss of local programming, which he said he believed was code for local news. Powell called argument "cheeky" because local news typically won high ratings and would be staple of programming regardless of ownership.

On DTV, Powell said govt. and broadcasters made "a big mistake" in simply viewing it as traditional TV with "pretier, clearer picture." He challenged audience to evolve with technology: "DTV is a new palette to paint from. You have to paint different pictures now."

IDEA OF TV FOOD STAMPS FLOATED AGAIN IN DTV TRANSITION: If govt. is serious about DTV transition, it should offer "entertainment food stamps" to people who resist giving up free broadcasts, said Thomas Hazlett, scholar at American Enterprise Institute. In fact, he advocated "very targeted" subsidies for cable or DBS service on limited basis during transition. Speaking on panel on DTV transition, Hazlett said that by year's end 87% of U.S. households were expected to receive their TV by cable or DBS, and proportion was expected to grow to 91% by 2004. FCC is pushing transition to digital from analog to make way for use of analog spectrum for other purposes such as public safety, military and other commercial uses such as data services. Similar notion was discussed years ago, though not in terms of "food stamps," by then-FCC Chmn. Reed Hundt and his chief of staff, Blair Levin. However, idea wasn't generally embraced by stakeholders at time because of political considerations. Contacted Oct. 26, Levin said idea made sense "purely as an economic matter." Hazlett's mention of it prompted serious discussion Oct. 26 at 2-part AEI panel. Debate focused on govt.'s role in speeding transition, consumer preferences and market forces, as well as competitive aspects involving broadcasters, cable and DBS operators.

Hazlett said consumers themselves were reducing current TV band to irrelevancy and less than \$3 billion could be invested by govt. to move remaining over-air viewers to basic cable or satellite service. He estimated that by doing so and allowing consumers to avoid buying new digital receivers, \$50-\$150 billion could be saved. He said auctioning cleared spectrum to highest bidders could reap \$50-\$470 billion for govt. He suggested soliciting bids from cable, DBS and broadcasters to find most cost-efficient way to subsidize service.

Despite 2006 as deadline for broadcasters to switch to digital, as of Aug. 2001, only 150,003 DTV receiver sets had been sold, Hazlett said, citing industry figures. He compared DTV sales figures with 33 million analog TV sets sold in 2000: "This is a fairly high rejection level on the part of consumers." He called forced govt. transition, which began 14 years ago, "hopeless." FCC recently offered to allow broadcasters that operated on analog Channels 60-69 of 750 MHz band to sell their licenses so they might clear out those airwaves sooner.

Bruce Owen of Economists Inc. said public would gain tremendous benefits if currently occupied spectrum were cleared for other uses. He cited recent criticism of FCC by Sen. Hollings (D-S.C.), who said spectrum was too valuable a public resource to be left essentially to commercial exploitation. However, "it is a lie" based on politics to say broadcasters will have "a windfall gain at the expense of the public," Owen said. Given consumer demand for pay-TV services, it makes sense to abolish terrestrial broadcast system, he said. "It's true that people on the northern face of a remote mountain might be a problem, but we could probably mail them DVDs," he said with smile. Asked about subsidy idea, Rick Chessen, who leads new FCC DTV transition task force, said that under statute, people are supposed to turn off their analog signals once 85% penetration is reached. He said, though, that's "so far down the road" that it was difficult to predict what would happen. Stanley Besen of Charles River Assoc. said public took 20 years or more to adopt previous technologies, like original TV set and FM radio, so DTV transition actually wasn't moving at such slow pace.

NAB Pres. Edward Fritts said broadcasters were doing their part, saying that by May 2002 there would be 720 stations on air in digital, covering 95.8% of all households with one or more digital signals. Major TV networks also are airing much of their prime time schedules in digital, he said. If govt. wants to speed transition, it should ensure must-carry of local broadcast stations on cable and DBS, Fritts said. Not surprisingly, NCTA Pres. Robert Sachs objected to forcing cable to carry both digital and analog broadcast signals. He said he had no issue with carrying one signal, but not 2. Cable industry has spent \$52 billion in recent years to rebuild plant to meet customer demand and to fuel carriage capabilities for more channels, amounting to about \$1,000 per customer, Sachs said. He said cable isn't carrying DTV because of lack of compelling programming by broadcasters.

CEA Pres. Gary Shapiro said he was unconvinced of rejection by consumers, since his members were projecting \$5 billion in sales of HDTV equipment this year. He acknowledged that much of those sales were motivated by customers' desire to get full benefits of DVDs. He said actual numbers of DTV sales were much higher than those cited by Hazlett and that industry expected to sell 1.1 million DTV sets this year alone. He also criticized cable and broadcast industries for not "stepping up to the plate" on HDTV, frustrating consumers who bought sets and wanted more programming. Shapiro praised satellite industry as only way consumers could take full advantage of HDTV sets.

CHANNEL PLAN DEFENDED: FCC isn't giving away store by allowing broadcasters to sell early access to public airwaves, FCC Chmn. Powell said in letter to Senate Commerce Committee Chmn. Sen. Hollings (D-S.C.) and in op-ed piece in *Washington Post*. Hollings in recent letter to Commission said he was outraged that it would allow broadcasters to profit off public airwaves in this way (TVD Oct 22 p4). His comments were similar to those of Norman Ornstein and Michael Calabrese of American Enterprise Institute, whose op-ed piece in *Post* Oct. 14 was titled, "Hey, Give Back Those Airwaves — Or Pay Up."

Powell said he "respectfully disagrees" with Hollings. Debate is over analog Ch. 60-69 in upper 700 MHz spectrum, which Commission wants broadcasters to vacate to make way for public safety and new commercial uses. In Sept. 17 order, Commission allowed broadcasters to sell analog spectrum in order to encourage them to move to digital and free up space more quickly. "Freeing up this band will double the amount of public safety spectrum available in the United States and provide for nationwide availability of interoperable communications channels, which now more than ever are in extremely high demand," Powell said. He also said U.S. Treasury would get part of money from auctioning airwaves. Telecom Act of 1996 said TV broadcasters, which currently hold analog channel and digital channel, would have to return their analog channels by 2006 or when 85% of U.S. households had DTV sets or converters, whichever is later.

Powell said Ornstein and Calabrese unfairly characterized Commission's decision and ignored fact that it "may actually serve to both increase revenues to the United States Treasury through auction funds and facilitate the clearing of these frequencies." He said freeing up airwaves "has become critical in the wake of the threats to our nation's homeland." Ornstein and Calabrese, in their piece, said Commission had allied itself with broadcast corporations over public interest. "A portion of the most precious public asset of the Information Age — the electromagnetic spectrum — is the captive of licensees who want a payoff to set free something they got for nothing in the first place," they wrote.

Meanwhile, terrorist attacks gave new urgency to allocation of spectrum in 700 MHz band for interoperable public safety use and for speedy departure of broadcasters from that spectrum, FCC Comr. Abernathy said in speech Oct. 24 to FCBA Chicago chapter. She said she supported allowing payments to broadcasters to speed their departure from band, also known as Ch. 60-69, because of serious public safety needs. Although concerns have been raised about permitting payments to broadcasters, she said she was "hard pressed" to see better answer than voluntary incentives. Under current statutory language, incumbent broadcasters are allowed to remain in those channels until at least 2006 unless they leave voluntarily.

Abernathy also indicated possible support for eliminating or modifying spectrum caps. Asking how Commission arbitrarily could decide what ownership percentages were appropriate, she said marketplace might be best arbiter: "Absent clear evidence of likely and significant competitive harm, I am reluctant to hinder the marketplace through prophylactic rules."

Bush Administration weighed in for first time on wireless spectrum cap last week, with NTIA Dir. Nancy Victory urging Powell to enact "full and immediate repeal." In detailed letter,

she told Powell that retention of limits wouldn't preserve competition but would "more likely result in consumer harm." Letter came as FCC was set to review continued need for wireless spectrum cap by year-end, with issue expected to be on agenda for Nov. 8 Commission meeting.

Canadian broadcasters should be allowed to "take full ownership of their programming," Canadian Assn. of Bcstrs. Pres. Michael McCabe said in speech to National Press Club in Ottawa. He said: "The traditional model — where Canadian broadcasters simply rented money-making U.S. content and used it to cross-subsidize money-losing Canadian content — is not going to work in the digital environment. In fact, over the long term, it is a recipe for extinction." McCabe said popularity of Canadian programs was growing faster than that of U.S. programs. He said that in 10 years, U.S. network and specialty channels' share of English-speaking audience in Canada had stayed at 30% but Canadian private, specialty and pay TV increased to 61%. With growing threat of digital TV, allowing Canadians to download popular American channels from show's Web site, specialized Canadian content was only way for Canadian broadcasters to make money, McCabe said. If American broadcaster wouldn't need to sell rights to such money-making shows as *Friends* or *The West Wing* to Canadian broadcaster to reach Canadian consumers, he asked where Canadian broadcaster fit in: "That is why it is essential that Canada's private broadcasters take full ownership of their programming, either producing it themselves or entering into alliances with Canadian producers to do so." CAB pres. said govt. policy should support Canadian programming by Canadian companies.

Citing recent biological attacks against media outlets, FCC waived for 60 days requirement that broadcasters keep all written comments in their public files. Waiver had been requested by NAB (TVD Oct 22 p3). FCC Mass Media Bureau cited "extraordinary" circumstances, saying public health concerns outweighed public interest factor in retaining files. Bureau said stations should follow recommended FBI and police procedures for opening letters, and said it would "commit to broadcasters' good faith" on including as much as possible in files. Further extensions will depend of conditions then, Bureau said.

NBC's TV Stations Div. announced partnership called Internet Bcstg. Systems (IBS) in which IBS will operate Web sites for NBC's 13 owned stations. IBS's network encompasses more than 50 U.S. TV markets, including 20 of top 25 and reaching nearly 60% of U.S. TV households. Under agreement, all of NBC's Web sites will be operated jointly by IBS and NBC, with NBC retaining ultimate editorial control. "IBS has the best technology for TV and Web convergence, and working with them positions us to maintain a competitive advantage in this arena," said David Overbeeke, senior vp-e-business in NBC's Stations Div. Terms weren't disclosed.

FCC Mass Media Bureau approved deal creating duopolies for Fox TV Stations in Washington, D.C., and Houston, and for Viacom in San Francisco. Bureau, acting under delegated authority, said new duopolies complied with FCC rules, although it gave Viacom 6 months to divest one radio station in San Francisco to come under local station ownership limit. Decision allows Fox to transfer KBHK-TV (Ch. 44, UPN) San Francisco to Viacom in return for WDCA (Ch. 20, UPN) Washington and KTXH (Ch. 20, UPN) Houston. Applications weren't opposed.

