



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

DECEMBER 3, 2001

VOL. 41, NO. 49

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ECHOSTAR MERGER FIGHT HEATS UP: Parties interested in EchoStar's potential \$26 billion takeover of DirecTV began staking out their positions in earnest last week, with NAB and National Rural Telecom Co-op (NRTC) both officially announcing their opposition. Others began lobbying for conditions to be imposed on merger approval that would benefit them (TVD Nov 5 p1). Main fight is expected to be at Justice Dept., followed by FCC.

Aides to FCC commissioners in presentations at Western Cable Show in Anaheim said they wouldn't prejudge proposed EchoStar-DirecTV merger. They acknowledged, however, that their annual report on video competition had shown "tremendous" change in market landscape in recent years. Question is important because Commission could weigh proposed merger in 2 ways: As marriage of 2 top DBS providers or, in wider context, as stronger multichannel video competitor to cable. Merger is going to face "significant obstacles" and is "likely to be rejected" following Justice Dept. review, Legg Mason analyst and former FCC staffer Blair Levin said: "It is possible that the deal could ride a combination of anticable sentiment and lack of business opposition to garner approval, but we still believe the odds still favor government officials' saying no."

Senate Finance Committee Chmn. Baucus (D-Mont.) called proposed merger "troubling" because 90% of DBS market would be controlled by EchoStar. In Nov. 19 letter to FCC Chmn. Powell released last week, Baucus also said there was false perception that merger might benefit public by increasing competition with cable: "Policymakers and others continue to labor under the misperception that everyone in U.S. has a choice between cable and satellite service. That

isn't so." Mont. has 130,000 households without cable access and national number is 30 million, Baucus said: "Satellite is their sole option if they want to watch TV." He said govt. should do more to encourage entry of more competitors into market.

Mo. Attorney Gen. Jeremiah Nixon said merger would have "profound effect" on DBS market and would result in "serious reduction in choices." In letter to U.S. Attorney Gen. John Ashcroft, Nixon called proposed acquisition "anticompetitive and detrimental to the welfare of consumers" in Mo., where 846,386 homes rely solely on DBS and could be left without future broadband service. Nixon said merger would "create an environment where prices will rise, services will fall and innovation will stagnate."

Customers outside top 100 markets may be left without service, Sen. Burns (R-Mont.) said in letter to FCC Chmn. Powell. Burns also is planning hearings on proposed merger early next year, staffer said. Burns encouraged Commission to review proposed merger to "examine the actual costs" customers outside top 100 markets would have to pay and compare them with costs for customers within top 100 markets. He also was concerned that rural households wouldn't be offered local-into-local service. Burns said EchoStar also would control access to programming: "The leverage that such an entity would have over small-and midsized cable companies or even other wholesale providers of video programming is troubling."

Breaking its month-long silence, NAB came out strongly in opposition to EchoStar's acquisition of DirecTV. As expected, NAB Pres. Edward Fritts said: "This merger would create the world's largest monopoly video delivery system. EchoStar has a history of challenging congressional mandates, ignoring FCC rules and bad-faith business dealings — all to the detriment of consumers." NAB TV Vice Chmn. Michael Fiorile, Dispatch Bcst. Group, will testify against EchoStar at congressional hearings next week (see separate story, this issue).

NRTC won't support DBS merger "the way it's presently constructed," but remains open to negotiations, Senior Vp Industry-Member Relations Andrew Brown said. Rural companies, which are expected to be important politically in merger review, appear ready to try to block deal unless EchoStar makes several unspecified concessions. Brown said NRTC was "very concerned" about merger because it would have major "business impact" on services members offer to rural subscribers. NRTC has 1.8 million DBS subscribers. Brown said officials were lobbying Hill leaders, mostly from rural states, to protect interests during antitrust review. Local-into-local, national pricing, future broadband deployment and details of merger are chief among concerns, he said.

Another DBS firm, WSNet, is stepping up pressure on govt. with lobbying efforts because of plans to provide digital service for rural market. Company filed FCC application for landing rights in U.S. from 2 Canadian DBS orbital locations at 91 W and 82 W, it said, in effort to become rural alternative to EchoStar-DirecTV. "In light of the impending mega-merger of EchoStar and DirecTV, these filings become critical in enabling WSNet to expand prepackaged digital video service offering it provides to wholesale customers," CEO Jared Abbruzzese said. He said EchoStar-DirecTV merger "may offer the promise of much-needed competition," but without "high-powered Canadian slots" it could have "disastrous and unintended consequence in rural America — that being the creation of a giant, national video monopoly that could effectively drain revenues out of local subscription TV companies."

Continued DBS competition is key to Pegasus support for EchoStar-Hughes merger, CEO Mark Pagon said. He said Pegasus would be emphasizing need for satellite competition in talks with Hill leaders this week. Pagon said if EchoStar were willing to sign consent agreement that would allow for 2-3 competitors to enter market, Pegasus wouldn't oppose merger. Pagon said there were "different ways" to ensure competition would continue. Opening door for new companies to enter market would be best method, he said. Pagon said 60%-70% of mergers were subject to conditions. "You have to divest certain products or business lines. There has to be a consent decree. The U.S. government has never allowed an industry monopoly in 100 years of antitrust history and there's no need to start one now."

EchoStar Chmn. Charles Ergen remains in win-win position, one analyst said. If antitrust bid were turned down, EchoStar would emerge in "more formidable position" against weakened DirecTV, which would be left as "lame-duck subsidiary in the GM portfolio," source said, and if bid is approved, Ergen will control "mega-DBS empire." EchoStar has said merger would eliminate duplication, produce lower prices, provide better programming and save \$54 million that could be used for other services, including local-into-local.

CABLE LAWYERS GET FEW ANSWERS FROM REGULATORS: Attorneys for major operators appeared to have single mantra at Western Cable Show in Anaheim last week: FCC must provide regulatory certainty if MSOs are to offer more services. Four MSO gen. counsels on panel said their companies were having trouble setting business plans be-

cause govt.'s rules were uncertain. They cited questions on classification of high-speed data as either cable or telecom service, digital dual must-carry, ownership caps and pole attachment rates as some of issues pending.

Regulators, on next panel, said several of those questions were still in courts, including pole attachments, which is before Supreme Court. Cable Bureau Chief Kenneth Ferree, Office of Plans & Policy Chief Robert Pepper and Senior Deputy Chief of Common Carrier Bureau Jeff Carlisle offered few clues about their views on most of questions asked by Jeffrey Sinsheimer, vp-law & public policy at Cal. Cable & Telecom Assn. (CCTA).

Ferree and other FCC officials were asked whether their goal was to achieve regulatory symmetry between cable and other service providers, including ILECS. Ferree and Pepper said too much was being made of symmetry. "I'm not one of those who worships at the altar of symmetry," Ferree said. On issue of classification of data, he said only that staff was "making some headway," but declined to provide details. He said he agreed Commission should take more of leadership role on how far state and local govts. should go in regulating CLECS, including cable CLECS. "The only problem is... the practical politics of dealing with local and state governments," Ferree said. Courts around country already are ruling on those questions.

Cox Gen. Counsel James Hatcher praised new Commission as "more pro-business" and "a little less likely to be as regulatory as some of the past commissions." He then rattled off list of issues Cox would like to see settled, including classification of high-speed data, which was subject of Notice of Inquiry and is awaiting decision by Commission. Ferree later said Commission staff was tackling issue on presumption that service "does fit within statutory category that Congress has given us. The challenge is to make that determination." He said staff members had "answered some of the initial questions for ourselves" and were drafting item.

Hatcher also cited pending Supreme Court pole attachment case, FCC v. Gulf Power, on how data are classified. "We need to get some boundaries and guidelines," he said. His list also included questions on rules for digital must-carry and introduction of IP telephony: "We think 2002 is going to be a year of a lot of decisions."

AT&T Broadband Gen. Counsel Rick Bailey said he was particularly concerned about ownership issues stemming from decision by U.S. Appeals Court, D.C., in *Time Warner v. FCC* that said agency's ownership caps were arbitrary. FCC began rulemaking and is receiving comments. Bailey declined to comment on future of AT&T's broadband unit, saying he wasn't on panel to "make news."

For Adelphia lawyer Randall Fisher, "holy grail" is regulatory certainty on rights-of-way. Charter counsel Curtis Shaw said he was optimistic Supreme Court would rule in cable's favor on pole rates, but said his company was prepared to lobby Congress for new law if court ruled against industry. He said issue presented "digital divide problems" because high pole attachment rates would raise cost of high-speed data service significantly. Ferree later said he was skeptical that cable operators would stop offering high-speed access if they lost on pole attachments: "That's not to say that there may be an impact on rates."

Asked about pending decisions in bankruptcy court on fate of Excite@Home, Hatcher said his company months ago began planning to build its own high-speed Internet network. But he was uncertain whether that build-out process would be completed in time to maintain customer service if Excite@Home's system were ordered shut down.

Meanwhile, try as they might, AT&T Broadband executives attending show couldn't avoid question on everybody's minds: Will AT&T's board and CEO Michael Armstrong decide to sell, spin off or make a go of struggling broadband unit? Company said offers would be accepted until today (Dec. 3) and decision would be made before year-end. Speaking on panel, AT&T Broadband COO Ron Cooper joked that if he knew anything, he would tell. Broadband CEO William Schleyer sang much same tune day earlier, when he sat passively as others mused about unit's fate.

Cooper said talk about dire condition of unit had been "overstated." "As we're getting in there — and keep in mind that I've been there 5 weeks now — we're discovering an awful lot of good things," he said, and executives will focus on tapping assets, both human and capital, that already are there. Asked whether that meant executives were mulling partnership rather than sale, he smiled enigmatically and said: "Stay tuned." Still, observers couldn't help but notice that both he and Schleyer spoke on panels as if they and their company — largest cable MSO in country — would be in business for long time. AOL Time Warner, Comcast and Cox are among those that have shown interest in buying or partnering with AT&T Broadband.

Analyst Tom Wolzien of Sanford C. Bernstein & Co., on panel with Cooper, said he foresaw more consolidation in industry, to perhaps 2, 3 or 4 major players. He said 7 companies now covered 85% of U.S. households. Adelphia CFO Tim Rigas and Cooper agreed that high cost of sports programming was driving some of consolidation. Cooper said

escalating prices for sports was eroding gross margins and raising prices for subscribers. "I think the status quo cannot be perpetuated," he said. "The relationship between sports programmers and distributors like us is strained and I think, absent some change, it's going to get worse."

Panelists downplayed threat from satellite, saying that even if EchoStar and DirecTV merged, DBS couldn't offer variety of services that cable could. Cox Exec. Vp-Operations Patrick Esser said that after while, DBS would begin to look more and more like "a one-trick pony." He also predicted merger application would face huge hurdles with Washington regulators. Wolzien warned, however, that market share was "cable's to lose." He said MSOs could lose if they didn't take advantage of broadband pipe to roll out high-speed data, video-on-demand and other services quickly. He suggested partnerships with Internet providers such as AOL, largest in country. Asked whether AT&T Broadband's discussions with AOL-Time Warner included such talk, Cooper cited confidentiality agreement. "But Tom's advice is noted," Cooper said, to laughter. Microsoft also has shown interest in forming alliances with cable industry, developing operating system for set-top boxes. "I think you'll see some alliances in the next few years," Esser said. Microsoft TV already has development agreement with Charter.

WESTERN SHOW NOTEBOOK: Attendance for Western Cable Show in Anaheim last week was 17,056, down 48% from last year, organizers said.

Now is perfect time for cable to mount offensive against DBS, while satellite industry is in midst of EchoStar acquisition of DirecTV, Carmel Group analyst Sean Badding said: "Cable operators have taken a wait-and-see approach, to wait for more direction coming from the government to see whether this happens... But it's going to be another 6 to 12 months minimum before anything happens with this deal. I think that it really opens up a window of opportunity for cable operators because this is a major distraction to the operations" of both DirecTV and EchoStar. On whether deal will get governmental approval, Badding said: "I think right now the way Charlie [Ergen] has structured the deal with DirecTV he has a pretty good chance of getting the deal through the Department of Justice, because he's going to sell the same story and he is very persuasive in doing that."

Ted Turner said cable industry, as its pioneers know it, soon would be extinct: "The end game is just about here. Within the next year, there will only be 2 cable operators and one satellite operator, basically, and the game will be over... It's so sad... Right now, AT&T is the biggest cable operator and they are probably going to disappear within the next year."

While many cable operators are wringing their hands over threat of satellite and personal video recorders (PVRs), AOL-TW co-COO Robert Pittman said there was limitless potential in home-networking arena. Pittman envisions home network platforms being deployed with "multiple solutions and multiple ways to get there. But they all will use the broadband connection from the cable companies," which in turn will provide an important revenue stream. Pittman said company's philosophy had changed from looking to get consumers to "move over" to broadband; now goal was to get them to add on "because people don't work one computer from just one location anymore, so it's important for that service is multiband so they can have access wherever they are."

Use of readily available govt. census information can dramatically improve cable's penetration among immigrant and minority populations, said James Honiotes, International Channel vp-mktg. & communications. He said cable operators should use www.census.gov to see cultural breakdown of community they served in order to offer cultural-specific channels. "This stuff is so good and so clear and so deep that you can

come to a better understanding of your market quite quickly," Honiotes said. "The key thing that we tell cable operators to look at is the size and growth of the different ethnic groups within their service area. Anybody who reads the newspaper knows how much differently America's demographic is today than it was just 10 or 11 years ago and how much more different it is becoming every day."

Panelists said penetration of TV households subscribing to some type of multichannel service was 81-82%, with figure expected to rise to low 90s or high 80s in next 6 years. Most troubling to cable operators is that most new subscribers are going to DBS, they said.

Program Notes: Comcast officially announced new original programming 24/7 network, G4, which takes aim at country's ever-growing videogaming industry. G4 founder-CEO Charles Hirschhorn said 145 million game-playing Americans already had spent more than \$8 billion on video and PC gaming this year, taking over films as most profitable entertainment industry. "Everybody knows *Harry Potter* broke every box office record in history," Hirschhorn said. "But the story that got lost behind *Harry Potter* was that the same weekend, *Potter* was only the third most popular entertainment product," trailing XBox and Game Cube... FamilyNet said it signed carriage agreement with programming subsidiary of AT&T Broadband... OpenTV signed agreement with Japan's largest MSO, Jupiter Telecommunications, to develop Japan's first commercial, interactive TV (iTV) service... TechTV said it increased its domestic subscriber base more than 20% in one year... PrediWave introduced its video-on-demand (VoD) service that doesn't designate stream bandwidth to individual consumers who order movies, but instead to content itself.

Cable Center inducted 7 industry leaders into its Hall of Fame: Joseph Collins, former Time Warner Cable CEO; Ben Conroy, former NCTA chmn. who founded GenCoE and Communications Properties Inc.; Burt Harris, founder of Harriscope Cable; Kay Koplovitz, chmn. of Broadway TV Network and former USA CEO; Bob Miron, CEO of Advance/Newhouse Communications who also is former chmn. of NCTA; John Rigas, founder of Adelphia Communications; and former Scientific-Atlanta Pres. Sidney Topol.

Latest stations to make DTV transition are WEHT (ABC) Evansville and KNME-TV (PBS) Albuquerque, NAB said. Group said 221 stations now were broadcasting DTV.

FCC SETS SDARS RULES: FCC is seeking comments on satellite digital audio radio service (SDARS) plan for compensation methodology to reimburse Wireless Communication Service (WCS) licensees to eliminate effects of blanketing interference to their receivers. Commission also requests comment on alternatives for long-term solution to potential blanketing interference between SDARS and WCS licensees with stations close to high-power repeaters. Effect of SDARS operations on Multipoint Distribution Service (MDS) and Instructional TV Fixed Service (ITFS) licenses also is being studied, agency said. Comments are due Dec. 14, replies Dec. 21.

Commission is seeking comments on requiring SDARS repeaters to meet following guidelines: (1) Low-Power Repeaters (LPR) would have to be limited to effective isotropic radiated power (EIRP) 2 kw. (2) High-Power Repeaters (HPR) would have to be limited to EIRP between 2 kw and 40 kw. SDARS repeaters could be used only to transmit complete programming and only programming transmitted by authorized DARS satellite and in manner that satellite signal and terrestrial repeater signal were received nearly simultaneously by SDARS subscriber repeaters. FCC proposed that SDARS licensee locate repeater frequency assignments in center of its exclusively licensed frequency band, with edge of repeater band being no less than 4 MHz from edge of SDARS spectrum at 2320 MHz and 2345 MHz.

SDARS licensees would be required to remedy blanketing interference caused to MDS/ITFC receivers from LPRs and bear full financial obligation for correcting interference, provided complaint was received before Feb. 2002 and showed that: (1) MDS/ITFS downconverter was installed before Aug. 20, 1998. (2) SDARS terrestrial repeater station transmitted at 50 w or more peak EIRP. (3) MDS/ITFS downconverter was located within SDARS terrestrial repeaters' free space power flux density contour of 34 dBW. If SDARS operator couldn't eliminate interference, it would have to stop operations from LPR facility. FCC asked whether, if complainant were entitled to compensation from one or more licensees in WCS, cost should be shared equally among all WCS and SDARS licensees that caused such interference.

Compensation for HPR operations would be established for SDARS licensees. Proposal would create safe harbor in which SDARS operators wouldn't be required to coordinate with or compensate WCS licensees to resolve blanketing interference that might be caused to WCS receiving stations from SDARS repeaters. It also would establish zones outside of safe harbor in which WCS licensees would be entitled to compensation to resolve interference from HPR operations and to determine whether compensation should be provided for consumer-premises equipment and whether there should be limit on financial liability.