SATELLITE IMAGES BLOCKED: News media have protested contract between Space Imaging and National Imagery & Mapping Agency (NIMA) that excludes them from receiving satellite images of Afghanistan taken by Ikonos, most powerful commercial imaging satellite. In Oct. 18 letter to Secy. of Defense Donald Rumsfeld, Reporters Sans Frontières (Reporters Without Borders [RSF]) said contract was “a way of disguised censorship aimed at preventing the media from doing their monitoring job.” RTNDA was drafting its own letter to DoD, spokeswoman said: “We’re disappointed that the government would use taxpayers’ dollars to purchase images that have material of interest to the public in order to keep it away from them... These images could certainly show what is happening with the movement of refugees and how the military campaign is affecting Afghanistan.”

Thirty-day contract was signed Oct. 7 and is valued at \$1.91 million, NIMA spokesman said. Renewable deal provides agency access to Ikonos, but contract stipulates that it pay additional \$20 per km for any images it purchases, with minimum purchase level of 10,000 km. NIMA already has bought images from Space Imaging and will use them in support of U.S. and coalition forces working together in Operation Enduring Freedom, spokesman said: “We didn’t do it primarily to censor... It is true we are interested in operational security and we get that as an additional benefit.”

Officials of both NIMA and Space Imaging insisted contract was voluntary, primarily because “it made business sense.” Contract far exceeds value from customers requiring new images over central Asia, said Mark Brender, exec. dir.-govt. affairs for Space Imaging: “This is a solid business transaction that also brings great value to the government.” NIMA spokesman agreed Space Imaging wasn’t obligated by law to make exclusive rights deal, but said it was simply “a decision between 2 business partners.”

Commerce and State Dept. officials were unavailable, but NIMA spokeswoman said if contract hadn’t been signed, “shutter control” could have been alternate option for govt. Shutter control allows govt. to cut off access to images whenever State Dept. or Pentagon deems it necessary. RTNDA spokeswoman said rules were unconstitutional and violation of First Amendment.

Central Asia is not high demand area, Brender said, but Space Imaging continues to provide commercial services to customers in region with imagery taken by Ikonos satellite before Sept. 11: “Most customers do not need imagery taken within the last month and can rely instead on the value proposition offered by archived imagery.” Geographic area to which NIMA has exclusive rights is “in support of Enduring Freedom,” spokesman said, but specific countries “are in a classified annex.”

NIMA said it would use Ikonos to handle lower priority items and for other time-sensitive operations. Because of unclassified nature of images, there would be many uses for satellite, spokesman said: “They could be quickly turned over to coalition members, or to international aid agencies, because it’s unclassified information.”

Space Imaging has sold imagery since Jan. 2000. This was first major conflict in which govt. has purchased data rights and imaging time on Ikonos satellite, Brender said, and NIMA

spokesman said it was first U.S. commercial satellite of that quality: “With [images from Ikonos] you can tell whether something is concrete or asphalt, or how hard or soft the ground is.”

TV PRODUCERS REGROUPING: Panel of TV producers and executives in L.A. stressed importance of TV industry to both America’s economy and psyche, urging creative community to keep working, albeit with increased sensitivity, despite obstacles caused by Sept. 11 attack. Larry Namer, chmn. of Steeplechase and founder of E! Entertainment TV, bemoaned production limbo: “Every project we had scheduled to start between September and November has been put on hold. We’re looking at a six-month slide in time frame.”

Viacom Pres. Perry Smith said networks lost combined \$40 million in commercial revenue alone in 4-1/2 days following attack, but reiterated cost considerations had to be juggled with public and advertiser sensitivities in choosing best way to proceed with future programming. Broadcast networks also took hit on future earnings because attacks took place at peak of fall season media blitz. However, soft ad market may ironically turn out to help ease economic pain. Tim Spengler, exec. vp-Initiative Media North America and co-mgr. of its National TV Div., said “because they were not sold out, they were able to re-express over the next couple of weeks but it still pushed the industry back.” Producer representative Harris Tulchin, added: “Independent film is financed by foreign television so when September 11 happened and the economy crashed, it put the nail in the coffin for many independent productions as well.”

One seemingly clear result is abrupt cooling of interest in reality programming, forcing networks to rethink midseason schedules. According to stats cited by panel, 50% of Americans polled are more interested in watching news; 80% less likely to watch reality. Spengler said: “People are looking for more comedy because it’s a diversion and comforting. But will it last? People are acting in ways of their own economic interests because at the end of the day, it’s a business.”

Unexpected but welcome ramification is slowing in trend of runaway production, speakers said. Because of increased fear of travel, many producers are rethinking budgets in order to shoot broadcast and cable films in America, they said. Producer Debra Hill said: “We were supposed to shoot in Toronto, but changed the script so that it’s based in San Diego,” just 2 hours south of L.A. by car.

Broadcasters instituted voluntary procedures for local stations to issue special on-air alerts about abducted children, they announced at news conference in Washington. Program, called Amber Plan after murdered Tex. child, calls for alerts to be broadcast following notification from law enforcement authorities. NAB Pres. Edward Fritts said Amber Plan “can be a powerful tool for protecting children and saving lives.” NAB and others are distributing free Amber Plan kits to law enforcement agencies and TV and radio stations, and plans already are operational in 20 states and communities, contributing to recovery of more than 16 children to date, officials said. Plan was announced jointly with long list of groups, including Congressional Caucus on Missing & Exploited Children, National Assn. of Attorneys Gen., National Center for Missing & Exploited Children.

MOST PROFITS DOWN: Most media firms continued to report last week that Sept. 11 events were cutting into profits, although it often was hard to distinguish impact of attacks from overall economic slowdown. However, they clearly did lose ad revenue because of program preemptions, and many were hit by higher news coverage costs in 3rd quarter ended Sept. 30.

Viacom had net loss of \$190 million in quarter, saying results were affected by lower revenue and increased costs resulting from Sept. 11. It said it had significant loss of ad revenue and incurred additional newsgathering costs for 93 hours of continuous coverage by CBS. Both CBS and UPN suffered from soft ad market. In addition to continuous coverage, CBS had many preemptions of regularly scheduled programming, further hurting bottom line, Viacom said. TV results were partly offset by strong showing of Paramount TV Group's *Frasier*, *Ed* and *7th Heaven* and syndication availability of *Everybody Loves Raymond*. Viacom's Blockbuster division had pretax noncash charge of \$356 million because it eliminated 25% of its VHS library as part of strategic move to stock more DVDs and to overhaul management. Viacom cable networks BET, MTV, TV Land and VH1 had higher revenue from growth in cable affiliate fees, DBS revenue, advertising.

USA Networks slightly trimmed its losses for quarter to \$29.6 million from \$30.5 million last year. It attributed improvement in part to favorable adjustment relating to affiliate fees for its cable and studio businesses. It also cited success of its TV show *Law & Order*, which now has 3 affiliated programs on NBC. Home Shopping Network had dramatic but short-lived decline in viewership after attacks.

Cox Communications said 3rd quarter income plummeted 83% to \$143 million from last year. CEO James Robbins said weak ad sales and disruption of business caused by Sept. attacks contributed to lower earnings. Cox Interactive Media (CIM), another subsidiary of Cox Enterprises, said it planned to lay off 80 of its 450 employees because of weak ad sales. CIM operates Web sites in 22 markets around country... **Shop At Home** said it narrowed quarterly loss to \$4.8 million from \$10 million loss year ago. It said Sept. attacks negatively affected retail shopping as it interrupted its normal broadcasting on 2 occasions... **OpenTV** said loss narrowed to almost \$3.2 million from \$6.7 million loss last year. OpenTV said results were affected by acquisition of Spyglass, which integrates interactive systems, and Static, which develops interactive content.

After nearly 5 years out of office, former Senate Commerce Committee Chmn. Larry Pressler (R-S.D.) plans to run next year for his state's single at-large House seat being vacated by Rep. Thune (R), after deciding not to run for governor. While Pressler plans formal announcement in Nov. near his family farm in Humboldt, he confirmed to *Argus* (S.D.) *Leader* that he planned to run: "I am going to do the House thing because I can serve the people better there. Nobody will outwork me." As Commerce Committee chmn., Pressler played critical role in authorship and passage of 1996 Telecom Act, but that accomplishment wasn't enough to keep him from being defeated later that year in his quest for reelection by then-Rep. Johnson (D). Pressler was in House 1975-1979, then moved to Senate. He faces crowded Republican field with at least 4 potential candidates. Since his defeat Pressler has divided his time between his farm in S.D. and lobbying in Washington, particularly for telcos.

S-VoD WORTH BILLIONS: Cable operators can add \$43 billion in value to their companies collectively by 2005 from pushing subscription video-on-demand (S-VoD) "with abandon," Starz Encore CEO John Sie said Oct. 23 in keynote at Kagan VoD Summit in N.Y. He stressed potential of increasing revenue \$10-\$20 per month per household. He said average household spent \$12 per month renting videos — dollars that he said were ripe for taking by S-VoD because it involved "no schlepping [to and from store], no late charges, no transactional charges."

Sie cited 3 potential revenue streams for companies: Premium S-VoD, basic S-VoD that took advantage of analog brands such as Discovery and MTV, and what he called "high interest for narrow audience" — premium services geared toward particular viewer interests much like niche magazines. With those ideas in mind, Starz Encore, subsidiary of Liberty Media, introduced Starz On Demand in Cleveland and western Long Island. On Demand feature allows viewers DVD-like functionality for flat monthly charge rather than fee per view.

However, Intertainer CEO Jonathan Taplin questioned whether movie studios would allow \$43 billion to "slip through their hands" without significant cut. Sie's response: "We've already paid at the office." He said Starz Encore "paid dearly" to reach early deals with studios that allowed them a slice, while still increasing cut for cable companies. Starz library was established through deals with Disney, Sony, New Line Cinema, others.

Sie said rate of growth for digital cable had slowed significantly this year — down 36% in 2nd quarter from 4th quarter of 2000 — and S-VoD could be driver toward digital. He stressed that cable operators should seize opportunity of S-VoD, or else: "It's cable's game to lose if it does not move aggressively, competitively, as well as defensively in this new arena of S-VoD."

FCC should stay mandatory negotiation period between broadcasters and mobile satellite service (MSS) licensees until it resolves allocation issues, broadcasters said in motion filed at Commission. NAB and MSTV said there had been "far less than expected demand" for MSS, and CTIA suggested spectrum be used for advanced wireless service. Broadcasters use spectrum for broadcast auxiliary service, including electronic news gathering, but FCC has proposed reallocating it. Broadcasters said lower MSS demand meant MSS negotiators would be willing to pay less of broadcasters' band-clearing expenses. Under current rules, if negotiation isn't successful within 2 years, broadcasters can be forced to move, and petition said there now was incentive for MSS to delay process in order to avoid band-clearing cost. Broadcasters also said FCC would have to change reallocation plan if spectrum were used for wireless: "Incumbents which provide valuable service... should not be subject to mandatory negotiation deadlines when the underlying relocation plan is likely to be substantially modified."

Venture Technologies Group (VTG) began airing UPN programming on low-power TV station WAWA-LP Syracuse and asked FCC to force Time Warner cable systems there to carry it. TW systems instead carry out-of-town UPN affiliate, VTG said. VTG Pres. Paul Koplin said WAWA-LP was even willing to pay TW cable systems to carry station, suggesting carrying out-of-town affiliate would increase cable rates. Previous UPN affiliate switched affiliations last year.

ECHOSTAR OR NEWS CORP: GM was expected to make decision on sale of Hughes Electronics over weekend as speculation mounted that it would select EchoStar over News Corp. Board had meeting scheduled for Oct. 27 in N.Y. However, industry sources said top GM management still was divided on which offer was best for stockholders and company. Deal with EchoStar was contingent on EchoStar's completing transaction for \$5.5 billion line of credit from UBS Warburg and Deutsche Bank.

Analysts said EchoStar had best "on-the-table" offer of \$28 billion, but sale involving top 2 U.S. satellite companies would result in intense antitrust scrutiny. GM must decide whether it's better to sell to EchoStar and create single DBS provider with 16.7 million subscribers, including 10.3 million owned by DirecTV, or side with News Corp., which would provide latter with long-sought presence in U.S. satellite market. Top executives at News Corp. reportedly had told GM that it would cut off negotiations. News Corp. also reportedly spent last week in Washington attempting to gain support for its bid and arguing that EchoStar deal would violate antitrust regulations. "We are confident that excellent competitive justifications and consumer benefits exist for either transaction," GM spokeswoman said. EchoStar and News Corp. refused to answer specific questions about transaction.

EchoStar's reported offer of \$28 billion would give Hughes shareholders 0.75% of DISH shares for each share of Hughes. EchoStar also would pay \$5.5 billion in cash that it's currently trying to raise and has promised GM \$500 million breakup fee and \$5 billion for PanAmSat unit if deal were blocked by regulators. Analysts said there was widespread speculation PanAmSat no longer was up for sale after topping projections in profitable 3rd quarter.

News Corp. offer of \$22 billion is more complex and packaged differently, industry sources said. It's lower, but Hughes shareholders will receive opportunity to own part of new Sky Global unit. Plans reportedly call for Microsoft to invest \$2.9 billion cash and Liberty Media to chip in \$1 billion. GM would receive \$4.5 billion in cash for majority ownership in Hughes along with 4% of Sky Global. News Corp. has arranged \$5 billion line of credit through Citigroup and J.P. Morgan Chase for operational funds.

Senate Commerce Committee Chmn. Hollings (D-S.C.) was "troubled by prospect" of top 2 DBS companies' merging, telling reporters: "That kind of consolidation would leave consumers with few, if any, choices." Staffer for House Energy and Commerce Committee Chmn. Tauzin believes "any marriage" of companies "that eliminates competition is going to get a chilly reception" from Congress. News Corp. lobbying effort on Capitol Hill has won support of Sens. Bunning (R-Ky.), Schumer (D-N.Y.) and Boxer (D-Cal.) and Rep. Waxman (D-Cal.).

Sen. McCain (R-Ariz.) said policymakers shouldn't make decision, but matter would be better off in hands FCC and Dept. of Justice. Consumers Union spokesman said GM deal with News Corp. might not pose as many regulatory issues as one with EchoStar, but for consumers new company would be "enormous nightmare."

Entravision Communications agreed to buy KKWB (Ch. 51, WB) El Paso from White Knight Bestg. for \$18 million, companies said. KKWB will be switched to Univision affiliate in first quarter 2002.

ECHOSTAR RESULTS UP: EchoStar had recordbreaking 3rd quarter and is prepared for future regardless of whether merger with DirecTV takes place, CEO Charles Ergen told investors in conference call. He was tight-lipped about discussions with DirecTV parent GM and offer to purchase Hughes Electronics unit, but said company was pushing to close deal: "We're serious about acquisition, but we're well-positioned as a company regardless of the outcome." Tough economic conditions that had hampered performance of other high-tech and satellite companies didn't affect EchoStar because of financial "discipline," Ergen said. EchoStar reported total revenue of \$1.023 billion, up 46%, and net income of \$3 million, vs. \$142 million net loss year ago.

Ergen said EchoStar "may be forced to take down" local TV programming in several markets to comply with must-carry rules because EchoStar 7 won't be launched in time to meet increased demand. He indicated eliminating service was last resort, but finances would be major determinant in decision. "We have some markets where we offer 22 channels and there are only a couple of thousand subscribers... We're going to have to make some tough choices."

EchoStar added 325,000 net new subscribers, but remained concerned about piracy and churn rates. Churn was 1.75% per month. EchoStar now has 6.43 million subscribers, up 35% from 4.76 million year earlier. "We've taken some steps to view piracy more seriously," Ergen said. He said "churn can be cancer" to business and company was taking idea from Pegasus in effort to reduce rate. He said company would be implementing program starting Nov. 1 that would penalize retailers with high churn rates.

Ergen expects cable operators to continue aggressive push to woo back customers they lost to DBS. EchoStar plans to take advantage of consolidation and management changes throughout cable industry to continue growth, he said. EchoStar 5 satellite made by Loral has had "a few, separate anomalies," company said in 10-Q filing with SEC. Problems on FS-1300 satellite included loss of momentum wheel and problems with traveling wave-tube amplifiers. However, company said it believed problems had been corrected and expected redundancy aboard satellite to be adequate to continue operations.

As long as present stable regulatory environment continues, cable will continue to enjoy favorable investment climate even in current "tough times," Insight Communications CEO Michael Willner said. "We must be assured a stable regulatory environment will exist, allowing us to continue to invest in plant, create jobs and launch new services," he told Washington Metropolitan Cable Club. Willner said industry already had invested more than \$50 billion in plant upgrades and would complete job in next few years, ultimately spending \$75 billion. He said cable had supported legislation that would encourage competition in its core business and "we do not seek to add regulation to the business of our competitors." Cable will continue to offer more competitive offerings, including telephony, he said. Question was only which technology to deploy, he said, with some MSOs concentrating on developing Internet protocol and others on circuit switched technology. Insight recently joined AT&T and Cox in providing facilities-based local residential phone services, he said. Stressing importance of facilities-based competition, Willner said that during Sept. 11 attacks, having multiple modes of telecom enabled people to communicate despite interruptions to some telecom links.

Personals

Pat Langer returns to NBC as exec. vp-human resources, replacing **Ed Scanlon**, retiring... **Richard Jones**, ex-KBHK-TV San Francisco, named vp-gen. mgr.-XUPN and XETV, both Tijuana, replacing **Joan O'Laughlin**... **Joan Gerberding**, Nassau Bcstg., elected AWRT pres... **Robin Biggam** will be reappointed chmn. of U.K. Independent TV Commission Dec. 31, U.K. govt. said... **John Thorne** promoted to vp-sales, Continental TV Sales.

Lawrence Meli, ex-National Geographic Channel, becomes pres.-COO, GoodLife TV Network... **Stephen Silva** promoted to exec. vp-chief technical officer, Charter... **Changes at Mediacom:** **Brian Walsh** promoted to vp-finance and assistant to chmn; **William Lees** named senior vp-controller... **David Valkenburg**, ex-MediaOne, joins Harmonic board... QVC co-founder **Michael Boyd** named CEO, Longport.

Nominations confirmed by U.S. Senate: **Philip Bond** as Undersecy. of Commerce for Technology; **John Marburger** as dir.-Office of Science & Technology Policy... **Changes at Mediacom:** **Brian Walsh** promoted to vp-finance and asst. to chmn, **William Lees** named senior vp-controller... **Julian Volberg** advanced to gen. mgr., Comsat Argentina.

Although Taiwan theoretically chose U.S. DTV standard in 1998, situation there is "at best uncertain," Advanced TV Systems Committee Chmn. **Robert Graves** said. Taiwan govt. is allowing broadcasters to experiment with competing European DVB-T standard for DTV, and broadcasters there are interested in its claimed mobile TV capability, he told us: "The government seems to be taking a hands-off approach. But if I were DVB, I wouldn't be claiming I'm their standard either." **Graves** predicted broadcasters eventually would decide mobile TV reception was limited market because Taiwan govt. didn't even allow cellphone use in moving vehicle. Taiwan's Chinese TV System is planning to experiment with DVB-T technology supplied by Tandberg TV. **Graves**, meanwhile, said progress was being made toward making U.S. ATSC DTV standard for all of Americas, as well as elsewhere.

Black Entertainment & Telecom Assn. (BETA) expressed support for efforts by Rep. **McKinney** (D-Ga.) to obtain disaster-recovery donation from Saudi Arabian royal family. Although N.Y. Mayor **Rudolph Giuliani** (R) rejected \$10 million offer from Saudis because of that nation's criticism of U.S. involvement in the Middle East, **McKinney** recently advocated using gift to support black causes in U.S. Funds could be used to counteract "media-created (and distorted) image of blacks," **BETA** Pres. **Talib Karim** said in letter to **McKinney**: "BETA is committed to change this image. Our strategy is to support the production and distribution of both video and music programming that conveys a different, more valuable message about black people."

NBC said it had assembled team to integrate Telemundo into GE. **Brandon Burgess**, senior vp-business development for NBC, and **Alan Sokol**, COO of Telemundo, will lead team. They will report to Telemundo integration council, which includes NBC CEO **Robert Wright**, NBC Pres. **Andrew Lack** and Telemundo CEO **James McNamara**, among others. Companies said they expected "significant synergy opportunities" in infrastructure, content, sales.



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U.S. satellite industry doesn't appear concerned over possible loss of global insurance leader Munich Re. Company has threatened to stop writing space launch policies unless premiums are increased significantly and underwriting rules are changed, German company said in letter to space brokers. Satellite operators don't appear worried about impact on business because most have braced themselves for higher premiums and stricter guidelines as result of slow economy, higher losses and terrorist attacks Sept. 11, officials said. Satellite Industry Assn. Exec. Dir. **Richard Dalbello** said: "I don't have a polished reaction to it. We haven't done any industry analysis yet." Satellite consultant **Leslie Taylor** said: "The entire risk management area is being reassessed by many people." Overall, she believes situation will work itself out.