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Cable subscribers can count on features of new personal video recorders to be included in next generation of digital cable set-top boxes, NCTA Pres. Robert Sachs said. Speaking at San Diego State U., he said technology used by PVRs such as TiVo and ReplayTV that allowed consumers to program their own networks had affected established network models and "look for it to be included in the next generation of digital cable set-top boxes." Saying cable was upgrading networks and deploying digital video service at "record" pace, Sachs said digital cable subscribers grew 40% in first nine months of year to 13.7 million from just under 10 million.

ON-DEMAND COMPLICATES RIGHTS: If future TV viewers get everything they want, whenever they want it, as some predict, cable's rights and responsibilities may become much more complicated, panelists said at Western Cable Show in Anaheim last week. Comcast Senior Dir.-New Business Development Steve Heeb predicted there would be combination of network and home-based personal video recorders (PVRs), but warned that cable companies would have to adhere to copyrights no matter which technology is used. He said he could see situation where he would "have to be the nasty MSO" and, through his network, have to remove movies from home PVRs: "You don't want to tick off customers but at the same time, we have to live in a world where we absolutely will honor the rights management of studios when we get content or else we'll never get content again." He said encryption was one possible solution.

Warner Bros. Chief Technology Officer Chris Cookson said he didn't believe anyone in industry was arguing that customers shouldn't be able to time-shift their viewing or record broadcast TV and retain it for personal use. "The issue the studios are having as an industry with the whole issue of recording is the ability people are now gaining to become retransmitters of content," Cookson said, meaning viewers can't pass programming on to others. ReplayTV is being sued by several studios over new device that can do just that.

On-demand all the time would present major shift in current ad-based approach, said Cox Vp-Multimedia Technology John Hildebrand, potentially leading to product placements within programs themselves. Cookson said federal law wouldn't allow such placements in children's programming, where advertising must be separate and distinct from shows. Heeb said product placements could be "very dangerous" to cable's business of offering premium channels. "There's a reason that people pay a lot of money on a monthly basis for subscription services like HBO, Showtime, Starz, all that kind of stuff, and the reason is they hate commercials," he said.

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House Commerce Committee leaders held their 2nd go-round with industry leaders involved in digital transition — along with FCC Chmn. Powell — Nov. 28 and several participants agreed afterward that cable compatibility and copyright issues were major problems delaying transition. As compared with Oct. meeting that went nowhere, we're told, "this time [Congress members] listened and got more information about what the problems are" and how they can be solved, participant said. Congress members at meeting made it clear that they weren't enthusiastic about prospect of passing new legislation — and made it even clearer that if groups didn't reach agreements by early spring, legislation might be necessary, we're told. Powell, who was accompanied by Rick Chessen, head of FCC DTV Task Force, reportedly was noncommittal when asked what, if any, new powers Commission needed to help bring parties together. "Set manufacturers, cable guys, broadcasters and copyright owners all want to protect their turf, and that makes it very hard to get any kind of agreement on many remaining issues," we were told, and as result transition isn't moving forward as expected. Representing Commerce Committee at meeting were Chmn. Tauzin (R-La.), ranking minority member Dingell (D-Mich.), Telecom Chmn. Upton (R-Mich.), ranking minority member Markey (D-Mass.), Rep. Stearns (R-Fla.). Participating from private sector were attorneys and representatives from ALTV, CEA, Intel, MPAA, MSTV, NAB, NCTA, Viacom.

CONTENT TO DRIVE iTV: Cable leaders said they're betting on today's 6-year-olds to be tomorrow's consumers of interactive TV (iTV). iTV "has to be completely idiot-proof," said Martin Leamy, COO of OpenTV, at Western Cable Show in Anaheim last week. Caroline Beck, CEO of Mixed Signals Technologies, said it should be so simple consumers won't even realize they were selecting their TV programming from databases. Insight Communications Pres. Michael Willner said 33% of company's customers in Columbus, O., had chosen digital service, in part because company had allowed them to have iTV "in the most passive way possible."

TiVo CEO Michael Ramsay said children found personal video recorder (PVR) easiest to program and use. Beck said 6-year-old's version of simple was much different from that of 60-year old. Willner said, to laughs, that "the problem is it takes a long time for a 6-year-old to become a consumer and Wall St. has a quarter-by-quarter focus." Beck said most new technologies took 25 years for mass adoption. Cable is 10-12 years into that cycle, she said.

Panelists discounted idea of one "killer app." Willner said he believed his Ohio customers didn't buying iTV just for more channels, or just for video-on-demand (VoD) or for local interactive guides to movies and restaurants: "They bought it because of the entire package." Ramsay said: "The killer app is staring us right in the face; it's content."

Ramsay said economic decline this year forced his company and others to focus more on what they did best instead of investing in newer technologies. His comment came just days after TiVo said it had \$34.5 million 3rd quarter loss, despite adding 51,000 subscribers. "If you look at the interactive TV category as a whole, it's not a profitable category," he said.

Ramsay sparked some debate when he suggested cable would have to grapple with upgrading its set-top boxes every 18-24 months as consumers eventually demanded more iTV applications — applications that today's boxes couldn't handle. Willner said that wouldn't happen "in any of our lifetimes." Willner said that business model "is already beginning to break apart" and in long term will fail. "It costs more to put the boxes out than you're going to make money as a return," he said.

"The PVR will fundamentally change how consumers use television, especially considering how time-pressed people are, and how much of a premium we put on our free time," Gemstar COO Peter Boylan said: "I've had lots of conversations with various partner service providers of ours and there seems to be a conventional wisdom that cable does not have a choice," but to aggressively deploy VoD and SVoD (subscription VoD), which "is kind of a silver bullet that satellite cannot answer because satellite will never have the bandwidth resources to truly offer on-demand content."

"But their answer to that of course is the PVR and I think PVR technology is going to be rolling out rapidly," Boylan said: "Given the pending merger of Direct TV, I think the cable industry has got to take the PVR threat very, very seriously and be ready to respond because it is that powerful of a consumer feature."

It's important for digital boxes to reach at least 50% penetration in order to effectively promote SVoD and VoD services,

said Adelphia's Eileen Martin: "One of the things I'm concerned about right now is that DBS has a pretty strong message and I think that message is going to get stronger as dish companies consolidate." Additional challenge for cable is that on-demand services "are too new, so a lot of people just don't get the concept."

Cable officials expressed optimism that services that satellite couldn't deliver — VoD, SVoD, interactivity, high-speed data and telephony — would solidify cable's relationship with current customers and bring many defectors to satellite back into fold. Time Warner Cable CEO Glenn Britt, AT&T Broadband CEO Bill Schleyer and Charter CEO Carl Vogel spoke at Western Show.

Asked about growing market share of DBS and cut-rate prices being offered to cable customers to switch, executives said EchoStar and DirecTV were formidable competitors in short run, but over time even merged EchoStar-DirecTV wouldn't be able to overcome quality and quantity of services cable could offer. Said Vogel: "We have the best grocery cart... I think we find ourselves in an enviable position." Schleyer said "we have a much better mousetrap," but cable must put premium on customer service if it's to compete effectively.

BROADBAND TOO PRICEY: Most dial-up Internet users with access to broadband services don't plan to subscribe to high-speed Internet service until prices drop, nationwide survey for Hart Research and Winston Group said. Study also said 63% of dial-up users believed Bell-friendly bill sponsored by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (Mich.) would increase high-speed Internet prices. Survey was sponsored by Voices for Choices, alliance of local carriers and Internet service providers that compete with Bell companies.

Of those surveyed, 36% said they were interested in high-speed Internet access but not at current prices. Almost half of respondents said they expected high-speed marketplace would be more like long distance and cellular phone industries, with decreasing prices, rather than like cable and local phone industries, which had seen prices increase. Survey had margin of error of 3.5%.

Contrary to reports elsewhere, NATPE has made no decision whether to go ahead with 2003 and 2004 conventions scheduled for New Orleans, Pres. Bruce Johansen said. But, he conceded, "we can't go on like we have in the past" with economy like it is and so many major programmers not planning to exhibit on convention floor at Jan. 21-24 convention (which will go as scheduled) in Las Vegas. WWL-TV New Orleans reported NATPE had canceled large blocks of hotel rooms reserved for 2003 and 2004 conventions, but Assn. said it hadn't canceled contract with New Orleans Convention Center. In written statement, Johansen said: "NATPE is involved in fruitful discussions leading to a strategic plan regarding the configuration of the conference in 2003... This plan may or may not involve New Orleans." Several sources have told us NATPE was seeking another trade group with which to hold joint convention (for last 10 years, that group has been ALTV, which won't be a part of Jan. proceedings) and to schedule annual get-together for later in year while avoiding conflict with NAB April dates. NATPE has scheduled press breakfast Dec. 12 in L.A. to give details of its plans.

ADVANCED FILES APPEAL: Advanced Communications (AC) asked U.S. Appeals Court, D.C., to rescind Oct. 18, 1995, FCC order that denied it extension of time to begin DBS. Respondents in case include DirecTV, Dominion Video, EchoStar, MCI and U.S. Satellite Bstg., each of which opposed AC's petition during FCC proceeding. AC said decision was arbitrary and capricious because no other party previously had been denied extension for DBS system and FCC since had continued practice of granting such requests. Appeal comes as govt. evaluates proposed merger of DBS operators EchoStar and DirecTV. If AC wins, it could become DBS competitor for merged firm.

Commission violated explicit statutory mandate in turning down request for extension, AC said. Communications Act says FCC may not base finding of public interest, convenience and necessity on expectation of federal revenue from competitive bidding, AC said. Two former FCC commissioners said decisive vote to deny extension to AC was based on expectation that federal revenue could be obtained by auctioning AC's locations and frequencies.

AC said it spent millions of dollars to develop DBS. It received initial license in 1984 and in 1986 FCC determined it met first due diligence requirement to be assigned orbital position and channel frequencies. In 1991, AC received requested slots. Rapid changes in industry made rollout of DBS service difficult for operators, meaning 2/3 of licensees failed to start service and none of companies was able to complete construction of satellite within 6-year deadline imposed by FCC. As result, Commission didn't strictly enforce 6-year requirement and routinely granted extensions to start DBS service, AC said. Nevertheless, when no DBS service had started by 1992, FCC decided to issue order for stricter enforcement of due diligence regulation. Commission, however, continued to grant all extensions to initiate service until 1995, when it denied AC's request.

AC had negotiated with EchoStar to pool resources to start DBS service, but those discussions reached an impasse in 1994 and litigation ensued, court filing said. AC signed agreement with TCI, which later was acquired by AT&T, in Sept. 1994, in which TCI agreed to provide satellites to AC in exchange for transponder capacity. Under agreement, AC's permit was assigned to subsidiary of TCI in exchange for stock. Newly formed FCC International Bureau denied AC request for extension in 1995 on ground that AC had failed to show due diligence.

MCI and EchoStar, knowing agency was deadlocked 2-2 on extension appeal, started campaign to persuade undecided Commission to vote against AC request. AC said MCI told former Chmn. Reed Hundt that if AC spectrum were auctioned, it would submit opening bid of \$175 million. On Oct. 16, 1995, AC extension request was denied by 3-2 margin, with Comrs. Andrew Barrett and James Quello dissenting. FCC auctioned AC's spectrum in Jan. 1996, while appeal was pending. MCI, bidding in joint venture with News Corp., won spectrum with prime orbital slot for \$682.5 million. EchoStar obtained less desirable orbital location for \$52.3 million.

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NBC said ads in Feb. 8-24 Winter Olympic Games from Salt Lake City were 92% sold out in face of slow economy and Sept. 11 terrorist attacks. Sales to date have brought NBC \$869 million in revenue, with 30-sec. spots averaging estimated \$600,000, ad agency official said.

Whether Supreme Court decision Nov. 27 dismissing appeal of 1995 Adarand case will have any impact on pending appeal of U.S. Appeals Court, D.C., rejection of FCC EEO rules depends on who you ask. Govt. official, who asked not to be named, said order would have no impact at all, while Andrew Schwartzman of Media Access Project believed it would. Had Supreme Court issued decision on new Adarand appeal (dealing with nonbroadcast matters but cited by Appeals Court in twice rejecting FCC rules as unconstitutional [TVD Jan 22 p2]), he told us, ruling "would have had a dramatic impact" on pending appeal of rejection of FCC rules by lower court and would have made it much more likely that Supreme Court would accept that appeal. Govt. didn't appeal FCC EEO ruling, but Minority Media Telecom Council (MMTC) did. After first accepting case, Supreme Court refused to issue opinion in latest Adarand appeal because, it said, new issues were brought up that never were considered by lower courts: "Petitioner [Adarand Constructors Inc.] urges us to take on this task ourselves and apply strict scrutiny to a complex web of statutes and regulations without benefit of any lower court review." Justices haven't announced whether they would accept MMTC appeal of FCC rules, and U.S. Solicitor Gen. hasn't filed govt.'s position with Supreme Court. Appeals Court rejected first set of FCC EEO rules in 1998 and 2nd set of rules last Jan. In not joining MMTC appeal, FCC Chmn. Powell has said agency soon will come up with new set of EEO requirements that it expects will withstand court review.

FCC said parties must refile pleadings that were sent through U.S. mail since Oct. 1 because much of that mail never made it to FCC hq. After anthrax concerns, Postal Service held much of federal govt. mail without delivering it. Refiling — and all new filings — must be done in one of 3 ways, FCC said: (1) Electronically, meaning by fax or e-mail. (2) Overnight delivery service other than U.S. Postal Service to FCC hq. (3) Hand delivery to FCC's Capitol Heights, Md., location. Refilings must include signed affidavit that filing originally was made on time. They're due 7 calendar days after notice is filed in *Federal Register*. Pleadings don't have to be refiled if they originally were: (1) Filed electronically. (2) Hand-delivered to FCC hq Oct. 1-19 or to Capitol Heights location after that. (3) Delivered to FCC hq by overnight services other than U.S. mail. Among pleadings that have to be refiled are petitions for denial and reconsideration, informal requests for action involving pending applications, petitions to amend TV and FM Broadcast Table of Allotments, responsive pleadings.

House Judiciary Committee witness list for Dec. 4 multi-channel video competition hearing comprises: EchoStar Pres. Charles Ergen, National Rural Telecom Coop Pres. Robert Phillips, Consumers Union Washington office Dir. Gene Kimmelman, and former FTC Chmn. Robert Pitofsky. Hearing is at 10 a.m., Rm. 2141, Rayburn Bldg. House Telecom Subcommittee on same day plans hearing on issue, but hasn't released formal witness list. Industry sources say Ergen, NCTA Pres. Robert Sachs, DirecTV Chmn. Edward Hartenstein and executives of WSNet and American Cable Assn. were invited to testify. Sources said NAB board Vice Chmn. Michael Fiorile and Pegasus CEO Mark Pagon accepted invitations to testify. Hearing is 2 p.m., Rm. 2123, Rayburn Bldg.

NBC will air 8 hours of Winter Olympics programming daily in HDTV, with feed being repeated overnight, network said. Broadcasts will be in association with HDNet, company headed by Mark Cuban that produces HDTV sports programming.

Personals

Kim Williams promoted to NBC West Coast senior vp-CFO... **Ray Carter**, ex-WSB-TV Atlanta, named vp-gen. mgr., WPXI-TV Pittsburgh... **Lynn Gutstad**, ex-Applied Communications Group, appointed vp-research, TechTV.

Jeff King adds title of Time Warner Cable exec. vp-technology and data operations... **Michelle Whitten** promoted to CEO, Encore International... **Vicky Miller** advanced to CFO, Turner Bctg., succeeding **Wayne Pace**, who became CFO of parent AOL Time Warner... Promotions at Rainbow Media: **Beth Sanford** to VoD Div. vp-mktg., **Michael Connor** to editor-in-chief... Promotions at National Geographic Channel: **Nanette Anderson** to dir.-scheduling, **Courtie Bassarab** to dir.-evaluation.

Changes at Cablevision Systems: **Joseph Leonard**, ex-AMC Network, named vp-market management, digital products; **Matthew Weiss**, ex-Fox Family, appointed vp-digital product strategy; **Elizabeth Zanghi** moves to dir.-operations and customer experience for company's Digital Product Management Group; **Michael Olsen**, ex-AT&T, appointed vp-regulatory affairs... **Joseph Young**, ex-TCI, named senior vp-gen. counsel, Mediocom... **Justin Albert**, ex-Discovery, becomes vp-production, Animal Planet... **David Kirschner**, ex-e-Sim, named gen. mgr., News 12 Interactive... **Curtis Symonds**, Black Entertainment TV, appointed chmn. T. Howard Foundation Board of Trustees... Named to Cable Ad Bureau board: **Robert Bakish**, MTV, and **Jon Spaat**, USA Cable.

Lawrence Roberts, ex-Roberts & Eckard, becomes Skadden, Arps, Slate, Meagher & Flom communications practice partner... Elected at D.C. Bar Computer & Telecom Law Section: **Andrea Miano** of Dewey, Ballantine as chmn., **Kenneth Kaufman** of Skadden, Arps, Slate, Meagher & Flom as vice chmn... **Kris Rosenblatt** promoted to American Ad Federation vp-education services.

Copyright Office is seeking comment on whether to combine 2 rate-setting proceedings, one for performance of sound recordings by nonexempt, noninteractive digital subscription services and other for performance of sound recordings by pre-existing satellite digital audio radio and subscription services. Request for consolidated Copyright Arbitration Royalty Panel (CARP) was filed by Music Choice following unsuccessful negotiations with RIAA on rate for new subscription services. In separate petitions, RIAA and, jointly, XM Satellite Radio and Sirius Satellite Radio also asked for CARP. Office is requesting input on whether both rate proceedings can be handled efficiently by one CARP, or whether there are advantages in convening separate panels. Comments and notices of intent to participate in either or both CARPs are due Dec. 20, reply comment Jan. 22 — 202-707-8380.

Only one in 10 TV stations responding to RTNDA/Ball State U. survey said their news operations lost money in 2000, with 56% making money on news, down 2 points from 1999 and 7 points from 1997 when 63% reported profitable news operations. Of stations affiliated with one of Big 4 networks, 60% of news depts. made money, compared with 47% of other commercial stations. Among TV stations with 10 or fewer news persons, profitability dropped from 27% in 1999 to 6% last year.



WARREN COMMUNICATIONS NEWS Viewers & Video Broadcasters Worldwide

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497 1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

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

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

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Fourth U.S. Appeals Court, Richmond, shouldn't grant injunction against enforcement of must-carry provisions of Satellite Home Viewer Improvement Act (SHVIA) because it's not "indisputably clear" that SHVIA violates First Amendment, broadcasters said in court filing Nov. 26. DBS interests asked court to block enforcement of requirement that any DBS operator carry all local TV stations in any market where it carried any (TVD Nov 26 p5). ALTV, NAB and Univision said DBS interests wouldn't face any irreparable harm if SHVIA took effect as scheduled Jan. 1 since DBS could choose not to launch local service in any new markets. In contrast, they said, stations that weren't carried if injunction were granted would be harmed. Broadcasters said DBS had not shown any "reasonable likelihood of ultimate success" in overall appeal.

Consumer Electronics

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

STATE OF THE INDUSTRY

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

	NOV. 10- NOV. 16	2000 WEEK	% CHANGE	NOV. 3- NOV. 9	46 WEEKS 2001	46 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	667,153	867,115	- 23.1	568,133	22,997,047	26,439,317	- 13.0
DIRECT-VIEW**	642,641	835,980	- 23.1	544,872	22,184,257	25,391,999	- 12.6
TV ONLY#....	513,992	698,640	- 26.4	444,089	18,160,672	20,993,717	- 13.5
TV/VCR COMBO.	128,649	137,340	- 6.3	100,783	4,023,585	4,398,282	- 8.5
PROJECTION TV	24,512	31,135	- 21.3	23,261	812,790	1,047,318	- 22.4
TOTAL VCR**....	364,334	1,019,198	- 64.3	394,925	17,263,407	25,318,650	- 31.8
HOME DECKS...	235,685	881,858	- 73.3	294,142	13,239,822	20,920,368	- 36.7
CAMCORDERS....	125,980	141,528	- 11.0	209,268	4,703,158	5,144,609	- 8.6
DVD PLAYERS....	466,033*	219,217	+112.6	416,015*	10,494,102*	6,934,256	+ 51.3

Direct-view TV 5-week moving average#: 2001--553,759; 2000-670,523 (down 17.4%).

Projection TV 5-week moving average: 2001-24,376; 2000-29,639 (down 17.8%).

VCR deck 5-week moving average: 2001--397,645; 2000-775,158 (down 48.7%).

TV/VCR 5-week moving average: 2001--127,495; 2000-145,050 (down 12.1%).

Camcorder 5-week moving average: 2001--163,450; 2000-174,088 (down 6.1%).

DVD player 5-week moving average: 2001--499,771;* 2000-306,028 (up 63.3%).

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

Note: DTV shipments are not included in above tables because CEA currently 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.

SIRIUS GOAL IS TO BE RETAILER-FRIENDLY — NEW CEO CLAYTON: Five years to the week after departing CE industry, former RCA veteran Joseph Clayton last week assumed pres.-CEO post at Sirius Satellite Radio and told us in interview that strengthening ties with retailers would be company's top priority as it prepared 3-city commercial launch Feb. 14. "We'll be putting on a full court press for CES," Clayton told us. "First and foremost we have to learn how to be retailer-friendly." Aftermarket sales of digital radio will be most important prong of Sirius' strategy for 2002, he said, echoing letter and spirit of strategic plan expressed earlier by other Sirius executives. OEM factory build-in of receivers by automakers is priority that will follow later.

Consistent with launch plans, Clayton said Sirius would have series of regional rollouts much as RCA did when he introduced DirecTV program there. Sirius launch is scheduled for Feb. 14 in Dallas, Denver and Houston markets — and Clayton hinted possibly one more, to be announced at CES. "We'll take a regional approach and try different offers at different times and places to learn price sensitivity as we did with DirecTV," he said. "We're going to make the product very consumer-friendly, and work hard on that with our retailers as I've done with any product where I've ever been involved." Clayton said he took Sirius car radio for shakedown on recent trip totaling 14 hours: "I wanted to make sure this thing really works before I took the job."

Asked about competitive challenge posed by rival XM, which says it's available nationally on same retail store shelves where Sirius will vie for space, Clayton said: "The market is in its infant stage and no one is going to get a big lead here and take over. You can look at it financially and believe we're at a competitive disadvantage because our con-

tent is commercial free, so we don't have revenue from that. But 'no commercials' is a customer benefit that you bet we'll be emphasizing."

Other strong point, he said, will be Sirius's relationships with retailers and vendors, biggest asset that company said Clayton would bring. "In retail we'll have a managerial advantage, and the same will go for dealings with our hardware vendors," he said. To accomplish that, Clayton plans to recruit CE industry veterans, including former colleagues from his RCA/Thomson days. "There's going to be a few gray-haired guys around here," said Clayton, who is 52. As for \$350 million cash that Sirius has said it has on hand and would be sufficient to take company through most of 2002, Clayton said: "We'll use it judiciously through the regional rollouts, then ramp things up. I think with all we've got going for us, we'll get new investors."

Since resigning from RCA parent Thomson after Thanksgiving weekend in 1996, Clayton was CEO of Frontier Corp., Rochester, N.Y., telecom acquired by Global Crossing in Oct. 1999, then was vice chmn. of telecom provider. He said he would remain on Global Crossing board and now was in transition period of wrapping things up there: "Hey, I'm still a big shareholder there. I want to leave that place in good shape. Operationally, we are in good shape." Clayton said he was happy to return to CE industry, where he spent entire career at RCA. "I feel I'm really coming back home, and it's exactly what I needed. The telecom business was getting kind of hairy."

CD COPY PROTECTION DEFENDED AS ITS USE INCREASES: CD copy protection issues came to forefront last week, with Universal Music announcing first copy-protected title in wake of playback problems encountered with BMG's recent Natalie Imbruglia release.

First copy-protected CD from Universal Music is scheduled to reach retail week before Christmas, but label won't divulge which copy-protection system it will use. CD is *More Fast & Furious*, sequel to popular movie soundtrack album. Universal wouldn't disclose whether copy-protection system used will let CD play on PCs or merely prevent copying on PCs. Label did say CD packaging would carry notice that title was copy-protected — there was no such warning on BMG disc. Universal also told retailers that CD might have playback problems in some CD players, as well as DVD players, videogame consoles, Apple Macintosh PCs.

That was case with Imbruglia's *White Lilies Island* CD from BMG that uses Cactus Data Shield (CDS) copy protection from Tel Aviv-based Midbar Tech. BMG has been making good on its pledge to replace CD, whose copy-protection caused playback problems in some home audio and PC players. U.K. purchasers of title have begun receiving prepaid return mailers for problem CD. Title made U.S. debut last week, but without copy protection.

CD purchasers who had called U.K. hotline BMG established for complaints are receiving package with prepaid Jiffy Bag return mailer for balky disc. Mailer and postage cost BMG about \$1.50, and cost will be same to send customers replacement CD. But flap over Imbruglia CD will be even more expensive for label. Besides pressing new CDs, title has to be completely remastered without copy protection and new stampers from remastering need to be made for replication.

Meanwhile, Tel Aviv-based Midbar Tech issued statement defending its Cactus Data Shield (CDS) 200 copy prevention used on disc. In defending CDS-200, Midbar characterized problems with Imbruglia CD as "minuscule." Company called CDS technology "the most effective copy control system on the market," contending system "provides robust protection, nearly perfect playability and maintains the sound quality of the original recording."

Midbar said that to date "millions of CDS copy-controlled CDs have been commercially released into the European market without major issue, including that of the past few weeks, which produced a minuscule number with playability matters."

Full extent of Imbruglia CD's incompatibility with hardware isn't known. BMG spokesman told us last week that problem was limited to 1 out of each 2,000 discs, and label had sold 40,000 to date. That would work out to 20 problems with disc — but level of complaints on Internet Web sites clearly was much higher. Label later amended statement, calling Imbruglia CD's incompatibility "significant problem." Spokesman said actual number sold to date was 35,000 and insisted number of returns wasn't large — "in the tens, not hundreds."

Midbar also said it "recently conducted exhaustive testing of the CDS 200 product in tandem with major recording labels and manufacturers. The findings proved CDS to have a nearly perfect (99.5%) playability rate." Company said it continuously renewed CDS to provide best combination of protection, playability and sound quality "without one compromising the other."

Some music customers don't seem convinced. Watchdog groups already wary of copy-protected CDs plan to compile lists of CDs with hardware incompatibilities. British group Campaign for Digital Rights will focus mainly on European CD titles on its Web site (<http://uk.eurorights.org/issues/cd/bad>) while rights advocate known as "Fat Chuck" will monitor U.S. and worldwide releases (<http://fatchucks.com/corruptcds/index.html>).

Causes for some playback problems some listeners have encountered with *White Lilies Island* are described in recently published Midbar patent application we found. International patent application (WO 01/80546) filed by Midbar in April 2000 describes wide range of copy-protection methods that "frustrate pirate copiers" by making CD "inconsistent with," "outside," or "erroneous" according to IEC standard 908 (CD Red Book) and IEC 958 SPDIF (Sony/Philips Digital Interconnect Format for Digital Audio Interface).

Patent is cocktail of copy-protection solutions and suggests options that can be mixed and matched to record company's taste — but much of what is described fits erratic behavior of BMG's Imbruglia CD with some hardware.

That CD is multisession disc, based on Blue Book standard for Enhanced CDs, but with data session containing music in compressed form and encrypted so that PC can read it only with help of authorized software also stored in data session. That compressed music file has prompted consumer complaints about BMG disc's poor audio quality on PCs: It uses 32 kHz sampling rate instead of CD's 44.1 kHz, and has very low data rate of 80 kbps.

Among other copy protection methods available, patent said lead-in index or Table of Contents on disc can be written to point to tracks that don't exist. Some users have complained that on PC, Imbruglia CD plays tracks out of order or jumps among tracks before songs are completed, and that tracks play in random order on some audio equipment.

Patent also said timing of Q-subcode channel can be altered, to change time code for Absolute Time, which is running time of CD from beginning to end. That upsets CD copying software that uses Absolute Time as reference. Patent said time code is returned to normal between tracks so "standard CD player will be unaffected." Despite that claim, Imbruglia CD wouldn't run in Philips CD recorder used only in playback mode. As for foiling CD copying software for PCs, copy protection on BMG disc doesn't fool PC software such as Clone CD, which is designed to make bit-for-bit copy of whatever data are on CD (www.elby.org/CloneCD/english).

Patent even describes way to foil consumer CD recorders. SP/DIF digital connection from CD source to CD recorder is upset by briefly and repeatedly altering control bytes to signify data instead of audio. Patent said that although departures from CD standards will "confuse" PC and prevent copying, "an audio CD player will reproduce the audio signals on the disc without difficulty." Despite claim, customers who purchased Imbruglia CD in Europe have reported playback incompatibility in variety of consumer audio and PC hardware.

Macrovision filed for international patent (WO 01/61695) on copy-protection system that relies on apparently similar techniques for deliberate time code corruptions. Dates of 2 filings overlap. Macrovision patent filing that includes description of time code corruption has prime priority date of Feb. 2000. Midbar filing (WO 01/80546) with description of time code corruption has 2 priority dates, one before Macrovision (Aug. 1999) and one after (April 2000). So, whether time code corruption was fully described in Midbar's Aug. 1999 filing would seem to be key issue on which company owns future rights to idea. Comment from companies wasn't available at our deadline.

NRSC RECOMMENDS FCC ADOPTION OF FM IBOC: Approving iBiquity Digital FM in-band, on-channel (IBOC) system would be "charting the course for an efficient transition" to DAB "with minimal impact" on existing analog FM infrastructure and no new spectrum requirements. So said National Radio Systems Committee (NRSC), which voted last week to recommend that FCC authorize technology as enhancement to existing analog FM service. iBiquity said NRSC referral "further paves the way" for system's commercialization starting next year, first with introduction of transmission equipment at April NAB convention. It said first crop of market-ready receivers would be introduced at Jan. 2003 CES.

NRSC is sponsored jointly by CEA and NAB. iBiquity announcement on NRSC action included statement by NAB Pres. Edward Fritts hailing development as one "broadcasters have been waiting for." He said action marked "a key step in moving broadcasters into the digital era" and broadcasters "look forward to working with the FCC in moving the process forward."

Announcement included no such statement from CEA, but spokesman there advised us not to read anything into Assn.'s silence. He said CEA has had longstanding concerns about IBOC interference and other issues. But in apparent softening of CEA position, Assn. now believes that potential benefits of iBiquity system such as improved audio quality outweigh risks. NRSC, in its recommendation to FCC, agreed with iBiquity test report that showed system delivered im-

proved audio quality, greatly reduced multipath, “superior resistance” to co-channel and adjacent-channel interference, support for enhanced data services.

Earlier in week, iBiquity said its FM IBOC system had been endorsed by International Telecom Union (ITU). iBiquity said ITU action “further validates” technology and was “significant step” toward globalizing system. ITU earlier endorsed iBiquity’s AM IBOC system.

Meanwhile, iBiquity said it would use Las Vegas CES to showcase working preproduction receiver prototypes using newly developed IBOC DSP chip from Texas Instruments. KLUC-FM (98.5 MHz) will broadcast live digital signal. iBiquity spokeswoman said no AM stations would be online for IBOC demonstrations at Las Vegas CES. She said company would use CD source material for transmission through exciter in iBiquity’s CES booth to prototype receivers. iBiquity said it also would demonstrate “radio of the future” at booth with advanced wireless data services such as interactive commerce and on-demand traffic and weather updates. iBiquity said event would serve as final CES preview of IBOC technology, as first products are expected commercially at Jan. 2003 CES.

COURTS UPHOLD DMCA IN DECSS CASE AND REJECT SUIT VS. RIAA: Hackers and free speech advocates took it on chin in courts last week in 2 decisions that turned away challenges to Digital Millennium Copyright Act (DMCA) and its anticircumvention provision for copy protection, which had been attacked on ground that it infringed on free speech. Meanwhile, Electronic Frontier Foundation (EFF) petitioned Cal. Superior Court to throw out case against man who published DeCSS descrambling program for DVDs because already widely distributed code couldn’t be considered trade secret.

Hollywood studios scored 2nd-round win in original DeCSS case in N.Y.C., where 3-judge panel of 2nd U.S. Appeals Court upheld Aug. 2000 lower court ruling that prohibited Eric Corley and his 2600 magazine from posting DeCSS on its Web site or linking 2600 site to others that post program. Injunction followed Jan. 2000 lawsuit by 8 movie studios against Corley, a.k.a. Emmanuel Goldstein, when, despite studio’s cease-and-desist requests, he continued publishing DeCSS, which had been unveiled in fall 1999 by Norwegian hackers. Under DMCA, it’s illegal to circumvent copy protection or disseminate means to do so. But hackers and others argued that anticircumvention provision infringes on free speech.

In upholding injunction, appeals court said publishing DeCSS code wasn’t protected by First Amendment as free speech because CSS software it descrambled was “content neutral” and had important purpose. Decision in favor of studios said: “Once the DVD is purchased, DeCSS enables the initial user to copy the movie in digital form and transmit it instantly in virtually limitless quantity, thereby depriving the movie producer of sales.” Judges characterized DeCSS as “skeleton key that can open a locked door, a combination that can open a safe or a device that can neutralize the security device attached to a store’s products.” Corley’s lawyers had no comment on decision. Defendant has option of requesting hearing by full 2nd Circuit Court or going to U.S. Supreme Court.

Other DMCA-related ruling came in lawsuit against RIAA by EFF, representing group of researchers who had attempted to present their work on cracking Secure Digital Music Initiative (SDMI) digital watermark in SDMI-sponsored “challenge” last year. After RIAA and SDMI wrote letter in April informing researchers of legal consequences under DMCA for releasing hack, EFF filed suit to get clear determination that publishing or presenting scientific research was protected by First Amendment. In meantime, RIAA and SDMI had denied they had threatened legal action and said Princeton U. prof. Edward Felten and colleagues were free to air their research.

Suit was dismissed by U.S. Dist. Court, Trenton, N.J., Nov. 28. Judge Garrett Brown granted motions for dismissal by defendants and Justice Dept., ruling that because RIAA and SDMI had said they wouldn’t sue Felten and group, there was nothing at issue in EFF’s case. RIAA was pleased with dismissal. “We are happy that the court recognized what we have been saying all along: There is no dispute here,” said Cary Sherman, RIAA senior exec. vp-gen. counsel: “As we have said time and again, Professor Felten is free to publish his findings.”

EFF said judge hadn’t addressed First Amendment issues in case and lamented that “plainly hostile” judge dismissed suit “after less than 25 minutes of debate.” EFF said it intended to appeal. “The judge apparently believes that the fact that hundreds of scientists are currently afraid to publish their work and that scientific conferences are relocating overseas isn’t a problem,” said Robin Gross, EFF intellectual property attorney: “This decision is clearly contrary to settled First Amendment law, and we’re confident that the 3rd Circuit Court will reverse it on appeal.”

Meanwhile, EFF is seeking dismissal of its own in Cal. case where DVD Copy Control Assn. (DVD CCA) sued Andrew Bunner and others for posting DeCSS on Web. DVD CCA, which is licensor for CSS encryption, filed suit under

Cal. trade secret law Dec. 1999 in Cal. Superior Court, San Jose. In seeking dismissal, EFF said law prohibited injunctions once trade secret became generally known to public.

As evidence, group cited widespread DeCSS postings, as well as academic study of CSS algorithm and DeCSS. EFF also argued that DVD CCA had ceased policing CSS trade secrets, "claiming it would be too burdensome for it to examine every Web site now posting a DVD descrambling program." EFF told court that "DVD CCA seeks to put the court in the impossible position of trying to put the genie back in the bottle." At our Nov. 30 deadline, date for hearing on dismissal motion hadn't been set.