Consumer Electronics

A Section of Television Digest with Consumer Electronics

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Oct. 12 and year to date:

	OCT. 6- OCT. 12	2000 WEEK	% CHANGE	SEPT. 29- OCT. 5	41 WEEKS 2001	41 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	468,946	560,950	- 16.4	308,771	19,465,916	22,213,258	- 12.4
DIRECT-VIEW**	453,820	543,696	- 16.5	294,463	18,774,658	21,314,133	- 11.9
TV ONLY#....	379,098	435,835	- 13.0	252,225	15,388,546	17,641,102	- 12.8
TV/VCR COMBO.	74,722	107,861	- 30.7	42,238	3,386,112	3,673,031	- 7.8
PROJECTION TV	15,126	17,254	- 12.3	14,308	691,258	899,125	- 23.1
TOTAL VCR**...	229,213	533,475	- 57.0	140,969	14,637,711	20,717,610	- 29.3
HOME DECKS...	154,491	425,614	- 63.7	98,731	11,251,599	17,044,579	- 34.0
CAMCORDERS.....	79,297	79,480	- 0.2	73,712	3,885,909	4,274,169	- 9.1
DVD PLAYERS....	211,153*	128,174	+ 64.7	237,542	7,995,248*	5,404,116	+ 47.9

Direct-view TV 5-week moving average#: 2001--467,545; 2000-537,388 (down 13.1%).

Projection TV 5-week moving average: 2001-21,212; 2000-26,896 (down 21.1%).

VCR deck 5-week moving average: 2001--301,963; 2000-589,861 (down 48.8%).

TV/VCR 5-week moving average: 2001--111,356; 2000-114,170 (down 2.5%).

Camcorder 5-week moving average: 2001--108,162; 2000-132,356 (down 18.3%).

DVD player 5-week moving average: 2001--336,401; 2000-260,436 (up 28.8%).

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

Note: DTV shipments are not included in above table because CEA now releases DTV sales data only on monthly schedule (refer queries to CEA Mkt. Research Dept., 703-907-7600). Only analog TV sets are included in figures for direct-view TVs, TV/VCR combos, projection TVs. Camcorder figures include analog and digital models.

PVR'S MONTHLY SERVICE FEE SHOULD BE DROPPED — PANELISTS: Monthly service fee for personal video recorders (PVRs) should be eliminated as annual sales increase to millions of units from current 200,000-300,000, experts told video-on-demand conference in N.Y. last week.

Monthly fee would be replaced by other revenue-producing options such as targeted advertising tied to content stored on PVR's hard drive, said Richard Johnson, CEO of Thomson-Seagate joint venture CacheVision. Indeed, CacheVision has developed feature that allows ad to appear that user is fast-forwarding over PVR, he said. Recent study showed that 6% of those surveyed were willing to pay monthly charge, he said.

Also leading charge was Microsoft, whose UltimateTV PVR/DirecTV receiver combo currently carries \$9.95 monthly service fee, same amount charged by rival TiVo. Latter also offers one-time \$249 charge for service. Other PVR competitor ReplayTV doesn't charge for service. "The \$9.95 per month may be a short time opportunity for people to make money," said Microsoft TV Platforms Group Dir. Philip Gorman, who estimated that dropping of fee wouldn't occur until PVRs reached sales in "multimillion" range.

Among alternatives to monthly fee that Microsoft is developing are ads that appear when user pauses PVR during live TV broadcast. "The consumer obviously is going away and when they come back on their screen there is an advertisement and that's just a tip of the iceberg for the opportunities that advertisers have," Gorman said. "If there is an appropriate ad on the screen when the consumer walks back into the room, advertisers have an opportunity to capture that

consumer on an impulse.” Ads also could be inserted at start and end of prerecorded programs, he said. TiVo spokeswoman wasn’t available for comment.

PVR industry’s search for new revenue streams comes as market experiences slower-than-expected growth in subscribers. TiVo has slightly more than 220,000 subscribers, while UltimateTV says it has surpassed ReplayTV, which as of Dec. 31 had just 26,000. Gorman declined to disclose exact figure, but retail sales through July stood at 11,600, according NPD Intellect.

PVR market “expands quite rapidly, but not quite as fast as DVD because the costs haven’t dropped as fast and it can take a little longer for these devices to get incorporated into set-top boxes,” Paul Kagan & Assoc. Senior Vp Larry Gerbrandt said. “It can be one of the most important technologies out there, but we’ve all been a little sobered by the last couple of years and we’ve tried to reflect that in our long-term outlook.”

Holy grail, of sorts, for PVR will be \$199 price that would enable technology to gain mass market and isn’t likely before 2003, Johnson said. Indeed, wholesale cost of new 40 GB side-car module that CacheVision is expected to introduce as prototype in Nov. for digital cable market is expected to be priced in \$200-\$300 range, Johnson said. Keen Personal Media also has developed side-car module for Scientific-Atlanta and Motorola cable set-top boxes (STBs).

CacheVision also will demonstrate client/server application for its PVR platform at CES in Jan. and is supplying 40 GB drive for new Thomson PVR being introduced in Europe month later. Thomson device also has built-in feature that allows it to connect to GSM cellular network to enable user to set recording parameters on PVR.

SONY POSTS \$111 MILLION LOSS ON WEAK ELECTRONICS SECTOR: Sony posted 2nd quarter consolidated net loss of \$111 million (\$1 = ¥119) on weakness in its core electronics business and despite 5.7% overall revenue increase to \$15.02 billion.

“Conditions in the economic environment in which Sony operates became more difficult” in 2nd quarter, company said. It cited lower demand and stronger price competition in all major markets. “Moreover, after the tragic terrorist attacks in the U.S.,” company said, “the worldwide economic outlook became increasingly uncertain.”

Electronics was hardest hit of Sony’s major business sectors, with \$209 million operating loss on 4.9% lower sales to \$9.67 billion. Electronics sales fell in all geographic markets, with sales in U.S. of displays, TV sets and video cameras all down significantly. Audio equipment sales rose 4.6% to \$1.61 billion, but video sales fell 3.7% to \$1.69 billion and TV sales fell 5.9% to \$1.4 billion.

Sales in games business jumped 99.8%, and sector recorded \$34 million operating income. However, on local currency basis, operating loss in games increased from same quarter year earlier on “strategic reduction” of PlayStation 2 (PS2) pricing in Europe and corresponding inventory price adjustments. Company shipped 4.62 million PS2 consoles in quarter for cumulative total of 19.57 million through Sept. 30.

Meanwhile, Toshiba reported staggering \$1.04 billion consolidated loss for first half as sales fell 11% to \$21.1 billion. Toshiba said results reflected “a major fall in demand for components and devices, including semiconductors and LCDs for PC-related products.” But digital consumer products also were caught up in the sweep, and even sales of DVD players slowed.

Digital media sales, which include consumer electronics gear, fell 7% in half to \$5.68 billion. However, there were pocketed bright spots. For example, despite general downturn in overseas PC sales, Toshiba said PC peripherals recorded growth and there was growing demand for color TVs in overseas markets.

As have other Japanese majors, Toshiba said it was forecasting “unfavorable” market conditions worldwide in year’s 2nd half as PC-related demand remained weak and “the world situation remains uncertain in the aftermath of the terrorist attacks in the United States.” Company said it expected demand to continue to be sluggish in sectors that hurt first-half results. Moreover, it said that lack of recovery in private sector capital expenditure “will also contribute to the continuation of a tough market environment.”

Sanyo, too, said “there is increased worry” on worldwide economy in wake of Sept. 11 attacks. It said world economy “has clearly slipped into a recession” from impact of U.S. economic slowdown, drop in PC-related demand and fall in stock markets. Sanyo said Japan’s economy also “faces difficult business conditions” with growth of China’s “manu-

facturing industry,” price erosion, and “the advancement of a deflationary spiral due to Japan’s unstable financial system.”

Unlike other Japanese majors, Sanyo managed to post first-half profit of \$53.76 million, but that was down 68.4% from same period year earlier on 2.6% lower sales. Overseas sales fell 11.6%. Despite dire economic conditions, sales of mobile phones, digital cameras and optical pickup devices “remained solid” in first half, rising 11.6% from year earlier. However, electronic components, semiconductors and LCD displays fell 16.1%.

Movie Gallery (MG) said 3rd quarter net income rose to \$1.2 million from \$561,000 year ago on strength of strong DVD sales. Revenue increased to \$86.4 million from \$75.3 million on 5.6% gain in same-store sales. DVD titles accounted for 12% of overall revenue in quarter and would reach 20% by year-end, company said. Rental revenue jumped to \$74.3 million from \$64.5 million and product sales to \$12.1 million from \$10.8 million despite MG’s reducing number of new sellthrough titles it carries as result of lower margins. Sellthrough titles carried 20% gross margin in 3rd quarter, while rentals improved to 70.3% from 68.9%. As movie studios and video rental chains negotiate revenue-sharing agreements for DVD, margins “will stay similar to where they are now,” CEO Joseph Malugen said. MGM has reached DVD agreements with Blockbuster and Hollywood Entertainment, but has yet to do so with MG. Meanwhile, MG is awaiting final audits of Video Update (VU) before completing acquisition of 280-315 stores as part of proposed bankruptcy reorganization plan scheduled for hearing Oct. 31. MG has invested \$15 million in chain since paying \$10 million in May for 92% of VU’s \$121 senior secured bank debt. Investment provided VU with working capital and ability to update computer system, Malugen said. Total investment is forecast at \$30-\$32 million including \$20-\$22 million cash and \$10-\$12 million for accrued liabilities and payables, CFO Stephen Roy said. Audit of VU has been slowed by investigation started by unsecured creditors committee into alleged fraud and embezzling of funds by former management. VU co-founder Daniel Potter, COO Daniel Howard and Exec. Vp Richard Bedard resigned in June. U.S. Bankruptcy Court Judge Judith Wizmer, Camden, N.J., amended VU’s reorganization plan in Sept. to include \$125,000 trust for litigation stemming from claims against former management.

Hasbro returned to profitability in its 3rd quarter ended Sept. 30, game and toy maker said last week as it posted \$50.6 million (29¢ per share) net income. Company earned \$13.8 million (8¢) in same quarter year ago before finishing 2000 with \$23 million loss and \$58.4 million loss before charges for 4th quarter. Hasbro started major restructuring process but still reported losses in first 2 quarters this year. Hasbro Chmn. Alan Hassenfeld said company was “very pleased that we achieved our goal of cumulative profitability for 2001 by the end of the 3rd quarter and we continue to believe we are on track to be profitable this year.” He said Hasbro’s “strategy of focusing on expense reductions and growing our core brands is continuing to pay dividends.” COO Alfred Verrecchia said cost savings in quarter were “primarily attributable to” company’s current “cost reduction program and the sale of Hasbro Interactive and Games.com.” But revenue in 3rd quarter decreased to \$893.4 million from \$1.1 billion year ago. Company’s strongest selling products in quarter included *Dusty My Talking Tool Bench* and *Disney Monopoly*. Hasbro said it “had good initial response” to Harry Potter trading card games, E-Kara hand-held karaoke system, *Monsters Inc.* products.

Samsung will ship plasma display panels for consumer market starting with 42W in first quarter 2002, Mktg. Dir. James Sanduski said. PDP, price not yet set, will be followed by 50W, he said. New 42W and 50W monitors, which already are shipping for professional applications, have 852x480 and 1,366x768 resolutions, respectively. Monitors will have connections on back but will require separate TV tuner. Samsung also will weigh 63W for consumer applications, but \$30,000 price is likely to prove formidable barrier, Sanduski said. “We offer it first in the commercial market and we’re studying whether we can fit those in on the consumer side as well,” he said. At same time, Samsung has halted shipments of 50W rear-projection set based on Displaytech’s 0.78” ferroelectric LCD microdisplays. “The quality is there, but the question is consistency,” Sanduski said. “Being a semiconductor you should have very good consistency in overall performance characteristics from sample to sample, but that hasn’t been the case with the panels themselves.” Samsung also had planned to ship 43W, but shelved that product in favor of 50W. It shipped limited quantities of 50W this summer before halt in Aug. and plans to resume delivery in 2002, Sanduski said.

Previously undisclosed aspect of Superbit DVDs from Sony’s Columbia TriStar Home Video (CTHE) involves embellished soundtrack, we have learned. Although not mentioned in studio’s publicity materials or technical backgrounder packaged with discs, Superbit DVDs have pushed Dolby Digital 5.1 surround to 448 kbps data rate that’s maximum current DVD players can resolve — up from 348 kbps that’s standard for conventional DVDs and for DTV broadcast sound. Result is audibly clearer nuances in special effects and ambient sounds against foreground dialog and audio. For example, in addition to hearing automobile traffic in background “surround” channels, extra audio bits enable viewer to discern direction of cars. Meanwhile, DTS soundtrack on Superbit DVDs remains at “standard” 750 kbps, Sony spokesman told us. DTS surround format is capable of “full” 1.5 Mbps data rate, but that seldom is implemented even theatrically and can’t be handled by processors in current and legacy DVD players. Spokesman said Sony/CTHE had “prioritized” Superbit DVDs for better video, doubling video transfer rate to 6-8 Mbps from conventional DVD’s 3-4 Mbps by shedding value-added features. In doing so, companies still were able to boost Dolby Digital spec but left DTS soundtrack unchanged in belief that its quality already was highest attainable with current DVD players.

Broadband video-on-demand using MPEG-4 DivX Open Video compression will be unveiled to news media 10 a.m.-noon Oct. 30 at Westin Bonaventure Hotel in L.A., developer DivXNetworks said — www.divxnetworks.com.

THIS WEEK’S YEN RATE

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

MICROSOFT SHOWS NEW OPENNESS AT XP DEBUT:

Microsoft displayed unaccustomed candor with news media at last week's news conference in London to introduce Windows XP operating system. Event at Royal Festival Hall was far cry from Microsoft's previous Windows policy of beginning with loud party but taking no questions. Instead, as in prelaunch briefings, executives were generally responsive. Despite that, new operating system already has shown clay feet — such as incompatibility with Disney's recently released *Snow White and the Seven Dwarfs* DVD.

In Q&A session, Microsoft CEO Steve Ballmer conceded company was concerned that PC owners would stick with existing versions of Windows — especially because product activation technology used for XP was restricted to single PC. “Our competition is from our own installed base,” he said.

Top executives of Microsoft's 13 partners turned out to voice support for XP. Most talked about XP's extra functions and ease of use. Only Mark Whitby, Intel managing dir.-U.K./Ireland, mentioned operating system's stability, saying, “XP is optimized for the Pentium 4 and gives a more stable PC.”

Virgin Megastores CEO Richard Branson sent videotaped message of support. Ballmer told reporters that Microsoft had been working with Virgin to put XP systems into retailer's U.S. stores to let customers preview 200,000 music CDs and 10,000 movies.

Ballmer was frank about shortcomings of previous versions of Windows, admitting that Windows 2000 crashed and didn't have software drivers to support some peripherals, DOS programs, games. “XP is more reliable and more compatible,” he said. “My 2 sons did not like 2000. It did not pass the Ballmer boys test,” he said. “They have been running XP and it's never not run a game or program and it hasn't crashed. XP has passed the Balmer boys test.”

Asked whether companies already upgrading to Windows 2000 should abandon it and go for XP instead, Ballmer said: “If they are already in the middle of a 2000 rollout, they should stay with it. But XP is better. New rollouts should be XP.”

XP is less likely to spread viruses because it doesn't automatically run executable files that arrive by e-mail, Ballmer said. “XP is based on NT code, which is more secure than the DOS/Windows 95 code base. We learned from Code Red and Nimda” viruses, he said. “We need to take more responsibility for patches. We have always made them available but we should do more to make people aware of them. And companies should be able to update from behind firewalls.”

Ballmer predicted that based on “preorders out of the chute” XP would be twice as successful as Windows 95. He revealed that Microsoft already was responding to criticism of XP activation policy, which restricts each XP disc to installing on only one PC. “In the U.S. we are introducing a family pack that runs on several PCs, for a discount. We are looking at this in Europe,” he said.

Ballmer did duck question about purported hacking software from Asia that's reported to be able to generate XP activa-

tion codes. “I don't understand you. You didn't parse the question well,” he told reporter who asked question. Obviously riled by subject, Ballmer then moved immediately to next question. Also, despite Intel's assertion that XP was optimized for its Pentium 4 processor, Ballmer wouldn't be specific on what PCs could run XP. “If you have bought within the last 2 years it should be good for XP,” he said.

Even retail packaging for XP obscures minimum requirements for upgrade. Relevant information is found only on bottom panel of box. For main processor, it lists popular powerplants such as Intel's Pentium and Celeron, AMD's Athlon and Duron — with proviso that 233 MHz processor is “minimum” and 300 MHz or faster “recommended.” RAM requirement to upgrade PC is 128 MB minimum, and 1.5 GB free space on hard disc is needed to install XP.

Despite claims and hoopla for XP, system seems to have kinks. After London news conference, our correspondent tried to load XP on Pentium 3 PC running Microsoft's Windows Millennium Edition (ME) — without success. During installation process, XP threw up long list of hardware and software that were likely to cause problems with XP, even though all items were working fine with ME. XP installation then crashed with warning “Installation has shut down to prevent damage to your PC.” After 3 failed attempts to install XP, our correspondent ditched new system and went back to ME. Pentium 3 PC used for installation exceeded all minimum requirements Microsoft cited for XP upgrade.

Windows XP got another black eye when Microsoft and Disney admitted that hot-selling DVD *Snow White and the Seven Dwarfs* wouldn't play in PCs using new XP operating system.

Word of incompatibility came from InterActual Technologies, which provides software support for DVD interactive features accessible through PCs. InterActual said users of Microsoft's XP and older Windows 2000 “may experience playability failures” with *Snow White* DVD, and that Disney and Microsoft were developing downloadable patch to fix problem with \$29.99 disc. Windows 98 PCs aren't affected, companies said. InterActual advised that until patch was available, affected PC owners should be able to play disc through DVD decoder software such as ATI's DVD Player or Ravisent's Software Cinemaster that's included by manufacturers of DVD drive that came with PC.

Panasonic cut price of DLP-based rear-projection TV to \$10,999 from \$13,999 in effort to blunt impact of falling retail prices in competitive technologies such as plasma display panels (PDPs), National Mktg. Mgr. Jonas Tanebaum said. Panasonic brand 52W, which shipped year ago, will be continued into 2002 and there are no immediate plans to replace it, he said. Hitachi, Mitsubishi and Panasonic were first companies to introduce rear-projection TVs based on Texas Instruments' (TI) DLP technology, but prices have hovered around \$12,000-\$15,000 as PDPs dropped below \$10,000. Indeed, Panasonic cut price on 42W PDP to \$7,000-\$8,000, Tanebaum said. Price move came as several vendors readied plans for DLP-based sets at \$3,000-\$5,000 based on TI 2nd generation chip. “I'm not sure that the reduced price is the result of the chipset,” Tanebaum said. “If I reduced the price of the chipset to zero, I would still have to price the set at \$5,000 at this point.”

RADIOSHACK REPORTS LOSS: RadioShack (RS), taking \$13.5 million charge to cover cutting of 298 jobs, said 3rd quarter net income plunged to \$43.8 million from \$77.1 million as sales dipped 5% to \$1 billion on 4% decline in same-store sales.

RS trimmed 197 jobs at corporate level in Aug., including eliminating 10 vice president posts. Downturn in revenue was largely result of 47% dive in PC sales, COO David Edmondson said. Minus PCs, RS sales inched up 1% from year ago, he said. Attach rates — sale of PC with peripheral or accessories — “weren’t very successful,” he said. Wireless handset sales jumped 18% and wireless accessories 25%. Residuals, largely from wireless, were up 40% and parts, batteries and accessories sales 3%. On downside, service revenue, which included sales of prepaid cellular, declined 13% and DirecTV 20%, due largely to “shortfall” among RS franchise dealers, Edmondson said.

In releasing earnings, RS said it would revamp stores starting in first quarter 2002, relocating some product categories and “deemphasizing” others, Edmondson said. Goal is to tailor merchandise mix of store to its market, CEO Leonard Roberts said. RS declined comment on which products would be eliminated, but in past had indicated it would sharpen focus on small-screen TVs in dropping 30"-and-above category. In making merchandise changes, RS reduced inventory in 3rd quarter to \$1.10 billion from \$1.16 billion in previous quarter. Inventory now is in 2-5-month range, down from previous 6 months, company said.

As part of new strategy, RS also will rely on wireless and parts, battery and accessories to drive business. Categories are forecast to produce revenue gains of 7-10% annually for next 5 years, Roberts said. Residuals — from both cellular service and DirecTV — are expected to increase at 10% rate, exclusive of broadband services. RS has had mixed results with broadband, having partnered with Northpoint and Excite@Home for DSL and cable modem services, respectively. Northpoint has sold assets to AT&T and Excite@Home is operating under bankruptcy protection. RS residuals are forecast to hit \$231 million in year ending Dec. 31. Sales of noncore categories, presumably including PCs, are projected to increase at 2-3% annual rate, Roberts said.

RS also will make decision in Jan. on whether to expand joint venture with Blockbuster that has placed about 120 RS stores in video chain’s outlets in 4 markets, Roberts said. Decision will be based on getting 20% return on capital and conclusion that “it is long-term viable venue for RS services,” he said. RS has earmarked \$130 million for capital spending in 2002, figure that would increase to \$140-\$150 million if store-within-a-store format is expanded to 3,000 outlets, company said. RS spent \$10 million installing format in test markets.

Apple Computer took wraps off digital audio player, joining already crowded market with device with 5 GB hard drive with space for 1,000 songs. iPod (\$399) connects to Macintosh PCs using FireWire port, has 10-hour lithium polymer battery, 20-min. antiskip protection, works with Mac OS 9 and Mac OS X operating systems. Device also automatically links to Apple’s iTunes software that allows downloading of digital audio files and burning CDs. Unit has LED backlight and LCD with 160x128 resolution that displays artist and album names and song titles. Using FireWire port, iPod can download CD in under 10 sec., 1,000 songs in less than 10 min.