Ritek Group spinoff RiTdisplay received investments from Development Fund of Taiwan (DFT) (\$8.7 million), GE (\$20 million) and Futaba (\$8 million) in 60-million share offering. Ritek has 52% stake in organic light-emitting diode (OLED) maker, but is expected to reduce investment 8-10% to improve its own financial structure. Futaba, GE and DFT will have seats on board. GE's plastics group is expected to provide substrate technology, while Futaba adds expertise in vacuum fluorescent and field emission displays. RiTdisplay, which will be listed on Taiwan Stock Exchange, also includes among its investors Dupont, which formed OLED joint venture with Three-Five Systems earlier this year. RiTdisplay is manufacturer of OLEDs for Dupont-Three-Five venture. Futaba, meanwhile, extended R&D agreement with SI Diamond Technology involving developing carbon field emission display using latter's Field Emission Picture Element Technology (FEPET). Agreement, signed in Jan., was extended for 6 months. SI Diamond also will receive \$500,000 lump sum payment from Futaba.

Consumer intentions to buy TV sets rose in Nov. from Oct., even though overall consumer confidence fell for 5th straight month, according to preliminary data in Conference Board monthly survey. Of 5,000 households polled, 7.7% said they planned to buy TV set in next 6 months, vs. 6.8% in Oct., 7.5% in Sept., and 6.2% in Nov. 2000. Consumer Confidence Index fell 3 points in Nov., marking 2nd significant decline in as many months, Conference Board said: "Rising unemployment and continuing layoff announcements are dampening confidence." Pessimistically, it said turnaround in consumer confidence wasn't likely before year-end, "nor are retailers likely to enjoy a blockbuster holiday season."

Beijing Orient Electronics (BOE) formed joint venture with Semicon Engineering and Hynix Semiconductor to buy Hynix's STN LCD production lines for \$60 million. BOE will have 45% of venture, Semicon 35%, Hynix 15%. BOE said it would move production lines to China from S. Korea within 2 years. Deal, which still must receive approvals from BOE board and Chinese govt., is expected to be finalized in Dec. LG.Philips also had been rumored to be interested in buying Hynix's LCD business, although spokesman said there was no need to acquire assets, much of which consisted of older equipment.

As many as 2 million DVD players were sold Thanksgiving weekend in U.S., sources estimated. Apex Digital brand alone shipped one million players for holiday sales weekend, with many sold at promotional price as low as \$70. Kmart had chainwide allocation of 50,000 Apex players at that price, per retailer's sale circular. Stock of 34 at suburban N.Y. outlet was sold out within hour of 7 a.m. opening, electronics dept. mgr. told us. Wal-Mart carried equivalent model at \$75 for 5-hour Black Friday blowout.

ClickVision is working to integrate its embedded software in new Internet-enabled DVD players that are expected to reach market next year. L.A.-based ClickVision has had discussions with, among others, Vialta, which recently began offering \$299 ViDVD, Internet-enabled player, at Micro Center, Creative CEO Daniel Bates said. ClickVision, whose software is embedded in images to allow for link to Web or other information, earlier had added interactive features to programming for Pax Communications and Discovery Channel. ClickVision also is working with Pantheon Productions to embed its software in DVD titles. "DVD players with Internet connections are coming and the DVD-ROM spec is starting to shake out," Bates said. In entering DVD market, ClickVision, which also is marketing software for work station and targeted ad applications, is seeking to have the technology integrated in an ASIC chip, he said. "We're looking for companies that share our vision, which is, don't get in the way of the viewing experience," Bates said. Yet ClickVision software also can be used in Internet streaming applications in which it may require 600-700 kbs.

First pirate DVDs of *Harry Potter and the Sorcerer's Stone* movie emerged in China last just one week after film's Nov 16 U.S. theatrical release. News reports said counterfeits of box-office hit were selling for equivalent of \$1.20 in Chinese markets, despite grainy image and poor sound obviously obtained through camcorder recording in theater. Contact in Hong Kong confirmed price and quantity but said superior pirate versions often follow first counterfeits.

Toshiba said it would stop selling desktop PCs in U.S. and return focus solely to portables, where it has major market share. Availability of desktops in U.S. wasn't widely known, or visible at retail. Toshiba offered 11 models priced \$599-\$1,499 for sale on its Web site (www.tais.toshiba.com), and most of retail partners listed mostly were value-added resellers, not large chains. Company said it would continue selling desktops in U.K., where awareness of their availability also is low.

Next-generation digital hard disc recorder for PVR applications has been developed by Japan's Nihon Computer. Product can record 2 digital streams simultaneously from different sources, Japan press reports said. Company said it would market drive at about \$400 as dual-use product for recording from TV and home security video cameras. It combines generic hard drive with Nihon's proprietary chips and image processing software.

THIS WEEK'S YEN RATE

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

ACCESSORY SUPPLIES SHORT: At least 2 retail chains still were having trouble keeping up with demand for DVD remote accessory for Microsoft's Xbox videogame console last week. Meanwhile, we were told that memory card for Nintendo's GameCube was selling just as briskly, and retailers were having trouble keeping up with demand.

Peter Roithmayr, merchandising vp of videogames at specialty chain Electronics Boutique (EB), told us on day of Xbox launch in N. America, Nov. 15, that allocations were low on DVD accessory (TVD Nov 19 p9). Situation was echoed then by GameStop Pres. Dan DeMatteo. Roithmayr told us last week that situation hadn't changed: "We've gotten one or 2 shipments of that and that's completely sold out, too," and while there were "more coming" from Microsoft, he didn't know when they would arrive. Spokeswoman for Best Buy's Sam Goody retail chain told us that DVD remotes "come in and as soon as they get in the stores they're gone." Only official word from Microsoft on status of DVD remote shipments came from Product Mgr. James Bernard, who would say only: "There are DVD wireless remotes available at retail stores across the country. Supplies are being replenished as quickly as possible."

Roithmayr also told us that Nintendo memory card was "in very short supply" at EB — situation echoed by Sam Goody spokeswoman, who told us card was overall top-selling videogame accessory over Thanksgiving weekend across all consoles. Noting that, like Xbox DVD remote, there is no 3rd-party supplier for GameCube memory card at this point, Roithmayr said: "It just continues to be in a sold-out situation and we anticipate every time we get them in they're going to sell out right away."

Nintendo of America (NOA) Senior Mktg. Vp George Harrison said that memory cards "shipped one to one with the hardware and so as far as why there may be a shortage... maybe consumers are buying more than one memory card depending on how many games they buy and obviously the games they need to save."

As for GameCube and Xbox console supply situation, Roithmayr said: "The Xbox product is flowing ahead of our expectations. We've gotten several subsequent reorders [since Nov. 15 launch] and we got one GameCube reorder" in since Nov. 18 launch of that system. As of early last week, he said, "you would be able to find some of either machine on our shelves if you got lucky," although both consoles still were "pretty much sold out" at most of chain's stores.

NOA said that of initial 740,000 GameCube hardware units shipped, about 100,000 went to Canada and Latin America and another 75,000 went to U.S. rental and other alternate distribution channels. As of middle of last week, "virtually all" of about 80% of systems targeted for U.S. retail locations had been sold out, NOA said. NOA said consumers were "buying about 2 games for every" console purchased. Total of 22 GameCube titles will be available by year-end, growing to about 35 by March, NOA said. GameCube exclusive titles *Pikmin* and *Super Smash Brothers Melee* are scheduled to ship this week. NOA called *Luigi's Mansion*, top-selling GameCube title since system's debut, "the most popular console launch game ever, with sales even eclipsing those of... *Super Mario 64*, which launched with the Nintendo 64 console in 1996."

GameCube was "becoming the fastest-selling home videogame console of this generation," said NOA. Company

said that through system's first week of availability, "more than one-half million systems" were sold to consumers "at a rate nearly twice that of Microsoft's Xbox and at least 25% faster than the launch of Sony's PlayStation 2 last year." But NOA made considerably more units of GameCube available at system's rollout in N. America than Microsoft and Sony did for their systems. While Sony said last year it had shipped 500,000 systems for PlayStation 2's launch, Microsoft by various accounts shipped only about 300,000 for Xbox for Day 1 Nov. 15. Microsoft as of our deadline still had yet to say exactly how many consoles it had shipped then and to date.

NOA Exec. Vp-Sales & Mktg. Peter Main said: "To have outpaced any other videogame console launch ever would be notable in its own right. But to accomplish this under the current economic conditions is truly remarkable." Economic troubles have been cited as main reason GameCube has met with slower-than-expected results in Japan since system bowed there in Sept.

Sam Goody, however, "expects Xbox to thrive through the holidays," more so for chain than GameCube because chain's core customer is somewhat older than core GameCube buyer, spokeswoman told us. But both systems have been selling as fast as Sam Goody gets them, she said, noting that videogame hardware is new category for her chain this year. Chain entered console hardware business after Best Buy bought Sam Goody parent Musicland earlier this year.

For EB, 6 pieces of GameCube software and accessories were selling for each console, while for Xbox tie ratio was only slightly less at 5:1, Roithmayr told us. But EB and Sam Goody offered somewhat different takes on software supply situations for new game systems. Roithmayr said: "We're pretty wiped out of a lot of [Xbox] software." He added: "When you plan on selling X amount of hardware and you buy at a [certain] ratio of software and accessories and then you sell that much more hardware than you were expecting, you scramble to get caught up. We had such a tremendous [Thanksgiving] weekend. We're not in stock in every store on every title but we're scrambling to get caught up quickly." But he said: "The GameCube software is in much better shape." In comparison, Sam Goody spokeswoman said GameCube and Xbox games were "selling briskly but they're keeping in stock very well."

U.K. retailer Dixons bought 24% share of UniEuro, Italian CE-appliance retailer with 2nd largest local market share in \$91 million cash deal. Dixons said it had option to acquire balance of chain. Cost to acquire balance is \$375 million and option can be exercised at Dixons' discretion until July 2, 2003. UniEuro has 61 superstores in Italy and is most profitable retailer there, Dixons said. Its revenue in 2000 was \$333.3 million — up 33% over 1999 — and operating profit was \$35.5 million. Move to acquire UniEuro continues Dixons expansion from base in U.K. to throughout Europe. Chain now has 1,250 outlets in region.

Buy.com founder Scott Blum has won shareholder approval to repurchase e-tailer for \$23.6 million. As result of acquisition, Buy.com will cease being publicly traded and become subsidiary of Del.-based SB Acquisition. Blum, who founded Buy.com in mid-1990s, has been seeking way of returning to e-tail business and had considered purchasing Egghead.com, which is in process of liquidating its assets, sources said.

SONICBLUE WEIGHING RETAIL: SonicBlue plans to begin retail and e-tail sales of controversial ReplayTV personal video recorder (PVR) despite lawsuit filed by major TV networks alleging copyright infringement.

SonicBlue is shipping first quantities of ReplayTV 4000 PVRs this week and will sell products via SonicBlue.com and replaytv.com Web sites through year-end, spokeswoman said. She said retail and e-tail sales would start in first quarter "at the earliest." Demand for product thus far had been enough to "take care of" initial production quantities and had increased in weeks following filing of suit Oct. 31, SonicBlue spokeswoman said. ReplayTV series consisted of 4 models with storage capacities ranging from 40 hours (\$699) to 320 hours (\$1,999). SonicBlue acquired ReplayTV earlier this year for \$120 million.

Retail strategy is slight break with SonicBlue's earlier plans to sell PVR through its Web site as well as high-end dealers, custom installers, cable operators, telcos. Under revised plan, PVR is likely to be sold under ReplayTV brand and those of licensees, spokeswoman said. SonicBlue has had "good discussions" with Matsushita, she said, but hasn't reach agreement. Matsushita marketed previous generation ReplayTV PVR under Showstopper brand before discontinuing it earlier this year. SonicBlue since has shifted production of PVR to Matsushita Kotobuki in Japan from Flextronics in Mexico. Matsushita previously built ReplayTV drives based on designs from Quantum that sold under QuickView brand. Motorola also is ReplayTV licensee and probably will target cable market.

SonicBlue spokeswoman declined to identify retailers that might carry ReplayTV product, but said company would leverage existing ties with its Rio brand digital audio players and Go-Video dual-deck VCRs.

SonicBlue's stock rose sharply Nov. 27 after it reported that networks had amended lawsuit to drop Go-Video dual-deck VCR from case and jumped another 12¢ next day to \$2.40, its highest level since Aug., but below 52-week high of \$8.75. SonicBlue CEO Kenneth Potashner said Nov. 28 he was "highly comfortable" with Wall St. analysts' forecast for company's 4th quarter. Wall St. consensus is 11¢ loss based on range of 7-15¢. SonicBlue reported 40¢ loss year ago.

At same time, CacheVision took wraps off CVR-4000 series of OEM PVRs that were compatible with cable-ready TVs and analog and digital set-top boxes. CVR-4000 series, expected to be available for trials in first quarter, consists of 20 GB (\$225) or 40 GB (\$250) sidecars and 40 and 80 GB PVRs, both priced at \$275. Latter 2 differ in connectors, one using USB and dial-up modem, other for cable modem or DSL. CacheVision was launched in 2000 as joint venture of Thomson Multimedia and Seagate Technology.

Palm will discontinue Web-based MyPalm portal that provides access to online calendars and address books as part of move to trim 250 jobs. Palm said in message posted on its Web site that it would delete all customer data Jan. 10. It's keeping separate mobile portal also known as MyPalm that's available to those with handhelds capable of wireless access to data. MyPalm portal largely evolved from Palm's acquisition of Anyday.com last year, purchase that later resulted in write-down of \$47 million in assets. Palm had started MyPalm with goal of generating revenue from advertising and subscriptions to Web personal information management service, market that never took off, spokeswoman said.

NEC DROPS PRICE ON 61W PLASMA: NEC Technologies dropped price of 61W plasma display panel to \$19,995 from \$27,995, potentially setting stage for similar cuts by OEM customers Marantz and Runco. NEC, which started production of 61W in Japan in July, cut price in reaction to market demand, Visual Systems Product Line Mgr. Michael Piehl said.

"We felt a responsibility to make our 61W affordable to a wider group of customers," he said. "Typically, the largest obstacle [to expanding market] has been price, and by bringing the 61W to under \$20,000 a huge psychological barrier has now been overcome."

Marantz and Runco officials weren't available for comment, but Piehl said "when we make price moves, we certainly take into consideration all of our partners and make good with everybody." He declined to disclose how NEC achieved lower price and it remained unclear whether it was reached through improved yields or whether company simply narrowed profit margin of product. NEC's 61W has 1365x768 resolution.

Despite sharp drop in 61W price, NEC has no immediate plans to decrease tag for its 50W, which sells for less than \$15,000, Piehl said. "It depends on the use of the product, and there may be a certain amount of overlap [between 50W and 61W], but there are a lot of reasons other than screen size why a customer would choose one over the other," he said. At 50W, NEC competes with Fujitsu, Panasonic and Pioneer, last of which has had previous generation product priced at \$10,000.

In 60W and up category, NEC faces LG Electronics, which has priced Zenith brand display at \$24,999, and Samsung, which has produced small number of 63Ws and expects to start volume production in 2nd-half 2002. Samsung will do "whatever it takes to stay competitive," Mktg. Dir. James Sanduski said, citing company's \$300 million investment in plasma plant in S. Korea. "I'm a little surprised by the steepness of the drop and, given that the category is still emerging, I'm not sure how many additional customers it will draw into the market," he said. Zenith spokesman said final decision hasn't been made on possible price move. On industrial side, LG also was weighing its options.

Despite taking lead in cutting price in 60W-and-up category, NEC has made "no definite decision one way or the other" on whether it would return to CE market, Piehl said. NEC pulled out of CE market in U.S. in late 1980s. "Anybody who is in the consumer side of the business realizes there are pros and cons with the consumer market," he said. "NEC is constantly weighing all the pluses and minuses and until a decision is made we continue to do business as we are."

Matsushita's longtime DVD pointman Sakon Nagasaki is moving on to new assignment and will be vacating seat on DVD Forum Steering Committee, we've learned. Matsushita spokesman declined comment, but in letter to DVD Forum Sun. Nagasaki said he would leave as dir. of Matsushita's Storage Device Business Development Office for new assignment as dir.-corporate technological strategy, effective Dec. 1. Letter said new Matsushita representative to DVD Forum steering committee would be Yukihiko Hamaguchi, former pres., Matsushita Kotobuki Electric, who also will replace Nagasaki as Storage Device Business head. It had been rumored that Nagasaki would retire from Matsushita at end of Feb., but spokesman wouldn't comment.

ULTIMATE OPTIMISTIC ON 4TH QUARTER: Ultimate Electronics shares rose nearly 10% in trading Nov. 26 on chain's announcement that it had been "encouraged" by sales activity in start of its fiscal 4th quarter and that same-store sales had improved "significantly" from Oct. doldrums.

Ultimate, first publicly traded consumer electronics chain to report results since Thanksgiving holiday, described store traffic as "very solid" over long weekend. COO Dave Workman told analysts in conference call held to discuss 3rd quarter financial results that "we're effectively closing more people who come through the door." Echoing that optimism, CEO Ed McIntire said crowds of up to 150 per store were observed outside Ultimate outlets Black Fri. when chain opened doors 2 hours earlier than usual.

For 3rd quarter ended Oct. 31, Ultimate said profit dropped 50% to \$1.68 million (15¢ per diluted share) from \$3.39 million year earlier despite 13% revenue gain to \$132.8 million, with same-store sales down 6%. Gross margins fell to 31.8% from 32.2% year earlier on higher mix of TV and DVD products. Selling expense rose more than 2 percentage points on lower same-store sales and on "infrastructure" costs tied to store expansion.