PACE SET-TOP BOX FOR GAMES: Pace Micro Technology has postponed delivery of digital set-top box (STB) with on-demand games feature to 2003 as it works to develop device compatible with multiple platforms, Mktg. Dir. David Novak said. “For it to be successful and widely deployed, it has to have a broad selection” of videogame platforms, he said.

While Pace unveiled plans with Sega in Feb. to jointly develop digital STB capable of on-demand delivery of Dreamcast games on pay-per-transaction basis, strategy since has broadened to include Sony PlayStation 2, Nintendo’s GameCube and Microsoft’s Xbox, Novak said. Although specs for multigame platform STB haven’t been set, they probably would include 3D graphics chip, he said. ATI Technologies and Nvidia are graphics chip suppliers for Nintendo and Microsoft, respectively. STB with Dreamcast games had been scheduled for delivery by mid-2002.

But Charles Bellfield, Sega’s head of strategic planning and corporate affairs, told us: “We haven’t announced any specific dates as to when consumers will see Sega content for Pace set-top boxes. Those announcements will be driven by the individual hardware companies.”

As originally configured, digital STB had 40 GB hard drive and also served as “jukebox” of sorts that allowed games to be transmitted wirelessly to and played on hand-held devices. It also was to have access to breadth of Sega’s Dreamcast games. Pace’s current generation of digital STBs is capable of handling games on level of Sega Genesis that can be stored in flash memory, Novak said.

While Pace has yet to sign deal with cable or satellite service for on-demand games, it currently is STB supplier to Time Warner Cable and Comcast. Latter has delayed until next year deployment of Pace’s standalone digital STB and model with personal video recorder (PVR). Comcast had planned to ship PVR-based STB in 3rd quarter.

“This [on-demand games] is a huge marketplace because if you look at the statistics, 50% of U.S. households will have a game console by 2003-2005, but that also means that 50% will not,” Novak said. “There’s a tremendous market for the casual gamer that doesn’t want to spend \$300 for a game console.”

Despite weakening sales overall in computer industry, Swiss peripheral maker Logitech last week reported income increased to \$13.9 million (28¢ per share) in 2nd quarter ended Sept. 30 from \$9.4 million (20¢) year ago. Sales improved 20% to \$227.8 million from \$190.6 million. Pres.-CEO Guerrino De Luca said results were “driven by consistently positive consumer response to” Logitech products and “we see sustained demand for our product lines and we remain optimistic in our outlook.” But De Luca said he realized “months ahead present significant challenges for our industry, as we assess consumer behavior in light of the current economic and political situation.” Top sellers in quarter for company included PC video camera category, whose shipments jumped 50% in year. Separately, Logitech joined Microsoft at launch event in N.Y.C. last week in show of support for latter’s new Windows XP operating system (OS). Logitech said new OS was compatible with its QuickCam Web cameras.

'Q' DVD PLAYER TO SHIP: Matsushita will start selling "Q" DVD player — SL-GC10 — that can play games for Nintendo's GameCube system Dec. 14 in Japan at ¥39,800 (\$329).

In addition to GameCube and DVD-Video discs, Q will be compatible with audio CD, CD-RW, DVD-R, Video CD formats. CE manufacturer said that while player also was compatible with DVD-R discs recorded with its Panasonic DMR-E20 DVD-Video recorder, "other DVD-R discs may not be able to play back depending on the DVD-R disc used and the recording conditions."

Matsushita said it intended to produce 15,000 units of new DVD player monthly.

Player, which was spotlighted at Nintendo's exhibit booth at Electronic Entertainment Expo (E3) in May, features LCD display on front panel. Matsushita said it had "various sound and visual effect functions for enhanced enjoyment of movies and games software."

But U.S. Matsushita spokesman told us: "There are no plans — currently anyway — for [a] U.S. launch. This is a Japan market product only."

Matsushita supplies disc drives and discs for GameCube console. Companies first announced they were collaborating on GameCube console in May 1999, when console was code-named Dolphin (TVD May 17/99 p14). Later, at Spaceworld show in Tokyo in Aug. 2000, companies revealed GameCube would incorporate drive that played 8 cm proprietary 1.5 optical disc from Matsushita (TVD Aug 28/00 p10).

GameCube and Q represent reentry into videogame arena for Matsushita, which was one of original hardware licensees for 3DO's ill-fated Multiplayer. Matsushita spent \$100 million in 1995 to buy 3DO's M2 gaming technology before eventually deciding against bringing it to market.

Unlike competing PlayStation 2 and Xbox videogame consoles, Nintendo's GameCube — shipping in N. America Nov. 18 — can't play DVD-Video movies. Therefore, Matsushita's Q automatically offers clear area of differentiation from GameCube console.

U.K. retailers can start taking preorders for Xbox on Nov. 15, same day game system starts rolling out in N. America and there will be no restrictions on quantities, British news report said. Microsoft spokesman didn't comment by our deadline. Report quoted Richard Teversham, Microsoft's U.K. head of Xbox marketing, as saying: "We want retailers to build demand. It's simple. The more preorders they take, the more Xbox stock will be allocated to the U.K. for the Day One ship-out on March 14." Comment also was unavailable from Microsoft on how word that Xbox manufacturing partner Flextronics would be reducing its global work force 15% might be affecting production of videogame console. Singapore-based contract manufacturer Flextronics said it would be "reducing head count by 10,000." It also said it would be "eliminating 4 million square feet of manufacturing space" as it tried "to reduce excess capacity in response to the current economic downturn." News came as Flextronics reported loss of \$329.8 million (-69¢ per share) for 2nd quarter ended Sept. 30 vs. \$49.9 million (10¢) profit year ago. Revenue inched up 5% to record \$3.24 billion from \$3.08 billion year ago.

NINTENDO DENIES DELAY: Nintendo of Europe (NOE) spokeswoman insisted Fri. that GameCube rollout still was on track for next spring despite British news reports there could be delay until as late as Sept. If GameCube were indeed delayed in Europe until Sept. and competing Xbox began shipping there as scheduled March 14, Microsoft could end up with 6-month head start there.

Gerard Klauer Mattison Senior Vp/Analyst Edward Williams told us Fri. he had heard nothing about any delay for GameCube, which still is scheduled to make debut in N. America Nov. 18. Williams said whether delay would have major impact on Nintendo would depend, at least in part, on reason given by company. For example, if Nintendo decided to delay start because it didn't think it would have enough devices in spring it might be better off, in big picture, to delay GameCube, he said. But for NOE itself, he said, delay certainly would have some impact and company would be better off introducing game system there "sooner rather than later."

Nintendo also could decide whether to make more GameCubes available for N. America and Japan markets as opposed to sticking with spring European debut. NOE hadn't announced launch date for Europe by our deadline. Spokeswoman told us company would "not be in a position to announce a date until after we have seen" how rollouts have gone in Japan and N. America.

Console started shipping in Japan Sept. 14. Nintendo said large number of 500,000 consoles scheduled for Japan were selling there, but retailers there said game system wasn't selling quite as well as at least some had been expecting at outset. Some industry observers blamed slower-than-expected sales on Sept. 11 terrorist attacks. Nintendo planned to make additional 900,000 GameCubes available in Japan by year-end.

Nintendo of America still is planning to ship 700,000 GameCube consoles for Nov. 18 rollout, with 1.1 million more by year-end. All retailers we spoke with in recent weeks told us they expected that supply for GameCube — as with Microsoft's Xbox — wouldn't meet demand this year.

Electronic Arts said last week it would cut 200-250 positions at its EA.com online division — 1/3 of staff. Impact of reductions on content at EA.com Web site was unclear. EA Pres. John Riccitiello said cuts were made "in order to achieve our goal of reaching profitability in FY '03 as committed earlier this year." News came as Redwood City, Cal., game maker was holding media preview of new games at Studio 54 in N.Y. Standout titles included *Need for Speed: Hot Pursuit 2* for PS2. Others included *Cel Damage*, debut title for Xbox next month that will ship in mid-Dec. for GameCube.

European technology associations are to open Web site showcasing digital tools available for compensating copyright owners for private copying without penalizing consumers. European Information, Communications & Consumer Electronics Technology Industry Assn. (EICTA) and Belgian Multisector Federation for Technology Industry will roll out site, www.eicta.org/levies, Nov. 6 in Brussels, they said. Site will show why existing levy system and its extension to digital equipment is "outdated and unfair to rights holders, consumers and the European ICT industry," they said.

CE COPYRIGHT STANDARD FAULTED: Even as Senate Commerce Committee Chmn. Hollings (D-S.C.) has indefinitely postponed his hearing on notion of federal govt.'s mandating that all CE devices carry digital copyright protection, hardware manufacturers argued last week that no federal intervention was necessary. Govt. standards would "degrade product performance and freeze technology in place," Computer Systems Policy Project Exec. Dir. Ken Kay said at news briefing in Washington opposing Hollings's proposed legislation. Information Technology Industry Council (ITI) Pres. Rhett Dawson called industry-authored DVD copyright protection system "my poster child," saying that DVD was fastest-selling CE device in history while still providing content providers with copyright protection.

Hollings had hoped to hold hearing last week on his plan to ensure that every interactive digital device — from PCs to set-top boxes to DVD players to wireless phones — contained copyright standard. If standard weren't drafted by industry consensus within 18 months, one would be imposed by federal govt. However, controversy over who would testify on behalf of manufacturers, as well as general confusion on Capitol Hill related to terrorist attacks, caused Hollings to postpone hearing indefinitely. That means introduction of bill also has been delayed indefinitely, as he has decided he doesn't want to introduce bill until he can have "dialog" with affected industries through hearing.

CE manufacturers and other industries that would be affected by Hollings's proposed measure thus have been left in awkward position of criticizing bill that's circulating only in dated draft form, but that didn't stop opponents. Several executives pointed out Hollings bill was backed by only "a minority of movie studios" — namely Disney — while Warner Bros. and other studios continue to maintain approach that MPAA has for years — namely, that standards always should be developed by industry, not govt. IBM Research Program Dir.-Copy Protection Don Lake said several industry groups already were developing copyright standards, including MPEG Intellectual Property Management Process Group for Internet video and Copyright Protection Technical Working Group for general video issues.

Lake acknowledged that Secure Digital Music Initiative (SDMI) group had made little progress in past years on protection of digital music: "All of us were left a little unsatisfied by that process." But Compaq Assoc. Gen. Counsel Jeffrey Campbell said SDMI "tried to solve every problem at once." He and others said one strength of industry standards was that multiple standards allowed content providers and hardware manufacturers to pick and choose which were useful.

Hollings's aim of single copyright standard for all digital hardware was dismissed by executives. "It's a myth to say there's a magic bullet," said Jeffrey Lawrence, chmn. of Intel's Copyright Practice Group: "I don't see one end-to-end standard." Kay said "we have to tell him [Hollings] that in this area the best approach is to allow the marketplace to reach consensus before the government acts. Hollings is turning this approach on its head."

No executive was willing to put dollar amount on what govt.-imposed standard would cost CE manufacturers. However, Dawson wondered why CE manufacturers should be expected to pay for protection. "It's their content," Dawson said

of movie studios backing govt. standard: "They're trying to impose their costs on us."

"There's a fair amount of skepticism among members of the [Senate Commerce] committee," Business Software Alliance Pres. Robert Holleyman said of Hollings' proposal. Still, one executive said letter Hollings sent out soliciting witnesses for hearing suggested he already had made up his mind to impose standards, and several executives were skeptical of Hollings's recent position that he was seeking dialog with industry to craft consensus legislation. As for controversy over who in CE industry would testify at hearing, Holleyman told us that among association leaders — who were criticized by Hollings in recent letter for refusing to testify — "all of us are ready to testify." As for which industry leaders might come to Washington to testify, Holleyman said that would depend on when hearing was scheduled. "It's one thing to engage in a dialog, it's another thing to fly to Washington and testify," one executive said.

"Protection of intellectual property is key," Holleyman said, noting his software members lose about \$12 billion annually to piracy. Emphasis of industry executives, however, was that copyright protection be achieved by industry consensus, not govt. mandates. That would be "a snapshot approach," Kay said: "It's a solution locked into place, outdated before it's even announced."

SONY, GEMSTAR-TV GUIDE IN DEAL: Sony, fresh from signing long-term licensing pact with TiVo, also reached agreement for personal video recorders (PVRs) with Gemstar-TV Guide International, which is suing TiVo for patent infringement. TiVo countersued Gemstar seeking damages for antitrust violations.

Agreement, which applies only to Japan market, calls for G-Guide Gold interactive program guide (IPG) to be included in Sony's current Clip-On PVR as well as future models containing TiVo platform. G-Guide is marketed as Guide Plus Gold in U.S. In Japan, Gemstar's IPG will replace TiVo's in Sony PVRs, Gemstar said. Advertising and other services on G-Guide will be marketed via joint venture between Gemstar and Japanese ad company Dentsu.

Inclusion of IPG in Sony PVR represents major coup for Gemstar. Company has forecast IPG install base of 20 million units by year-end, majority of which will be cable set-top boxes. Thomson, which is Gemstar investor, has championed IPG and included it in high-end RCA TVs since 1998. Zenith added technology to 6 digital TVs this year.

Gemstar subsidiary StarSight Telecast sued TiVo in Jan. 2000 charging that its PVR platform infringed on patent covering "TV Schedule System and Process." Suit is pending in U.S. Dist. Court, San Francisco. Gemstar, Sony and TiVo officials weren't available for comment. At time suit was filed, however, Gemstar Gen. Counsel Stephen Weiswasser said legal action had "implications" for Philips and Sony, both of which market TiVo PVRs in U.S.

Meanwhile, New Enterprise Assoc. filed at SEC to sell 200,000 shares of TiVo stock valued at \$750,000. New Enterprise owned 2.5 million shares (5.9% of outstanding common) as of Jan. 31.

DVD TO REACH 50% OF REVENUE: As Blockbuster continues to increase prominence of DVD in its stores, CEO John Antioco told analysts in conference call last week that format could represent half of its domestic rental revenue by 2003.

Antioco said DVD currently made up 20% of Blockbuster's domestic rental revenue and should widen to 30% by year-end: "As a matter of fact, on some new titles as much as 40% of our rentals are DVD, so it's probably not a stretch to assume that by 2002, 40% of our domestic rentals will come from DVD and we can be trending at 50% DVD, 50% VHS going into 2003. Clearly, DVD has gone mainstream."

Meanwhile, Blockbuster's major "remerchandising" process is near completion, Antioco said, as company continues to make room for expanded DVD selection while cutting down on its VHS library 25%. "By Thanksgiving, it will be obvious [in] all of our stores worldwide to all of customers that Blockbuster is the place to rent DVD," he said. "By next year we should have doubled our DVD presence." Blockbuster stores have average of 2,000 DVDs per location, he said.

With remerchandising strategy, Blockbuster also is dedicating more space in its stores to new videogame platforms and other new business initiatives. Among those added recently was select CE hardware, such as JVC entry-level DVD player at \$150 that, bundled with 13 free rentals, functioned as summer promotion to boost DVD business. Blockbuster still is pleased with DirecTV sales, Antioco said. It continues to test RadioShack (RS) store-within-a-store concept at about 120 locations through year-end. Blockbuster will decide next step for RS relationship early next year, he said. Antioco also said company was weighing possibility of once again experimenting with store-within-a-store format for games. It's "something we continue to look at," he said.

On revenue-sharing front, Antioco said Blockbuster had signed DVD deal with MGM "quite some time" ago and last week signed up "another major studio" that he declined to identify. "We have several more [studios] that we're doing revenue-sharing on DVD outside the U.S." For example, Blockbuster Australia recently signed DVD revenue-sharing agreement with Warner Home Video. But it was unclear which other companies Blockbuster has such deals with outside U.S.

Comments came as Blockbuster reported loss widened to \$224.9 million (-\$1.28 per share) in 3rd quarter ended Sept. 30 including previously announced, mostly noncash charges related to elimination of less productive VHS titles and change in amortization. Blockbuster reported \$19.3 million loss (-11¢) in same quarter year ago. But chain said that, not including charges, earnings rose to \$43.4 million (24¢) in quarter from \$22.6 million (13¢) year earlier. Result was larger than analysts' estimates of 17-20¢ per share.

CFO Larry Zine said Blockbuster in quarter reduced estimated residual value of VHS rental inventories to \$2 per unit from \$4 and residual value of game rental inventories to \$5 per unit from \$10. Although delayed rollouts of GameCube and Xbox consoles hurt results in quarter, Blockbuster said it expected to see large growth in games sector in holiday season and even more growth next year as PlayStation 2, GameCube and Xbox penetration strengthened. But Antioco said biggest surge in games sales should come in 2003.

Antioco said company would have opened 200-250 new stores by end of year but said it had yet to finalize development

plans for next year and declined to estimate how many new stores it might open in 2002.

Impact of Sept. 11 attacks on Blockbuster business was minimal in quarter, Antioco said. He said that while rental revenue declined in "first couple of days," there was surge in next couple of weeks as consumers apparently started looking for diversion from grim 24-hour news coverage on TV. "We've seen sales return to more normal levels now," he said, so there was "essentially a neutral impact on Blockbuster." Antioco said he was confident in potential for growth, saying that with current market woes "we believe that Blockbuster is better positioned than most companies to grow next year."

SONY CLIÉ HANDHELD PC REMOTE: Sony is shipping version of Clié handheld PC that doubles as 4-function remote control for more than 20 brands of A/V receivers, DVD players, TVs, VCRs. PEG-T415 (\$299) has extended reach of Clié's infrared port — to 15' and added software with product codes. Number of product codes available and how much of Clié's 8 MB memory they consume weren't available.

Device has 4.1 version of Palm operating system (OS), 4 MB flash memory, USB port, Memory Stick slot, mono LCD with 320x320 resolution. It also has Jog Dial navigation button and 7 optional accessories including Memory Stick camera module (\$149) that captures images at 320x240 resolution. Sony also introduced new version of digital audio player attachment (\$130) that ships in late Nov.

Sony's push to expand functionality of Clié handheld PCs comes as competitors Handspring and Palm seek to add wireless functions. Handspring last week introduced Treo products (\$399, \$599) that serve as organizer, cellphone, Web browser. Product also is part of Sony's strategy to integrate home entertainment features in Clié. Combination led some analysts to question whether new Clié could be destined for niche product status since uses for handheld PC and remote control previously have been separate and distinct. At same time, new Clié helps Sony preserve higher price points for handheld PCs, which have been subject of year-long price war.

Autosound industry was represented at Windows XP preview in N.Y. last week when Aiwa America announced first car stereo CD/receiver to use Microsoft's Windows Media Audio (WMA) for playback CDs with compressed music files. Company last year was first to introduce car decks with MP3 playback, which also is incorporated in new CDC-MA01 that ships next month at \$349.95. Using WMA or MP3 compression, consumers can transfer several hours of music from PCs to blank CDs for mobile playback. Despite greater compression ratio that makes WMA files just 1/3 size of MP3 files, Microsoft has said audio quality is same. Other features of top-shelf CDC-MA01 include 4-channel amp at 50 w per channel, motorized front panel that flips down and away to expose CD slot — and retracts to disguise player with plain black panel when car's ignition is turned off. It also has front panel input jack for other music sources, such as cassette player or flash-memory portable. Soundfield-shaping processor adjusts stereo imaging for driver's position at touch of single button. Aiwa package also includes steering-wheel-mounted wireless remote control for in-dash player.

UNIVERSAL SIGNS AGREEMENTS: Universal Electronics signed licensing and supply agreements with Recoton and DirecTV, gaining 2 new customers amid slowdown in its cable business. Recoton has licensed Universal's infrared code database, which will be included in new line of Jensen branded remote controls that will ship in 2nd quarter, Recoton Pres. Robert Borchardt said. Universal will receive royalty based on sales of remotes.

Under 2-year agreement, Universal will deliver chip with database codes to Recoton, which will build it into remote manufactured at its factories in China, Borchardt said. Pricing and features for new remotes haven't been set although he conceded new agreement might require that retail prices be increased. Recoton had maintained own database at former International Jensen facility in Chicago area that was closed in restructuring. Recoton purchased International Jensen in 1996. "We had kept our own library, but the cost of maintaining it couldn't overcome the advantage of having people who specialize in that area do it," Borchardt said.

With addition of Recoton, Universal said it now was supplier to 5 of top 6 retail brands in U.S. Lone exception is Sony, which maintains own database, and earlier last week introduced new version of Clie handheld PC with software that allows it to handle up to 4 different CE products. Universal has had discussions with Sony and has some "interesting intellectual property" in area of 2-way interaction between remote control and PC, Universal CEO Paul Arling said.

Agreement with DirecTV calls for Universal to supply satellite service with remote controls for replacement and promotional purposes, Arling said. DirecTV customers will be able to control other A/V products using remote that comes with satellite service, he said. At same time, Universal is readying beta version of new "highly mobile" remote control software for release in Nov. that will target handheld PCs, company said. Final version is due in Jan. Mobile software will "work across platforms" and be compatible with Palm and Microsoft Pocket PC and Windows CE operating systems, it said. Software "will leverage our core technology through the graphical user interface [GUI] to expose it to our OEM customers," Arling said.

As it announced new licensing deals, Universal reported 3rd quarter net income narrowed to \$2.7 million from \$3.6 million year ago as revenue declined to \$31 million from \$34.9 million. Downturn in revenue resulted from decline in orders from cable operators and set-top box manufacturers, Arling said. Vendor of in-room interactive services to hotel industry also reduced orders for Universal's remotes amid downturn in U.S. economy following Sept. 11 attacks, he said.