McIntire said revenue in first 24 days of fiscal 4th quarter increased 22% over year earlier and same-store sales were even with last year. Workman said digital products were driving sales momentum, with unit sales in 3rd quarter rising more than 80% from year earlier. He said chain had particularly good results in flat-panel TVs, selling 200 plasma sets in 3rd quarter, meaning goal of selling 60-100 sets per month was "well within reach." Responding to questioner, Workman said he expected one more year of higher average selling prices in flat-panel TVs, with target of reaching \$1,350 and possibly \$1,400 in 2002. "With that, we hope to see increasing margins as well," he said.

Workman said early sales of XM satellite radio receivers "exceeded our expectations," and XM and Sirius product should provide "much-needed boost" to mobile electronics category in 2002. DVD sales continued their momentum, with progressive-scan models accounting for 34% of all units and 40% of all dollars in category. Average selling price of DVD player at Ultimate was \$279 in quarter compared with industry average of \$145, Workman said. However, DVD success was both "a blessing and a curse," as DVD cannibalized sales of CD players. As result, he said, and also because category had suffered from poor "execution," home audio "is one area where we're still lagging." He predicted improvements in 2002.

Barnes & Noble said Nov. was "especially robust month" for its GameStop division thanks to rollouts of GameCube and Xbox videogame consoles and "several hot selling videogame titles." Retailer said comparable store sales for month-to-date through Nov. 24 were up 83.7% from year ago, while comparable store sales for Thanksgiving weekend increased 68.2%. Meanwhile, Barnes & Noble said comparable store sales at its core book retail locations edged up 3.2% in first 24 days of Nov., including 4% increase over Thanksgiving weekend. GameStop sales jumped 8.6% to \$199 million in 3rd quarter ended Nov. 3 from \$183.2 million same quarter year ago, company said, adding its next sales report would be released Jan. 10, covering full holiday period.

SONY CUTS PS2 PRICE IN JAPAN 15%: Sony Computer Entertainment (SCE) cut price of its PlayStation 2 (PS2) videogame console in Japan last week 15% to ¥29,800 (\$239.99) from ¥35,000 (\$281.89).

Reduction was 2nd on system in Japan since console was introduced there in March 2000. Previous cut was 12%. Sony said sales increased after it dropped PS2 price in Europe for 2nd time late in Sept. (TVD Oct 1 p14). In U.K., reduction was to £199.99 from £269. That brought PS2 within range of N. American \$299 — same as system has had since bow in Oct. 2000.

Sony Computer Entertainment America (SCEA) spokeswoman didn't return call for comment by our Fri. deadline. But SCEA Senior Vp Andrew House seemed to drive final nail into rumor that PS2 pricing might fall in N. America by year-end at Gerard Klauer Mattison (GKM) PlayTime conference in N.Y.C. early last month when he told investors drop from \$299 was "not happening this holiday season" (TVD Nov 12 p9). Senior Sales Vp Jack Tretton later told us at conference that GKM prediction in report on toy and videogame industry that "Sony will not cut the North American price until spring 2002, at the earliest" was "accurate" because that would come just as SCEA parent Sony was reaching end of its financial year March 31. Tretton said "in my mind, somewhere between the spring and the fall is probably the window" for price cut.

SCE also said last week it would start selling PS2 in Hong Kong, Malaysia, Singapore and Thailand Dec. 13 and in Taiwan Jan. 24. Spokeswoman was quoted by Reuters as saying price cut in Japan "reflects the completion of the ramp-up of PS2 production and favorable progress in cost reductions." She also denied cut had anything to do with Xbox introduction, saying: "We want to offer a better price to our customers ahead of a series of new big software titles to be launched in December. We're not thinking about what's going on with Xbox."

Electronics Boutique acquired all outstanding shares of Tradition Svenska (TS), privately held video and hobby games retailer with 11 stores in several Swedish cities. TS also operates e-commerce business via 2 Web sites — www.tradition.se and www.tradition.nu. Specialty game retail chain said transaction was in cash but declined to disclose specific terms. EB CEO Jeffrey Griffiths said acquisition "supports our ongoing strategy to leverage Electronics Boutique's reputation and expand the company's retail base in Europe and other key regions that offer solid growth opportunities." He said: "From a geographic standpoint, Sweden allows us to leverage our existing retail and distribution infrastructure in Denmark and Norway while complementing retail operations in Italy and Germany." He said EB planned to retain TS senior management and key employees, and said Louis Triche, senior vp of EB's international operations, would relocate to Europe to coordinate operations and expansion plans.

Borders Group will open 25,000 sq. ft. store at Norridge Commons in Ill. Chain called site "an established shopping region in the most densely populated trade area of Metropolitan Chicago." Company also said it would open 5th store in Indianapolis in Feb. 2002. Company said store would be in Carmel. Like Norridge store, Carmel location will be 25,000 sq. ft. and offer 150,000 books, CDs, DVDs, periodical items. Chain said each new store's location was selected based on variety of factors including demographics, traffic patterns, availability of parking and attractiveness of site.

ABT E-COMMERCE BUSINESS WIDENS: As e-commerce business continues to widen for Abt Electronics, retailer plans to shut down current Morton Grove, Ill., location and move into new, larger facility in nearby Glenview, offering 350,000 sq. ft. of showroom and warehouse space in "late January-early February," Gen. Mgr. Phil Hannon told us.

Hannon had told us earlier this year that Abt was hoping it would be able to open new location in Nov. in time for busy holiday selling season (TVD March 12 p22). He said last week that construction was not finished but was near completion.

Current Abt location has only about 130,000 sq. ft. of space, Hannon told us, and warehouse space in new location would be more than double that at 270,000 sq. ft. Company's growing e-commerce business was "big part" of reason why Abt decided to move to larger location, he said. He told us "if we quit selling everything right now [for the year] we're shipping 150% [more orders] over last year. I think that [based on] what I've seen early on in sales [this holiday season], we're going to easily be at 200% growth at the end of the year." As result, with current warehouse he said, "it's a struggle to get merchandise in and out to meet that kind of demand." New location, he said, will give Abt "major distribution facility for online orders."

Hannon told us: "The biggest thing we have to do is to be able to handle our online business and be able to package and ship packages and orders in the most efficient way." Of new location's space, he said, "about 30,000 feet will be... set up just to handle shipping — filling up the packages, packaging them and getting them ready to go into the UPS trailers to ship." Glenview location will have 75 dock spaces, he said, will allow company to "load our vehicles in the morning and get them out for delivery quicker — there's a lot of operational improvements we're getting."

But online business expansion wasn't only reason Abt decided to open larger location. Hannon said new site also was important because "with the way our appliance market share is growing, we need to have a much bigger distribution facility."

Large percentage of Abt's online orders continue to come outside of Ill. Hannon told us in March out-of-state orders represented 97% of online orders. Company has been able to attract much out-of-state business online despite fact that it doesn't promote its e-commerce in same aggressive manner as competitors, including Amazon.com. Hannon said: "We advertise in a smart way. We don't do a lot of TV advertising. We concentrate on taking care of customers. Word of mouth is a big part of our growth online. And we signed some major deals with a few electronic portals where people generally are going to look for electronic products."

So far this holiday season, Hannon said DVD continued to be "one of the hottest products" both online and at company's brick-and-mortar store. Other top-selling categories so far include digital cameras, he said: "It's just been a very good year for electronics and for us as a company."



Sony began shipping 5" LCD screen for its PS One videogame console at \$129. PS One combo featuring game console and screen will become available in early 2002 at \$199 for limited time.

REX STORES EARNINGS RISE: Rex Stores said 3rd quarter net income rose to \$4.2 million from \$2.8 million on strength of strong DVD and digital TV (DTV) sales and income from synthetic fuel limited partnership. Sales increased to \$106.6 million from \$105.1 million, despite 3% decline in same-store sales.

Rex had made push into projection TV, which now accounts for 25% of big-screen sales, in redesigning set displays in its 264 stores to focus on larger sizes, CEO Stuart Rose said. Store's video walls previously consisted of 19-20" and 25" models, but now include 10 or more high-definition-ready sets from Hitachi, Panasonic, Philips, Sony and Thomson's RCA. Rex's retail share of projection TV market is 4%, Rose said. In expanding TV offering, company has trimmed major appliance line and added some office furniture.

Synthetic fuel investments, which consist of 4 plants operated through partnerships with N.C. Power & Light and Sempra, generated \$4.2 million income in quarter, up from \$3 million year earlier but down from \$4.7 million in 2nd quarter. Decrease was attributed to N.C. Power's reaching cap for tax credits and slowing production, Rose said. Rex also sold 8% interest in one partnership for \$1.3 million in 2nd quarter. Investments accounted for 70% of net income in 3rd quarter. Partnerships, which generate tax credits based on sales of synthetic fuel, run through 2007, Rose said. Rex invested \$3.2 million in 2 synthetic fuel partnerships in 1998 and expects to add another in 2002, Rose said.

Rex plans to open 10 stores in current fiscal year, at low end of previous 10-15 forecast. It also has put hold on expansion for fiscal year starting Jan. 31 and instead will focus on buying back shares, Rose said. Rex repurchased 25,500 shares of its common stock in quarter, increasing total acquired since Feb. 1 to 498,700. As of Oct. 31, Rex had authorization to buy back another 772,200 shares. It had 7.7 million shares outstanding Oct. 31. "It's cheaper for us to buy back shares to get a per-share increase rather than opening up new stores," Rose said.



Hasbro is making private offering of \$225 million in convertible senior debt due in 2021, Pawtucket, R.I., company said last week. Debentures will carry annual interest rate of 2.75% and will be issued under Rule 144A and Regulation S, Hasbro said. Company said it planned to use proceeds to refinance existing debt. Debentures will be convertible into shares of Hasbro common at \$21.60 per share if closing price of common "exceeds certain levels for a specified period of time or in certain other circumstances," company said. Hasbro also said "conversion premium represents a 25% premium over Hasbro's closing price of \$17.28" Nov. 26 and "initial purchasers will have the option to purchase an additional \$25 million of the debentures for a period of 13 days."

Microsoft's Xbox was most searched-for videogame console at Yahoo Shopping in week ended Nov. 25, Yahoo said. Xbox was followed by Nintendo's GameCube and Sony's PlayStation 2, respectively. Yahoo said transactions over Thanksgiving Day weekend (Nov. 23-25) increased more than 75% over same weekend year ago. Top 3 most-searched-for electronics products at shopping.yahoo.com Web site were digital still cameras: Olympus C-3000 Zoom, Canon PowerShot S100 Digital Elph, Nikon Coolpix 995.

Consumer Electronics Personals

Former Thomson executive **Joseph Clayton**, recently vice chmn. of Global Crossing, joins Sirius Satellite Radio as pres.-CEO, succeeding **David Margolese**, who resigned in Oct... **Sakon Nagasaki**, Matsushita dir.-storage device business development and longtime DVD point man, appointed dir.-corporate technological strategy... International Game Developers Assn. (IGDA) and Gama Network announced members of 2002 Game Developers Choice Awards (GDCA) advisory board: LucasArts Project Leader **Hal Barwood**, Beemania CEO **Ellen Beeman**, Epic Games Lead Designer **Cliff Bleszinski**, Westwood Studios Gen. Mgr. **Louis Castle**, Lost Boys Games Managing Dir. **Martin de Ronde**, id Software Project Mgr. **Graeme Devine**, Inspiration Pres. **Noah Falstein**, Kalisto Entertainment Pres. **Nicolas Gaume**, Elixir Studios CEO **Demis Hassabis**, Rebellion Developments Chief Technology Officer **Chris Kingsley**, Valve Software Managing Dir. **Gabe Newell**, Shiny Entertainment Pres. **Dave Perry**, CogniToy CEO **Kim Quirk**, Intelligent Games Dir. **Matthew Stibbe**, Funcom Creative Dir. **Ragnar Tornquist**, BioWare CEO **Greg Zeschuk**.

Kunio Sebata, pres.-CEO, Hitachi Consumer Products Group, moves to pres. and dir., new Hitachi Home & Life Solutions subsidiary, effective April 1... **Keith Lehmann**, ex-MB Quart, named Phoenix Gold vp-sales & mktg.; **Stephen Bettini** resigns as vp-operations, plans unknown... Appointed at 6th Ave. Electronics: **David Birch-Jones**, ex-Denon, as mgr., home theater and custom installation; **Bill Kearney**, ex-West Maine and E&B Marine, as dist. mgr; **Kenneth Grohbrugge**, ex-Barnes & Noble, as mgr., human resources... **Brian Hurst**, ex-Transmeta, appointed National Semiconductor Americas gen. mgr. and vp-sales & mktg... **Amy Friedlander** advanced to Intertainer senior vp-business development.

Taiwan's printed circuit board (PCB) industry received boost from better-than-expected game market. *DigiTimes* said Chia Fu Electronics, Vertex Precision Electronics and Ya Hsin Industrial all had received PCB orders for Microsoft and Sony game consoles. Report said Sony awarded orders for PS2's 6-layer Rambus boards to Ya Hsin and limited shipments already have begun. Ya Hsin hasn't started shipping them in volume, however, because Sony and contract manufacturers apparently still are finalizing details for PS2 assembly orders. Meanwhile, Chia Fu and Vertex supply PCBs for Flextronics, electronics manufacturing service company that assembles Xbox. Report said Chia Fu and Vertex supplied 40% and 60%, respectively, of Xbox's PCBs. Current Vertex monthly shipments to Flextronics are 200,000 units and orders will last until June 2002 and Vertex predicts Xbox PCBs will represent 25% of its revenue, report said.

Estimated target of 1.5 million Xbox consoles being sold in first 3 months of European launch may be conservative, **Sandy Duncan**, vp of Xbox in Europe, Middle East and Africa said last week. Actual sales may be more than that after system is launched in Europe March 14 at 479 euros (\$426), he said. But Duncan declined to provide specific target he thought was possible.

CompUSA opened 28,500-sq.-ft. store in Huntsville that was offering special grand opening promotions. CompUSA COO **Larry Mondry** said company's "number one goal is to deliver excellent customer service, and this expansion underscores our commitment to meet the needs of our customers in Alabama." He added: "This location was selected because of the concentrated trade and technology area in Huntsville."

SPATIALIGHT STRIKES AGREEMENT: SpatiaLight has stuck agreements with Chinese TV makers Hisense and Irico to develop rear projection sets based on its liquid crystal on silicon (LCoS) technology.

SpatiaLight, which signed similar accord with China Electronics Corp. earlier this month, will deliver prototype 52" rear projection sets based on its 0.77" display to Hisense and Irico within 45 days. Companies will then begin 6-month pre-production phase. Agreement calls for Hisense and Irico to buy 12,000 displays from SpatiaLight in 2002, potentially generating \$19.2 million in revenue. Microdisplays are priced at \$1,600, with finished products containing them retailing for \$3,500, SpatiaLight spokeswoman said. SpatiaLight has developed 0.77" in widescreen and standard versions with resolutions of 1,280x1,024 and 1,280x768 respectively. Contrast ratio is 350:1.

Hisense and Irico will initially focus on China market with sub-52" sets, SpatiaLight board member Claude Piaget said. SpatiaLight is developing microdisplay, while Varitronix provides silicon using 12-micron process and Fuji Photo Optical supplies light engine. In addition to 3 Chinese manufacturers, SpatiaLight is said to have discussions with Hong Kong TV maker Skyworth, although Piaget declined comment.

In focusing on 0.77", SpatiaLight has dropped earlier plans for 0.97" version for front projectors, Piaget said. "The trend is to move to smaller chips," he said.

Nintendo Co. Pres. Hiroshi Yamauchi plans to use ¥20 billion (\$161.5 million) of his own money to set up investment fund in Jan. that would promote growth of videogame development companies in Japan and overseas. Reports said Yamauchi told *Nihon Keizai Shimbun* money was intended to help start-up companies cover development costs, which are soaring rapidly as videogame consoles become more advanced. Money that Yamauchi intends to use will come via capital gains from 1.18 million Nintendo shares he holds. Yamauchi owns 10.84% (15.35 million) of Nintendo's outstanding shares. Report said he planned to sell his entire stake in company in after-hours trading and then buy back enough to maintain 10% stake, using balance to help set up investment fund. Company said tax considerations were reason for structure of share sale, Reuters reported, and only companies developing games for Nintendo's GBA and GameCube would be eligible to become recipients of money and companies that received financing must finish designated projects within year.

Two models of flat-screen direct-view TVs with built-in 40 GB hard drives were introduced by JVC in Japan at about \$900 for 21" set and \$1,475 for 29" model. Each hard drive is capable of storing 40 hours of programming. Index of recorded programs is created automatically and still image from each makes accessing individual shows easier. Larger set also has built-in tuner for receiving analog satellite broadcasts.

Suppliers sold 187,464 DTV sets to dealers in Oct., up 27% from Sept. and 113% higher than in same 2000 month, CEA said. Oct. shipments were worth more than \$341 million, it said. Unit shipments in year's first 10 months totaled 1,050,460 sets, CEA said, including integrated sets and standalone monitors. It projected DTV shipments of 2.1 million in 2002, 4 million in 2003, 5.4 million in 2004, 8 million in 2005, 10.5 million in 2006.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

DECEMBER 10, 2001

VOL. 41, NO. 50

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PAXSON, OTHERS OPPOSE NBC DEAL: Saying it could be forced to divest 5 major market stations, and NBC might be unable to complete anticipated takeover of Paxson, Paxson asked FCC and American Arbitration Assn. (AAA) to resolve its disagreement with network. Paxson charged NBC was exerting undue control over it, potentially creating unacceptable duopolies, and its planned acquisition of Telemundo could create multiple "triopolies." Hispanic groups also opposed FCC okay of NBC-Telemundo deal. Partly in response, NBC-affiliated directors quit Paxson board.

Paxson asked FCC for declaratory ruling whether NBC had exerted undue control over Paxson and to order remedies if it had, as well as to delay action on NBC-Telemundo deal at least until AAA acted on complaint Paxson there. "Our efforts are intended to require NBC to honor its [1999] agreement to acquire Paxson, conduct the partnership in accordance with FCC rules and terminate its acquisition of Telemundo," Paxson Chmn. Lowell Paxson said: "Alternatively, we want to be free to explore other opportunities to sell the company or team up with other strategic partners."

NBC is exerting undue control over Paxson by appointing its employees, rather than unaffiliated individuals, to 3 Paxson board seats and pressuring it to cooperate more with network in return for additional financing, Paxson said. It said situation could mean that its stations should be attributable to NBC for ownership limit purposes, creating impermissible duopolies in Chicago, Dallas, L.A., Miami, N.Y. "The opportunities for abuse are great given the economic power NBC can exercise" over Paxson, filing said, since NBC controlled 2/3 of Paxson revenue through agreement allowing it to sell ad time. Company asked FCC to require that all NBC appointees to Paxson board as result of its 32% ownership of Paxson be truly independent. Other potential remedies, it said, include requiring divestiture of NBC interest in Paxson.

Petition to deny license transfer to complete NBC-Telemundo deal cites same key issues, but notes that Telemundo deal, along with potentially attributable interest in Paxson stations, could mean NBC would control 3 stations in same 5 markets. Paxson said that would be "a far worse situation." At AAA, Paxson seeks ruling that Telemundo deal would violate terms of 1999 NBC-Paxson agreement, so it should be blocked. It asked FCC to withhold action on Telemundo until AAA could rule.

Pax TV COO Dean Goodman told UBS Warburg conference in N.Y. last week that despite new deregulation fervor in D.C., possibility of govt.'s giving blessing to "triopoly" such as could emerge from NBC takeover of Telemundo, along with Paxson, was almost nil. "The Democrats are still upset about 2 stations in a market," he said. Paxson Pres. Jeff Sagansky said he expected both arbitration and FCC proceedings would be completed quickly, "certainly within the first 3 quarters of next year." He also said that "if it comes to an unwind, we will find a new partner or, more likely, a buyer."

Hispanic groups, meanwhile, said media consolidation such as Telemundo deal hurts diversity, program content, minority ownership. "By its very nature, media consolidation means that companies are seeking the greatest market share at the lowest cost," said Juan Figueroa, pres. of P.R. Legal Defense & Education Fund: "This has had devastating effects on Latinos [including] layoffs, hiring freezes and cuts in critically important but less lucrative program areas such as news and public affairs." Other groups signing FCC filing included National Council of La Raza (NCLR), National Hispanic Media Coalition, League of United Latin American Citizens, National P.R. Coalition, Mexican American Grocers Assn., Nosotros, National Assn. of Hispanic Publications. They also said minority ownership of media was half of level 5 years ago, with Hispanics owning less than 1% of U.S. TV stations. "The NBC-Telemundo merger means the programming aimed at Latino audiences is in the hands of non-Latinos, and we cannot dismiss the importance of Latino ownership," NCLR Pres. Raul Yzaguirre said.

If Paxson-NBC rift leads to divorce, former might be able to land MGM as new suitor, speakers said at UBS Warburg conference. MGM Chmn. Alex Yemenidjian said "the Paxson asset would fit very well with MGM," providing it came with "right structure and right price." He didn't suggest MGM was poised to pursue Paxson, and when asked about possible parameters for acquiring network or distribution outlet, he said it would be "difficult to discuss publicly" such matters.

FCC REJECTS GEMSTAR: FCC said Time Warner Cable's analog must-carry obligations didn't require company to carry Gemstar-TV Guide International's electronic program guide, though companies could sign commercial agreements that would involve carriage. Companies said they were in negotiations to that end. Agency used 3-pronged test to determine whether material carried in vertical blanking interval (VBI) of local broadcasts was program-related and therefore required cable carriage: (1) Is information intended to be seen by same viewers who are watching main program? (2) Must information be available during same interval of time as main program? (3) Is information integral part of main program? Commission ruled 4-0 that answer to questions was "no" on all counts.

FCC stressed that decision was limited to analog signal, and only to 2 companies involved, but it still triggered speculation whether broadcasters could win digital carriage of ancillary services such as stock quotes and other data piggybacked on their signals. Data for updating Gemstar program listings are sent 4 times each day through VBI signal of analog over-air broadcast stations in each market, giving viewers latest information about what's on TV and where they can find it. Broadcasters are paid to carry data on VBI.

TW started stripping material out of broadcast signals transmitted over cable, resulting in March 2000 complaint by Gemstar. While FCC and FTC were reviewing then-proposed merger of AOL and TW, TW in June 2000 reversed its carriage decision and has been carrying Gemstar's guide material ever since. Once TW did that, Gemstar withdrew its petition, but TW sought ruling.

FCC said "very little" of Gemstar's material was uniquely related to main program broadcast station was carrying at time. "Naturally, we're pleased with the FCC's decision. We look forward to productive discussions with Gemstar," TW Cable spokesman said, and company has "no plans" to begin stripping material out again. Gemstar spokeswoman declined to comment, but Gemstar CEO Henry Yuen and co-Pres. Peter Boylan recently indicated all new agreements with MSOs provided for full support of Gemstar.

FCC spokeswoman said ruling was limited to that specific case, but analyst Gary Arlen said he believed it had much wider implications. FCC is examining cable's obligations to carry digital TV broadcasts, and cable operators, not surprisingly, believe they should have right to determine what they deliver to their subscribers. Broadcasters, meanwhile,

would like to earn money for delivering ancillary services. Arlen said ruling "at least set(s) a groundwork for a next wave of debates" about must-carry. "It may not be a precedent, but the lawyers who want to make it a precedent will try to carry it over into the digital requirement," he said. Cable insiders called FCC ruling victory, saying if decision had gone other way, "it would have been a can of worms" for MSOs. "We're pleased the FCC rejected Gemstar's effort to use the must-carry law as a regulatory shoehorn for free carriage," NCTA Senior Vp-Legal Dan Brenner said: "The negotiating table is the right place to resolve this issue." NAB spokesman declined to comment.

DBS LOSES MUST-CARRY BID: U.S. Appeals Court, Richmond, denied bid by Satellite Bcstg. & Communications Assn. (SBCA) for delay of DBS local-into-local must-carry rules, court said Dec. 7. SBCA, EchoStar and DirecTV were seeking injunction to postpone implementation of rules until after court case on constitutionality of law was settled. Appeals Court upheld lower court verdict that carry-one-carry-all rule didn't violate First Amendment or other constitutional provisions: "We also hold that FCC's a la carte rule, which allows satellite carriers to offer local broadcast stations to subscribers either individually or as part of single package, isn't arbitrary, capricious or contrary to law."

Decision was major setback for satellite industry, which it said would make it impossible to carry more programs to more markets. Opinion also came as federal govt. was trying to decide whether proposed merger of 2 largest U.S. DBS companies — EchoStar and DirecTV — violated antitrust regulations.

"We are extremely disappointed in the decision from the 4th Circuit Court of Appeals," SBCA Pres. Andrew Wright said: "This is a tremendous loss for consumers and competition in small and midsize markets because it limits the ability of Hughes' DirecTV and EchoStar's DISH Network to roll out local broadcast service in additional markets." He said satellite groups would "explore all of our legal options."

NAB called opinion "New Year's Day gift" for DBS subscribers. Pres. Edward Fritts said: "We now fully expect DirecTV and EchoStar to follow the law and carry all TV stations in markets where they are charging customers for access to any local stations." He said court "upheld the will of Congress recognizing the unique value provided by free local TV stations." Media Access Project said: "We are pleased that the court has affirmed Congress' power to protect diversity in the marketplace of ideas and rejected the wilder First Amendment theories advanced by satellite broadcasters."

Carriage obligations aren't triggered simply by decision to carry local programming, court said, but by decision to carry certain stations using S-122 license. Satellite carrier that privately negotiates required copyright clearances can retransmit signal of local broadcast station without incurring any carriage obligations, but carrier that transmits same signal by means of statutory license must comply with must-carry regulations, decision said. Burdens of rule don't depend on choice of content, but on decision to transmit content by using one set of economic arrangements rather than another, court said. Must-carry rules are content-neutral measure that imposes incidental burdens on speech.

Congress adopted must-carry rules to preserve free TV for those not served by satellite or cable systems and to promote widespread dissemination of information from variety of sources, court said, and those interests clearly are substantial and unrelated to suppression of free expression. It said Con-

gress properly considered effects of satellite and cable together in deciding to protect viewers from any significant reduction in viewing options. Court backed satellite carriers in assertion Congress was concerned about anticompetitive practices when it passed Cable Act, but found they did so because national character of satellite delivery systems provided economic incentives to favor national, nonbroadcast programming over local, broadcast programming: "There's nothing anticompetitive about satellite operators' efforts to make the most efficient use of existing satellite capacity." However, court said, "cherry-picking" major network affiliates in local markets "threatens noncarried stations and viewers in that market."

Minority Media & Telecom Council asked FCC to consider impact of economic recession in ruling on extension requests by small and minority entrepreneurs. In letters to each commissioner, Council Exec. Dir. David Honig said "financiers are loathe to sink funds into any venture whose value could be zero" if, for instance, FCC denied extension of construction permit. He said current recession had been "exacerbated by the dramatic market fluctuations" following Sept. 11 terrorist attacks and financing delays had been caused by dislocation of N.Y.-based lending institutions. "These circumstances disproportionately impact minority entrepreneurs," Honig said, asking FCC to consider "recession impact showings" on case-by-case basis for extension requests. He asked Commission to make public announcement that it was adopting policy to "calm nervous investors and lenders."

FCC Comr. Martin said he was wary of instituting new regulations on Internet but indicated willingness to lift rules to achieve regulatory parity between cable and other kinds of companies that provided Internet or information services. He told reporters Commission should act soon on Notice of Inquiry pending more than year on how to define Internet delivered over cable. Question whether it's telecom service, cable service, information service or some other kind of service has regulatory implications no matter which way it is decided, he said. Because Internet provided via cable has yet to be defined, FCC has no regulatory role now in cases such as @Home shutdown, raising criticisms from consumer advocates.

Charles Dalfen will be new chmn. of Canada's telecom regulatory authority, Canadian Radio-TV & Telecom Commission (CRTC), according to Canadian Assn. of Bcstrs. (CAB). His appointment "is good news for the CRTC and the entire Canadian broadcasting system," CAB Pres. Michael McCabe said. Toronto telecom lawyer, 58, was CRTC vice chmn. 1976-1980. He succeeds Acting Chmn. David Colville who ruled himself out of running for permanent job in summer.

Window is open at FCC through Jan. 22 for filing of settlement agreements between mutually exclusive applications for low-power TV stations and TV translator construction permits. Commission said it agreed to provide more time for settlements at request of competing applicants in some markets.

FTC SEES TV PROGRESS: New FTC report said motion picture and electronic game industries had made "commendable progress" in limiting their advertising to children for adult movies and video games, and in providing rating information in ads. But Commission said music industry had continued to advertise explicit content in most popular teen venues in all media, including TV. However, it said there were improvements in music studios' disclosure of parental advisory label information in ads. Report, 3rd in series of studies on marketing violent entertainment to children, came in response to requests from Sens. McCain (R-Ariz.), Hollings (D-S.C.), Cleland (D-Ga.), Brownback (R-Kan.).

As result of report, group of 4 other senators said they were putting on hold legislation — proposed Media & Marketing Accountability Act — that would have forced entertainment industries to comply with govt. standards. Sens. Lieberman (D-Conn.), Clinton (D-N.Y.), Byrd (D-W.Va.) and Kohl (D-Wis.) were sponsors. "Except for the music industry, marketing self-regulation is working — which was my hope all along — and there is no pressing need for government standard-setting," Lieberman said. However, he said it was critical for FTC to be vigilant, so he said he would push for legislation requiring agency to issue annual review of entertainment industry marketing practices for next 5 years. Brownback also said he wanted continued monitoring.

MPAA Pres. Jack Valenti said studios had "made good" on 12-point set of initiatives presented to Congress in Sept. 2000. "Today's report confirms that the Hollywood studios have redeemed their commitment to each initiative," he said. MPAA said it would continue to monitor compliance in future.

Report is based on FTC's efforts to track advertising in media popular with younger set in print, TV, radio and Internet. Investigators sought to determine whether ads included clear and prominent rating and labeling information. Commission also reviewed internal documents of 9 companies, including marketing plans for their content since last report. Among companies that were part of study were Miramax, Paramount Pictures, Sony Music Entertainment, Warner Bros. Among key findings were that, of film studios, no ads for violent R-rated movies were found in popular teen magazines or little promotion in popular teen locations. However, report said studios continued to advertise R-rated films on TV. MPAA has set no specific limits on ad placements there. Some, but not all, studios have said they wouldn't advertise such films in TV venues with 35% or more youth audience share, but FTC said that standard permitted continued advertising on programs with largest number of teen viewers.

FTC said movie studios now routinely disclosed ratings and reasons for ratings in their TV, print, radio, outdoor and online advertisements — significant improvement. Report found music ads targeted to youngsters were "consistent" with parental advisory labeling program. Report called that "a promising start and a clear improvement." As for videogames, agency found "continued positive steps" to limit ads for M-rated games in popular teen media but inconsistencies in that some M-rated games still were marketed explicitly to teens.

FTC Comr. Orson Swindle, in separate statement, said music industry "ought to be able to do better." But Rep. Towns (D-N.Y.), said FTC was targeting hip-hop and rap music artists. He said 22 of 29 music artists identified as producing inappro-

priate material were from those genres. Towns said such targeting could violate those artists' First Amendment rights.

XM FACES AD BLACKOUT: Despite some claims that XM and Sirius won't pose "revenue threat" to AM and FM radio, some radio chains, including Buckley Bctg. and Cox Radio, said they refused to run XM ads because they might be helping business rival. "It's like any competitive arena," Buckley spokesman said: "GM isn't going to advertise Ford." Cox Pres. Bob Neil agreed: "We're not going to allow them access to our air to try to further their cause, which is to put us out of business."

Infinity Bctg. is allowing station managers to decide, but Clear Channel, which owns stake in XM, and Radio One have accepted heavy advertising packages for XM. XM official said he was "surprised" some radio stations had turned down advertising when radio advertising was way down across country. Ad revenue fell 23% in Sept. and 19% for year to date, Radio Ad Bureau said. XM Senior Vp Steve Cook said decisions not to run ads "haven't hurt our ability to reach the demographics we're focusing on."

Satellite radio "isn't an immediate threat to AM and FM radio," said analyst Thomas Taylor. Real threat of satellite radio will be its ability to "attract early adopters" who want latest "consumer electronics gadgets" along with music fans unhappy with local radio offerings, he said. Company plans to have 20,000-30,000 subscribers by end of year.

Meanwhile, XM said it raised \$112.5 million by placing 10 million shares of common stock in IPO underwritten by Morgan Stanley. Morgan Stanley also was granted over-allotment option to purchase 1.5 million shares. Transaction is expected to close early this week. XM also said it closed on \$66 million funding package with Boeing announced in Nov. Financing includes \$35 million in new debt financing with Boeing Capital Services and \$31 million in restructured debt with Boeing Satellite Systems. XM CEO said deals would help XM operate business into 4th quarter 2002.

Supreme Court denied petition for certiorari filed by Media Access Project and other consumer groups seeking to uphold FCC rules that limit number of cable systems single company may own. Without comment, high court let stand lower court ruling in *Time Warner v. FCC* that called Commission's 30% vertical and 40% horizontal ownership caps arbitrary. Appeals court had said FCC pulled its numbers out of "thin air" (TVD March 5 p3). Agency is weighing other options on possible ownership limits. Joining in petition were Consumers Union, Center for Media Education, Assn. of Independent Video and Filmmakers, National Assn. of Artists, National Alliance for Media Arts and Culture, Office of Communication of United Church of Christ and National Council of Senior Citizens. AT&T, which currently is over vertical cap, supported Time Warner in case.

FCC will consider reallocation and service rules for lower part of 700 MHz band, TV Ch. 52-59, at its meeting Dec. 12. Agency plans to consider report and order on rules to reallocate those channels under Balanced Budget Act of 1997. It also will consider rulemaking on new equal employment opportunity rules for broadcast and cable. U.S. Appeals Court, D.C., had overturned earlier rules.

DIRECTV MERGER REVIEWED: Two House committees took turns grilling DBS executives about EchoStar-DirecTV merger, last week, and EchoStar filed FCC application to approve license transfer. In Judiciary Committee hearing, EchoStar Chmn. Charles Ergen said merged DBS provider entity would provide significant benefits, saying it would create viable nationwide competitor to cable and free up spectrum that could be used for rural broadband deployment and increased local-into-local delivery of TV station signals.

Ergen dismissed criticism that merger would create DBS monopoly. Considering high rates of cable penetration across nation, even merged entity "hardly makes us a monopoly" in multichannel video programming distribution market, he said. Chmn. Sensenbrenner (R-Wis.) rejected Ergen claim that DBS also faced C-band competition, saying C-band "only has 110,000" subscribers. Despite criticism, Sensenbrenner said: "The purpose of today's hearing isn't to prejudice the outcome of the Administration's pending antitrust review of the proposed DirecTV-EchoStar merger. We are legislators, not regulators."

Former FTC Chmn. Robert Pitofsky called proposal "merger to monopoly" and rejected claim of technical and economic efficiencies from merger: "What's the point of all these efficiencies if you're a monopoly?... What motivation would you have to pass on savings to consumers?" Pitofsky said merger would force govt. to engage in price discrimination monitoring and raise "fundamental questions" about govt. antitrust policy: "This deal as proposed has very serious problems."

National Rural Telecom Co-op Pres. Robert Phillips said merger would be "bad for competition in rural America" since it would eliminate choice and competition and would provide no service price guarantees. Despite claims deal would bolster ability of DBS to compete with cable, he said satellite was only option for many rural residents: "The future of delivery of broadband satellite to rural American is threatened by this merger."