Universal's gross profit declined in quarter to \$12.7 million from \$14.7 million year ago, although gross margin remained flat at 40.8%, CFO Mark Belzowski said. Inventories dipped to \$17.7 million from \$18.8 million, although days outstanding increased to 92 days from 85 days in 2nd quarter along with "slower collections" from retailers and OEM customers, he said.

Universal said it won 4 additional patents related to remote controls in quarter, including one covering wireless technology. "We're making it increasingly difficult to market a competitive remote without having to license technology from Universal," Arling said.

Earthlink will formally float \$5 million tender offer this week for Cidco, which has struggled as market for Internet appliances has dried up. All-cash offer of 36¢ per share is contingent on tendering of 51% of Cidco common by Feb. 28. ISP Earthlink will acquire 119,000 subscribers who paid \$9.95 monthly to access e-mail using Cidco's MailStation and Mivo (\$99) products. Number of Cidco subscribers was "far short" of 200,000 needed for positive cash flow, Cidco said in SEC filing. As result, it posted \$7.5 million 3rd quarter loss on flat revenue at \$5.6 million. Earnings downturn was result of \$3 million write-down of inventory. Cidco had been reviewing "strategic alternatives" including sale of company since March, and Sept. 11 attacks put further crimp in business plan. Retailers reduced co-op funding with Cidco on ad circulars and as result Cidco participated in less than 30% of ad circulars that were planned and budgeted for 3rd quarter, it said. Reduced ads lowered gross subscriber acquisitions in 3rd quarter by 60%, it said. Cidco, which got its start marketing telephone answering machines, sells MailStation and Mivo through 7,500 retail stores. Meanwhile, Earthlink reported 3rd quarter loss deepened to \$77 million from \$72 million year ago as revenue rose 28% to \$319 million. Earthlink, which increased price for analog dial-up Internet service to \$21.95 from \$19.95, reported that number of analog subscribers declined 4% to 4.2 million while digital subscriber line (DSL) customers increased 17% from 2nd quarter to 406,000.

Zight reached agreement with Baranti to work on design of its microdisplays targeting "wearable" PCs and home entertainment products. Baranti previously had worked on Zight's reference design for near-eye applications such as head-mounted displays (HMD) using 0.47" microdisplay with 800x600 resolution. At same time, volume production of 0.25" microdisplay with 320x240 resolution is set for Nov., said Mktg. Dir. Rainer Kuhn, who declined to identify manufacturer. Zight began sample production of 0.25" at Hana MicroDisplay in first quarter and was expected to offer volume manufacturing in following quarter. Meanwhile, Zight is "still moving forward" with Polaroid, despite latter's recently having filed for bankruptcy protection, Kuhn said. Polaroid has shown digital camera with 0.47" microdisplay as viewfinder. I/O Display also is expected to ship i-Glasses HMD with 0.47" in Nov.

Sony Computer Entertainment plans to make version of its PlayStation 2 (PS2) videogame console that's compatible with Linux operating system available in N. America, Chief Technology Officer-Senior Vp Shin'ichi Okamoto told Rambus Developer Forum in San Jose, Cal., last week. But he declined to provide availability date. Sony Computer Entertainment America spokeswoman told us pricing also was unavailable. She also told us company had yet to decide how Linux-compatible PS2 would be distributed. Unit was introduced in Japan in June but it can't be used with N. American PS2. Last week's Developer Forum had been scheduled for late last month but was postponed after Sept. 11 attacks.

DVD maker Apex Digital said it reached licensing agreement with Microsoft to incorporate playback for latter's High Definition Compatible Digital (HDCD) CDs and Windows Media Audio on 4 million Apex DVD players next year. Last year, Microsoft bought HDCD developer Pacific Microsonics to get foothold in high-end audio processing and playback. Apex plans news conference at CES, Jan. 8 at 10:15 a.m., to announce new programs and products, including 43" and 50" rear-projection TVs. Company spokesman told us it had just received first 20" (\$250), 24" (\$350) and 27" (\$430) direct-view sets.

Consumer Electronics Personals

James Palumbo, Sony Electronics senior vp-external affairs, joins Aiwa America Nov. 1 as pres.-CEO, succeeding **Hideki Tafuku**, who returns to Aiwa hq in Tokyo... **Matthew Gill**, ex-Viewsonic, named Philips Consumer Electronics vp and chmn. of Professional Products Div. in N. America, which includes PC monitors, drives, PC audio, projectors. He replaces **Simon Barmbach**, who will return to Netherlands at year-end... Newly elected to CEA executive board: **Uniden Pres. Al Silverberg** to serve as at-large member; **Mitsubishi Vp-Mktg. Bob Perry**; **Terk Technologies Pres. Neil Terk** and **Yamaha Vp-Sales Steve Caldero** become chmn. of CEA Video, Accessories and Audio Divs., respectively; **Audiovox Chmn.-CEO John Shalam** elected chmn., **Wireless Communications Div.**, having been in that post on interim basis since earlier this year... **Shelly Keel** appointed Sony Digital Authoring Services as mgr.-mkt. development, based in Grand Rapids... **Napster CEO Konrad Hilbers** to give opening keynote at Webnoize 2001 conference Oct. 29 (today), Century Plaza Hotel, L.A... **Boris Muchnik**, ex-StorageTek, named vp-mfg., **ColorLink**... **Terri Dial**, recently retired Wells Fargo chmn., elected to Wink Communications board.

Online scam using DVD players is price of success for Apex Digital, whose U.S. market share in players is 2nd only to Sony's. Apex spokesman told us changing variety of Web sites informed unsuspecting consumers that they had been selected to get free Apex DVD player as part of promotion in exchange for returning promotional questionnaire. E-mail asks recipient to qualify by remitting \$19.70 for UPS shipping charges. Shipping fee is to be remitted electronically using online debit system such as CCNow or PayPal. Apex has posted warning about fraud on its Web site (www.apexdigitalinc.com) and asked victims to cancel any payments to perpetrators and send supporting documents to company for further investigation. Spokesman told us Apex had contacted UPS, remittance companies and FBI about fraud. But remittance companies told Apex it took 30 days to investigate claims and probes were back-burnered at FBI owing to terrorist activity.

Second U.S. Appeals Court, N.Y., denied appeal of former JVC distributor who had sought to reverse lower court ruling dismissing contract suit, JVC said. Caribbean Wholesale & Service Corp. sued JVC in 1993 under Puerto Rico Dealer Act and sought \$20 million in damages. Caribbean alleged that JVC had violated Puerto Rican law by selling audio products directly to former customer of distributor. U.S. Dist. Judge Peter Leisure, N.Y., granted JVC's motion for summary judgment and dismissed suit year ago, setting stage for appeal. JVC Gen. Counsel Harvey Mitnick said company was "pleased" by appeals court decision and "anticipates that after more than 8 years, this case will finally be over." Caribbean officials weren't available for comment.

"Xbox Unleashed" 48-hour continuous play marathon is planned by Microsoft in L.A. and N.Y. Nov. 2-3. At event, gamers will be able to compete against one another in head-to-head Xbox videogame competition. Event also will enable consumers to get their hands on first Xbox console and games before system rolls out in N. America Nov. 15 at \$299. It kicks off at 12:01 a.m. local time at each location Nov. 2 and ends at 11:59 p.m. Nov. 3. Meanwhile, Microsoft said Xbox Odyssey traveling arcade would be visiting 40 major U.S. cities until Dec. 2002. Traveling arcade has 100 Xbox consoles that public can use to preview and play games on.

Kopin said 3rd quarter net loss swelled to \$9.2 million, reversing year-earlier \$4.2 million profit, as revenue fell to \$12.3 million from \$23.8 million. Sharp slide in revenue was largely result of slowing sales of heterojunction bipolar transistors (HBT) that are used as power amplifiers in wireless phones, it said. HBT sales fell to \$5.6 million from \$17.9 million year ago, but were up from \$3.8 million in 2nd quarter. Earnings also were hit by impairment charge, offset by \$680,000 gain on sale of 200,000 shares of Microcell Telecommunications stock, CFO Richard Sneider said. Partly offsetting revenue decline was Kopin's CyberDisplay microdisplay business, which said sales rose to \$6.4 million from \$5.3 million year ago, \$5.2 million in 2nd quarter. JVC, Matsushita and Samsung each accounted for more than 10% of Kopin's overall revenue in replacing CRT-based camcorder viewfinders with CyberDisplays. Sanyo also recently signed agreement to build CyberDisplay into 2 wireless phones capable of displaying video. Cyberdisplays for phone applications are \$40-\$50 range vs. \$10-\$12 for camcorder viewfinders, Chmn.-CEO John Fan told analysts in conference call. CyberDisplay has 20% share of camcorder viewfinder market and production is running at 200,000 units per month, he said. CyberDisplay business can achieve break-even with monthly production of 300,000 units and revenue of \$9 million, Sneider said. HBT business has 20% installed base in wireless phones, replacing silicon power amplifiers in some cases. HBTs, which have average selling price of \$600, could gain sales in future with debut of 3G wireless service, which requires separate power amplifier for each of 3 frequencies — 800, 1800 and 1900 MHz, Sneider said.

After canceling its plan to offer 6 million shares of common stock early last week, Activision announced that its board had approved 3-for-2 split of outstanding common shares. Split is payable Nov. 20 to shareholders of record Nov. 6, Santa Monica, Cal., game maker said. Company said split would be accomplished via 50% stock dividend. Instead of issuing fractional shares, shareholders will receive cash payment based on average of high and low sale prices of common on record date. Once split is completed, Activision said it would have 51 million common shares outstanding. CFO William Chardavoyne said split would "increase the number of shares outstanding, thereby enhancing our liquidity." In withdrawing registration statement for public offering of common, Activision CEO Robert Kotick blamed decision on "current market conditions" and "volatility resulting from recent events."

Rating application process was streamlined by Entertainment Software Rating Board (ESRB) to enable game publishers to use single form to apply for ratings for online- and platform-based titles. ESRB Pres. Arthur Pober said new application process would translate into "less paperwork and a lower administrative burden for everyone." Starting Oct. 31, all rating applications must be submitted by publishers on new forms available at ESRB Web site, www.esrb.org. ESRB also announced its new rating application packet included revisions to "Terms and Conditions" agreement between ESRB and game publishers. ESRB said changes reflected recent alterations in its enforcement system and clarified rights and responsibilities of publishers receiving ESRB ratings.

Correction: CEA Pres. Gary Shapiro offered to testify at now-postponed hearing on copyright protection standards in CE devices but was turned down by Senate Commerce Committee Chmn. Hollings (D-S.C.). We incorrectly reported that Shapiro declined to testify (TVD Oct 22 p16).