Reps. Boucher (D-Va.) and Goodlatte (R-Va.) separately welcomed prospect that merger could benefit rural America. Boucher said merger would increase broadcast of local-into-local services and would lead to greater access to high-speed Internet and broadband services, so there were "no disadvantages for rural markets."

Consumers Union Washington office Co-Dir. Gene Kimmelman said "we need more competition... Satellite just isn't there yet... They're not price competitive yet." Although he supports merger, he said it was critical that FCC make decision on Northpoint's DBS spectrum-sharing proceeding that could allow "secondary use" of limited spectrum. Northpoint Pres. Sophia Collier agreed FCC must act soon on terrestrial wireless service provider's docket: "What we do fear is that the new satellite monopoly will leverage its power to ratchet up the satellite industry's 8-year campaign to keep us out of business."

DirecTV Chmn. Eddy Hartenstein said current prohibition against cable-exclusive programming contracts, which is set to expire Oct. 2002 (see separate story), should be extended: "It is our hope that the FCC will conclude that the cable exclusivity prohibition continues to be necessary, and that Congress will consider tightening the law to ensure that cable operators cannot evade the law simply by delivering programming by terrestrial means, as Comcast is attempting to do."

Telecom Subcommittee Chmn. Upton (R-Mich.) said DBS already had "become a competitor" to cable but said it was im-

portant to preserve "vitality of that competition" to prevent negative impact on prices and quality in multichannel video service marketplace. Ranking Democrat Markey (D-Mass.) said significant competition hadn't materialized since 1996 Telecom Act, but said DBS had become "more realistic and comparable alternative" to cable in largest markets. House Commerce Committee ranking Democrat Dingell (Mich.) didn't take stance on proposed merger, but criticized DBS industry for challenging full must-carry obligation, which was part of Satellite Home Viewer Improvement Act compromise.

Dispatch Broadcast Group Pres. Michael Fiorile, representing NAB, said merger "would harm consumers and broadcasters" in several ways, since it would: (1) End competition between satellite companies. (2) Halt expansion of local-into-local TV service in most markets. (3) "Lead to more disruptions in delivery of local stations, just as it has with cable gatekeepers."

House Commerce Committee Chmn. Tauzin (R-La.) sees merit in merger of EchoStar and DirecTV, he told Business Software Alliance conference. Noting EchoStar had been arguing that consolidation in satellite industry could be best way to compete with cable, Tauzin said "Charlie Ergen's argument... may have a lot of validity." He said broadband was key reason to back merger because combined company's 16 million video customers would give it leverage in marketing broadband system. Only condition he would want on merger would be assurance that potential satellite customers not passed by cable be offered same competitive rates as others, and Tauzin said Ergen seemed receptive to that.

GM, Hughes and EchoStar filed applications at FCC for approval to transfer control of licenses to merged company. There wasn't much new in filings, which presented familiar EchoStar positions for antitrust approval of DBS merger. EchoStar did promise improved DBS service to Hawaii and Alaska.

EchoStar was chosen by GM as Hughes merger partner because of "extraordinary spectrum efficiencies and cost and revenue synergies," filing said. Merger will liberate bandwidth because duplicative programming will be eliminated, EchoStar said — EchoStar and DirecTV have 150 channels that offer same programming. Spectrum inefficiency is competitive impediment for DBS providers because of must-carry regulations, filing said. New EchoStar will increase local programming to 100 markets — 85% of U.S. households compared with 42 served by either DirecTV or EchoStar. EchoStar is in 36 markets and DirecTV 41, with 35 overlapping.

EchoStar-Hughes should be evaluated as Multichannel Video Programming Distributor (MVPD) in antitrust review, said Princeton U. economist Robert Willig. Willig, hired by EchoStar and Hughes, said "nature of competition in the MVPD market makes it unlikely a merger would result in higher prices." Cable constrains DBS prices, so relevant market for merger must include cable companies, Willig said.

New EchoStar would redeploy satellite fleet to maximize use, filing said. Under one possible scenario, most national programming could be placed on 32 DBS frequencies at 110 W, with most Western U.S. local and specialty programming moving to 119 W and most Eastern U.S. local and specialty programming to 100 W. Another option would be to place national programming on 32 DBS frequencies at 100 W, with corresponding local and specialty programming at other CONUS slots. With spectrum freed up by merger, New EchoStar said it would be able to develop new independent programming services and up to 12 channels of high-definition TV.

OWNERSHIP RULES DEBATED: FCC probably doesn't even have enough evidence to justify notice of inquiry on broadcast-newspaper cross-ownership rules, NAB said in comments on rulemaking (MM 01-235). End of ban was supported by newspapers, not surprisingly, but opposed by public interest groups and DBS.

Broadcasters said FCC never had been able to show competitive harms from cross-ownership, so burden of justifying retention of rule "clearly lies with the Commission." Goal of diversity of voices "reflects an outmoded regulatory philosophy of promoting the maximum diversity of ownership at all costs," NAB said, and burden of justifying rule was increased by First Amendment implications. NAB also said any justification for ban had been reduced by expansion of information outlets and easing of other ownership rules, and cross-ownership actually could increase news, information and programming options by allowing pooling of resources.

Ad rates are no higher in cities where single company owns TV station and newspaper, and those markets have benefited from pooling of newsgathering resources, broadcasters and newspaper owners said. Cox said data on Dayton and Atlanta markets, where it has grandfathered cross-ownership, clearly support claim of no impact on ad rates. Gannett said improved news availability in markets with cross-ownership "overwhelmingly demonstrate... the societal benefits of encouraging local news outlets to pool resources."

ALTV said ending ban also was justified by increasing competitiveness of local markets since neither broadcast stations nor local newspapers remained "dominant giant" in local markets that they were in 1975 when ban was imposed. Given surge of cable news and Internet, ALTV said, "long gone are the days where the public waits for the 11 o'clock news or the morning paper." Schurz Communications said local news outlets now must compete against Internet-delivered newspapers from around world, as well as streaming media, so FCC "should not continue to regulate newspaper owners more strictly than any other media enterprise." Tribune Co. said Sept. 11 events, in which broadcasters and newspapers pooled resources, showed benefit of easing ownership rules. It said current environment was "megamall" of media outlets: "Never before has the media marketplace been so fragmented and so clearly incapable of domination... This competitive marketplace, not the rule, is the best guarantor of diversity."

Newspaper Assn. of America in supported eliminating rule said ban "serves no legitimate purpose in the modern media marketplace." It said "explosive" growth in media outlets justified eliminating ban, which "would lead to significant efficiencies and operational synergies" that would "benefit both consumers and advertisers." Pooling resources would allow tailoring news content to different media, newspaper group said, and wouldn't lead to "any material reduction in viewpoint diversity."

Consumer, civil rights and media public interest groups called on FCC to maintain limits on broadcast-newspaper cross-ownership. They cited study that said media diversity was at risk from mergers and acquisitions. They warned of dire consequences if FCC eliminated its long-standing prohibition and called for new policies "to open communications wires and the airwaves to more independent voices, in order to preserve our nation's commitment to maintaining institutions and market forces that promote a robust democracy." Document, more than

100 pages long, represented views of Consumer Federation of America, Consumers Union, Center for Digital Democracy, Civil Rights Forum, Leadership Conference on Civil Rights and Media Access Project. Filing cited 1945 Supreme Court ruling that First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." That principle will be jeopardized if broadcasters are allowed to own or be owned by newspaper in same community, filing said. Claims that Internet was viable news and information alternative ignored possibility that same entities could dominate Internet as well, it said. "A small number of giant corporations interconnected by ownership, joint ventures and preferential deals now straddle broadcast, cable and the Internet," filing said.

FCC library is closed to public indefinitely because Commission is using portion of it to house employees temporarily. Individuals seeking access to material in library can contact staff of FCC Reference Information Center. FCC spokeswoman said agency was moving employees into library because it already had "space problems" in new Portals building. She said building was designed years before FCC moved into it and was based on employee levels at that time. Along with full-time employees, agency usually has contractors and interns in building, she said.

Broadcasters would be required to give up wireless frequencies in Ch. 63, 64, 68 and 69 regardless of whether 85% of households had digital TV sets by 2006 under bill (HR-3397) introduced by Rep. Harman (D-Cal.). She said FCC's 85% threshold mandate left "big loophole" for broadcasters, since they wouldn't have to vacate spectrum if threshold wasn't met: "Our bill directs the FCC to assign the frequencies Congress promised to public safety agencies by the end of 2006." Bill is co-sponsored by Reps. Ballenger (R-N.C.), Frelinghuysen (D-N.J.), McIntyre (D-N.C.), Moran (D-Va.), Weldon (R-Pa.).

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'WORST AD MARKET' GETTING BETTER: Slight but welcome growth in U.S. ad spending is on way for next year, McCann ad forecaster Robert Coen predicted. Opening UBS Warburg's annual Media Week conference in N.Y., Coen forecast 2.4% uptick in ad expenditures to \$240 billion in 2002. Increase could help ease sting of "terrible" sales showing in recession-bound 2001, Coen said. In report released at conference, he said U.S. had seen "its worst advertising spending decline since World War II." He projected total U.S. ad spending in 2001 would come in 4.1% lower than 2000.

Drop is particularly painful following rosy forecasts for spending last year by industry watchers, including Coen, who predicted 5.8% increase over 2000 for 2001. Impact of terrorist attacks played strong role in keeping numbers down, but main cause of dashed expectations was "changes in the economic situation and the reaction of advertisers to those changes, particularly in high-tech," he said.

Sept. 11, combined with lack this year of Olympic Games, contributed to 23% 3rd-quarter drop in broadcast TV ad spending from same period in 2000, said David Poltrack, exec. vp-research & planning at CBS TV. Fourth quarter could improve, he said, with CBS showing "strong positive quarter," but 2001 was projected to wind up 7% below 2000. Poltrack predicted brighter 2002 (broadcast ad spending up 6%), with boost from Winter Olympics and hoped-for economic recovery.

For longer term, Poltrack disagreed with pundits who said Internet, cable and personal video recorder (PVR) posed major threat to broadcast. After years of competing, cable and networks now live in "stable co-existence," he said, and while Internet has shown it's an excellent communications medium, it has failed so far to prove its mettle in entertainment, especially in absence of broadband. PVR threat rests on notion that viewers are eager to eliminate ads, but that assumption is questionable, Poltrack said.

Viacom CEO Mel Karmazin joined Clear Channel CEO Lowry Mays in expressing hope for further industry deregulation. Both also took issue with tepid 2002 radio revenue increase forecast of 1-2% by conference speaker, Interep CEO Ralph Guild. "All of our radio stations are operating sold-out," Karmazin said.

One factor that could lead to a happier 2002 is amount of govt. effort this year to get economy going again, speakers said. "There is an inordinate amount of stimulus in this economy," Mays said. Another factor is that next year's elections could help reel in much new advertising, said Karmazin, who saluted billionaire and N.Y. Mayor-elect Michael Bloomberg for giving good press to value of ads. Bloomberg, running as Republican in overwhelmingly Democratic city, pumped record millions of dollars into his victorious effort to succeed Rudolph Giuliani. "Bloomberg proved that advertising works," Karmazin said.

On TV programming, Karmazin noted surprise success of recent Carol Burnett special and 2 other shows featuring familiar faces from the past — an "I Love Lucy" retrospective and a Michael Jackson concert. High ratings could have something to do with post-Sept. 11 yearning for "comfort shows," he said, although Fear Factor was raking in viewers as well.

NEW AOL-TW CEO KNOWS WASHINGTON: AOL-Time Warner (AOL-TW) CEO Gerald Levin announced he would step down next May and be succeeded by co-COO Richard Parsons, who has key attribute for job: He knows ins and outs of Washington. In May, President Bush appointed him co-chmn. of President's Commission to Strengthen Social Security Commission, which also includes former N.Y. Sen. Patrick Moynihan (D), is widely expected to recommend privatizing at least part of fund. Parsons' experience in Washington dates back to 1970s, when he was White House aide and counsel to President Gerald Ford and Vice President Nelson Rockefeller.

Parsons' responsibilities at AOL-TW have included overseeing company's content businesses — Warner Bros., New Line Cinema, Warner Music Group and Time Warner Trade Publishing. He also is member of AOL-TW board. In announcing changes, Parsons, 53, who became pres. of TW in 1995, said company's goal would continue to be to "dramatically enhance the lives of our customers with consistently high-quality content and services." He also had prime responsibility for helping roll out companywide initiative examining and defining TW's vision and values. Before joining TW, he was CEO of Dime Savings Bank of N.Y., one of largest thrift institutions in country. Earlier, he held various positions in state and federal govt. and was partner in N.Y. law firm Patterson, Belknap, Webb & Tyler.

Appointment also was being recognized as noteworthy because Parsons becomes top African-American executive at one of country's largest multimedia companies. Kenneth Chenault, also black, is CEO of American Express. Patricia Andrews-Keenan, pres. of National Assn. of Minorities in Cable and vp-communications, AT&T Broadband, called Parsons' appointment "terribly significant in this industry." Throughout his years at TW, he has always encouraged diversity throughout company, said Andrews-Keenan: "We think true change happens when you put people in these types of positions because they foster that type of environment" and act as role models for others.

In stepping down, Levin initiated 6-month transition plan until his retirement at company's annual meeting in May. Robert Pittman will become sole COO, position currently shared with Parsons, and will report to Parsons. Steve Case will continue as chmn.

Not everyone was gushing over legacy of Levin. Jeff Chester of Center for Digital Democracy said Dec. 7 that under Levin, company "embarked on a political and legal campaign which ultimately has weakened the First Amendment rights of citizens, harmed consumers and threatens the future of the Internet." He called company "driving force" behind cable industry's stance that govt. should relax ownership caps and said Levin's company also stood as opponent of "open access" to broadband cable. "TW lobbyists have helped to undermine any proposal which would ensure that the Internet doesn't end up an extension of its cable empire," Chester said. "We believe his tenure at TW — while good for stockholders — has not been positive for America's democratic stakeholders."

■ ■ ■

FCC rejected petition for reconsideration by Primosphere to construct, launch and operate Satellite Digital Audio Radio satellites. Agency also denied Primosphere applications to overturn decisions granting CD Radio and American Mobile Radio licenses to build, launch and operate SDARS satellites. Commission dismissed earlier petition from Primosphere because company was unsuccessful bidder in auction and there were no SDARS licenses available.

LACK OF REGULATION BEMOANED: Consumer groups were weighing their options as hundreds of thousands of people were trying to cope with losing their high-speed Internet service last week. Consumers Union and Media Access Project bemoaned lack of regulation that they said might have prevented shutdown of service to 850,000 customers of AT&T @Home service. Consumer groups planned to seek action by govt. and to urge officials to take greater role in overseeing Internet-over-cable service. Shutdown hit AT&T cable modem customers Nov. 30 after San Francisco bankruptcy court judge decided that maintaining service was burden to struggling @Home. Although AT&T and Charter weren't able to secure agreements with @Home to continue providing service, other major cable MSOs did. In addition to losing stored e-mails and other information, customers' e-mail domain names were changing on new network.

Internet-over-cable service essentially is unregulated, although questions about its status are pending before FCC. Commission is considering whether Internet provided by cable should be considered cable service, telecom service, information service or perhaps some other animal altogether. Consumer advocates said modem customers with access to multiple ISPs wouldn't experience such problems. For example, Earthlink offers competition to incumbents AOL and Road Runner in more than 20 AOL Time Warner service areas. AT&T, meanwhile, was furiously moving its customers from @Home to new high-speed network. Company said it had moved all 850,000 to new network by Dec. 7. @Home's problems also touched off more debate over competition between cable modem service and DSL offered by major phone companies. DSL is regulated, point that has infuriated telco officials who continually plead for regulatory parity with cable.

Media Access Project's Andrew Schwartzman called situation "unquestionably a short-term debacle" and chastised FCC for allowing cable Internet service to "needlessly remain in a regulatory vacuum caused by the FCC's inexcusable and intentional delay on deciding the issues." He called on agency to take action on pending Notice of Inquiry to decide how to define service. In absence of ruling, no agency — neither FCC nor FTC — has regulatory authority, Schwartzman said. David Butler of Consumers Union said situation revived open access debate and question of whether ISPs should be allowed on cable's network, notion that cable companies resist, in part because their network was financed privately.

Several DSL providers seized on customers' fears about uncertainty of cable modem service and offered special promotions to @Home customers for DSL service. Covad Communications, for one, was allowing @Home customers to move to DSL free, with no up-front costs and access to dial-up service while they waited for new DSL line to be installed. DirecTV Broadband extended special offer of 2 months free DSL service to cable modem customers and was waiving its activation fee. SBC, while not extending special offer, said it was prepared to provide any cable modem customers who had been disenfranchised by shutdown. SBC spokeswoman said @Home was "perfect example" of why regulatory parity was needed between cable modem and DSL service. "To say we're not surprised is an understatement," she said. NCTA spokesman said such argument didn't hold water because phone companies on one hand were asking Congress to free them from regulations, while at same time, arguing cable should be regulated. Besides, if there were more regulations, cable industry wouldn't have been able to raise \$52 billion in private capital to upgrade system and

provide cable modem service in first place, spokesman said: "Of course it's a matter of concern when the system is interrupted, even for a short time and for a relatively small number of people, but over time the cable modem has shown itself to be a superior and more efficient product."

AT&T said service interruptions and general surrounding uncertainty undoubtedly would have negative impact on its 4th quarter bottom line. AT&T owns 23% stake in Excite@Home and had bid \$307 million for most of its assets — bid investors call too low. AT&T withdrew that offer Dec. 4.

Charter Communications didn't establish new deal with @Home either but had been preparing for such situation for relatively few customers who were on @Home system. Charter shifted 90% of those 145,000 customers to its own network almost immediately. Comcast and Cox Communications and others signed deals with @Home to allow their subscribers to continue to receive service for 3 months, but both companies were shifting customers to alternate networks.

MSOs agreed to pay \$355 million for interim service from @Home. Bankruptcy judge Dec. 7 delayed approval of @Home Corp.'s \$355 million cable deal and required company's lawyers to provide analysis of potential legal claims it would foreclose against cable operators. Attorneys planned to work over weekend to provide analysis to balking bondholders' attorneys in advance of hearing Dec. 11. Every day approval is delayed means delay in \$2 million daily payments to @Home out of full payment cable companies have deposited to cover continued service through Feb. @Home said it would shut down for good in Feb. 2002.

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Congress never intended that exclusivity band on horizontal cable programming be "a lifetime guarantee of access" to programming substantially financed by cable companies, NCTA said in FCC filing. Rulemaking asked whether exclusivity ban remained necessary to promote diversity and competition and whether ban should be extended after Oct. 5, 2002. Cablevision filing said forcing it to sell its programming with DBS or others violated First and Fifth Amendments. NCTA said eliminating ban would increase competition and diversity, since exclusive contracts could spur other investments in content creation and allow cable operators to differentiate themselves from their competitors: "The exclusivity ban is a relic of a bygone chapter in cable regulation." American Cable Assn., which represents smaller cable companies, said if provision were allowed to sunset, small cable companies could lose access to more than 1/3 of their satellite programming services and would "raise serious questions concerning the continuing viability of many small cable businesses." EchoStar said that in 10 years since system was started, strides had been made toward fully competitive marketplace, but full benefits of competition "have yet to be realized by most consumers." DirecTV supported ban on exclusive agreements between satellite and cable operators, saying provision was critically important to survival and growth of alternative technological competitors to incumbent cable systems in Multichannel Video Programming Distributor (MVPD) market. Company said rule should be preserved because: (1) Cable exclusivity prohibition remains important protection for DBS and other MVPDs. (2) Regulation hasn't deterred development of new programming networks. (3) Exclusivity between noncable MVPDs and nonvertically integrated programmers has been boon to new MVPD entrants. (4) There's no legal basis for Commission to narrow scope of exclusivity restriction.

Personals

Former FCC Comr. **Harold Furchtgott-Roth** joins Economics Inc. as special consultant, remains visiting fellow at American Enterprise Institute... **Scott Feira** promoted to partner in Arnold & Porter telecom practice... **Philip Lombardo**, pres. of Citadel Communications, elected vice chmn., Bstrs. Foundation, new post; **David Mleczko** named consultant.

Dennis Wald promoted to vp-affiliate mktg, Game Show Network... Promotions at MSNBC.com: **Ona Karasa** to exec. vp-gen. mgr., **Uli Haller** to vp-business operations... **Neil Helms**, ex-CIMedia, named vp-sales, Cox Interactive Media... **Rob Stoddard**, senior vp-PR, AT&T, will join NCTA in newly created position of senior vp-communications and public affairs.

Obituary

William Ryan, 69, who was instrumental in creating Cabletelevision Ad Bureau (CAB) in 1981, died Dec. 2 of cancer in Naples, Fla. He was CEO of Palmer Communications. In addition to chairing CAB, Ryan was founding pres. of Southwest Fla. Bstrs. Assn., pres. of Fla. Assn. of Bstrs., pres. of Fla. Cable TV Assn. He's survived by wife, 2 children.

"It is time for the Administration to end its silence on telecom deregulation and take a stance squarely in favor of eliminating disincentives to investment in broadband infrastructure for all technologies, including cable and wireless as well as telephony," group of economists said. Addressed to Commerce Secy. Donald Evans, Treasury Secy. Paul O'Neill, White House Council of Economic Advisers Chief Glenn Hubbard and President Bush's economic adviser Lawrence Lindsey, economists said IT investments fueled as much as 25% of gross domestic product growth in 1990s but had led economic decline in last year. Economists — Brookings Institution senior fellow Robert Crandall, Discovery Institute senior fellow George Gilder, Manhattan Institute senior fellow Thomas Hazlett, Kudlow & Co. Chmn. Lawrence Kudlow, Citizens for a Sound Economy counselor James Miller, Cato Institute Chmn. William Niskanen and senior fellow Alan Reynolds and Progress & Freedom Foundation Pres. Jeffery Eisenach — specifically urged Administration to back pro-Bell deregulatory bill sponsored by House Commerce Committee Chmn. Tauzin (R-La.) and ranking Democrat Dingell (Mich.).

Cal. Cable & Telcom Assn. said it was examining whether new "size and shape" of Western Cable Show was warranted, given attendance at this year's conference — 17,056, down 48% from record year ago. CCTA spokesman Paul Fadelli said board would meet first week of Feb. to determine where organization would go next. "There will be a show in 2002. It probably will be a different show, based on the input we've had," Fadelli said. He said he wasn't sure marketplace warranted return of programmers to exhibit floor as much as high-tech companies. Board will make final decisions, he said.

FCC should delay negotiations on 2 GHz band relocation until it resolves other 2 GHz issues such as reallocation of 2020-2025 MHz for 3G services and allowing mobile satellite licensees to offer terrestrial wireless, group of broadcasters said in comments (ET-95-18). Broadcasters said FCC should harmonize its plan for 2 GHz broadcast auxiliary service with other 2 GHz proceedings first. Filing was by Cosmos, Cox, Media General.

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

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497-1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

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

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

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Radio Ad Bureau (RAB) added 7 members to its board for total of 60: Joan Gerberding, Nassau: Media Partners; Jay Meyers, Clear Channel Communications; Michael Osterhout, Morris Communications; Robert Proffit, Citadel Communications; Art Rowbotham, Hall Communications; Daniel Savadove, Root Communications; Al Vincente, Pama Bstrg. David Crowl of Clear Channel remains RAB chmn. with David Kennedy of Susquehanna Radio vice chmn. Kennedy also is joint board chmn. of NAB. RAB said it would retain early bird \$495 registration fee (originally scheduled to jump by \$100 Dec. 1, another \$100 Jan. 1) throughout preregistration period for Feb. 7-10 convention at Disney's Coronado Springs Resort, Orlando.

Consumer Electronics

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

STATE OF THE INDUSTRY

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

	NOV. 17- NOV. 23	2000 WEEK	% CHANGE	NOV. 10- NOV. 16	47 WEEKS 2001	47 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	540,308	815,027	- 33.7	667,153	23,537,355	27,254,344	- 13.6
DIRECT-VIEW**	518,129	788,901	- 34.3	642,641	22,702,386	26,180,900	- 13.3
TV ONLY#....	433,536	638,677	- 32.1	513,992	18,594,208	21,632,394	- 14.0
TV/VCR COMBO.	84,593	150,224	- 43.7	128,649	4,108,178	4,548,506	- 9.7
PROJECTION TV	22,179	26,126	- 15.1	24,512	834,969	1,073,444	- 22.2
TOTAL VCR**....	399,087	818,325	- 51.2	364,334	17,662,494	26,136,975	- 32.4
HOME DECKS...	314,494	668,101	- 52.9	235,685	13,554,316	21,588,469	- 37.2
CAMCORDERS....	126,667	159,867	- 20.8	125,980	4,829,825	5,304,476	- 8.9
DVD PLAYERS....	349,710*	261,198	+ 33.9	466,033*	10,843,812*	7,195,454	+ 50.7

Direct-view TV 5-week moving average#: 2001--522,410; 2000-709,241 (down 26.3%).

Projection TV 5-week moving average: 2001-24,353; 2000-29,465 (down 17.3%).

VCR deck 5-week moving average: 2001--406,393; 2000-787,549 (down 48.4%).

TV/VCR 5-week moving average: 2001--118,292; 2000-145,601 (down 18.8%).

Camcorder 5-week moving average: 2001--162,621; 2000-182,962 (down 11.1%).

DVD player 5-week moving average: 2001--510,377;* 2000-326,978 (up 56.1%).

* Record for period. **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.

IBIQUITY CEO SEES FEW ROADBLOCKS: Buoyed by National Radio Systems Committee (NRSC) endorsement to FCC of his company's in-band, on-channel (IBOC) FM system, iBiquity Digital CEO Robert Struble said timeline still supported commercial introduction of IBOC broadcast equipment at April NAB convention and formal introduction of first consumer receivers in Jan. 2003.

Struble said he was confident on timeline despite points of unfinished business outlined in NRSC report. For example, NRSC said it still awaited completion and testing of 4th-generation PAC codec that would be at heart of first commercial products. Struble said new PAC testing represented 1/100th — “if that” — of exhaustive testing that went into NRSC evaluation. To expedite matters, he said iBiquity might not submit PAC test report to NRSC but go directly to FCC. iBiquity system allows easy plug-in of new codec and will have “no impact whatsoever” on NRSC findings on interference or analog compatibility because “the codec issue is an audio issue only,” Struble said. He said only net effect would be improved digital audio performance “and we know that because we have tested the system internally.”

NRSC report also said iBiquity agreed to team with National Public Radio and International Assn. of Audio Information Services to probe unanswered questions on impact of IBOC on FM subcarrier reception. Struble said NRSC tests produced no meaningful results on impact because in “point of failure” areas where receivers were tested, analog subcarrier reception didn’t work. “We as a business are extremely comfortable” with outcome of subcarrier reception tests because it has generated data on that issue, he said. “But we’ve got to do it in a way that’s verifiable” and can be observed and calibrated.

Deepen Sinha, iBiquity executive who heads PAC development at company's Warren, N.J., office, told Audio Engineering Society (AES) convention in N.Y.C. that business plan starting in 2002 was to "saturate" stations in 6 of largest radio markets in country — Chicago, L.A., Miami, N.Y.C., San Francisco, Seattle. He said that would be followed by "seeding" of 5 other key markets — Atlanta, Boston, Dallas, Denver, Detroit. He said system already was being "actively deployed" also in "strategic" markets of Las Vegas (for demonstrations at CES and NAB convention) and Washington (because of proximity to regulatory authorities). He said rapid deployment was expected because largest radio owners in key markets were significant iBiquity stakeholders. For example, he said, in L.A., radio group owners with iBiquity stake control 69% of "total listening population" in that market.

All receiver chip development at semiconductor partners Philips, STMicroelectronics and Texas Instruments is "at the advanced stage," Sinha said. Chipsets will be available "later next year," he said, as prelude to formal introduction of receivers at Jan. 2003 CES. iBiquity has "active partnerships" with receiver suppliers such as Alpine, Kenwood and Visteon that are expected to be among first tier of product introduced in 2003, Sinha said. Second tier of companies such as Clarion and Pioneer with which iBiquity is in "active discussions" on possible "development relationships" also may introduce product as early as 2003. Third echelon includes companies such as Sony and Aiwa that have agreed to "watch actively from the sidelines" and could jump in after IBOC receivers are launched by others. Meanwhile, he said iBiquity was close to signing agreements with other "distributors" that would join Crutchfield in marketing IBOC radios nationally when they become available in 2003.

David Layer, engineer in NAB Science & Technology Dept., called it "a caveat" that iBiquity tests on which NRSC report was based used AAC coding as holdover "inherited" from former USA Digital Radio system. New testing is expected "in the coming months" on 4th-generation "iPAC4" coding, Layer said, but NSRC sees no complications. "We think of it as a software upgrade to the system," he said. "We don't expect there to be any impact on the transmission performance, and we suspect the audio quality is only going to improve, because if it wasn't improving, why would they switch it?" Remark drew cynical laughter from some in AES audience, prompting Layer to reply: "Look, we're going to test it. We're not taking this on faith. But there's a real strong desire on behalf of everyone who's involved here to move this process forward, and frankly if we had postponed testing until the new audio coding had been implemented, I wouldn't be standing up here telling you about our evaluation." Meanwhile, NRSC expects to receive data on AM IBOC system within 2 weeks and finish its evaluation report by Feb.

Announcement that iBiquity would demonstrate working receiver prototypes using Texas Instruments (TI) chipsets at upcoming Jan. CES "is a pretty big deal," Struble said. TI is using DSP solution, which is "faster to market" compared with ASIC approach being used by Philips and STMicroelectronics. He said he didn't want to speak for development work at Philips and STMicroelectronics, but said it was conceivable those suppliers would have products available in time for working prototypes to be demonstrated at NAB Radio Show next fall.

NRSC report didn't call FM IBOC perfect system, but said "tradeoffs necessary" for its adoption were "relatively minor." For example, it said "small decrease" in audio signal-to-noise performance on main audio channel "will be evident to some listeners in localized areas where first-adjacent stations, operating with the FM IBOC system, overlap the coverage of a desired station."

VM LABS TO FILE FOR BANKRUPTCY AS CONSORTIUM SEEKS PATENTS: Ending months of uncertainty about its future, DVD technology company VM Labs is in process of filing for Chapter 11 bankruptcy protection. VM Labs executives said filing was part of strategy to allow its Nuon chip technology to go forward without debt that had crippled company for last year.

Sources close to situation described complicated maneuver to save Nuon technology that's used in Samsung and Toshiba DVD players, and planned models from Oritron and others. Sources told us private consortium led by Alex Lushtak, Genesis Microchip chmn., had provided capital to continue operations and had purchased promissary notes from VM Labs' secured creditors, Motorola and VentureTech. Latter is venture capital arm of Taiwan Semiconductor Manufacturing. Genesis has announced plans to acquire video processor developer Sage and its Faroudja subsidiary.

Arrangement puts consortium in position to take control of VM Labs' key intellectual property and other assets in bankruptcy court proceedings. Although involvement of Genesis chmn. raises question of potential synergies involving technologies of Genesis, Sage, Faroudja and VM Labs, sources stressed that Nuon acquisition was being led by parties outside of Genesis.

Putting best face on what had been difficult negotiations, VM Labs founder-CEO Richard Miller said: "After several months of financial difficulties and a severe shortage of working capital, VM Labs has negotiated financing that will al-

low us to aggressively drive forward our product development, sales and marketing." Bankruptcy filing is being prepared by lawyers, Miller told us: "Separately, VM Labs has been served with a petition for bankruptcy and we have hired counsel to file petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. The filing will enable us to focus on operating our business and serving our customers while we finalize the sale of our intellectual property, trademarks, know-how and other resources required to support customers and grow the business. During the Chapter 11 process, we will continue business as usual, including fully supporting our customers and developing our next generation of breakthrough products."

While details remain sketchy, it's believed that if all goes according to plan, new owners could end up owning all key VM Labs intellectual property, Nuon brand and relationships with key customers for fraction of \$30 million that's been invested in company during its history.

Bankruptcy filing caps wild ride for VM Labs. Company was founded in mid-1990s by Miller and other former videogame engineers. Strategy was to bring out enhanced DVD players that also played games and other content in hope of capturing casual gaming audience that wanted both movie playback and ability to play games and other interactive content but didn't want dedicated game console. Samsung and Toshiba introduced DVD players in U.S. with Nuon features that included zoom, smooth high-speed scanning and ability to play Nuon-specific videogames and other interactive content. It's estimated that 40,000-50,000 Nuon-enhanced DVD players have been sold in N. America since hardware introduction last year. Samsung recently introduced new model in Europe and S. Korea.

VM Labs encountered difficulty because of higher cost of original Nuon chip compared with standard MPEG chips from suppliers such as ESS, LSI Logic, Zoran. As DVD player prices plunged, that cost differential became crucial factor, with hardware makers looking to cut production expenses wherever possible. Miller said that over last 18 months VM Labs engineers managed to come up with updated version of Nuon chips that he said was 2-3 times more powerful than original, yet its cost was competitive with standard DVD chips. "It opens up the opportunity for VM Labs technology to be in Nuon branded and non-Nuon branded products as well," he said.

Sources familiar with negotiations said new buyers originally had considered abandoning Nuon brand and enhanced content strategy and instead opt to become standard chip maker. But talks with hardware partners convinced them that brand still had value, and new entity is likely continue to offer Nuon brand and encourage studios and game makers to bring out software with features that are accessible only on Nuon players. Library of Nuon-enhanced discs is not large but does include handful of games as well as movies *Bedazzled*, *Dr. Doolittle 2* and *Planet of the Apes* from Fox Home Entertainment, as well as MGM Entertainment's planned special edition re-release of cult classic *The Adventures of Buckaroo Banzai Across the Eighth Dimension*.

Sources said that although VM Labs was entering bankruptcy proceedings with hope of executing above-stated plan, outcome ultimately would be in hands of bankruptcy judge. They said in essence there would be auction for assets that could trigger additional bids. "Our goal is to maximize the value of our assets for our creditors and shareholders," Miller told us.

Grow Biz International, recording \$879,000 gain on sale of its 200-store Computer Renaissance (CR) chain, said 3rd quarter net income rose to \$1.2 million from \$739,000 year ago as sales slipped to \$9.1 million from \$11.5 million. Grow Biz posted gain nearly year after agreement to sell chain to Hollis Technologies. Hollis had asserted claims against \$1 million escrow account companies established in connection with sale of CR. Agreement was reached under which Hollis and Grow Biz received \$400,000 and \$600,000, respectively, of escrowed funds in exchange for Grow Biz's dropping suit it had filed against Hollis. Downturn in revenue in quarter was largely result of sale of CR, which sold refurbished PCs. In quarter, merchandise sales fell to \$4.8 million from \$6.7 million and royalties to \$3.9 million from \$4.1 million. Grow Biz operates variety of chains selling used products including 62-store Music Go Round.

Philips is adding 3 audio CD recorders to line in Europe, including 2 dubbing decks. Each has 3-CD changer and separate recorder drive. Top-shelf CDR820 (\$500) has 4x recording, MP3 playback, and Direct Line Recording function that makes bit-for-bit transfer, thereby preserving HDCD and DTS encoding.

IBM's digital set-top box (STB) controller will be extension of 4000 series and will have processor operating at 257 MHz, Digital Video Products Mktg. Mgr. John Sixsmith said. Controller is being designed for STB that will contain NDS' XTV personal video recorder (PVR) and VideoGuard copy protection software and be manufactured by Sagem. STB is expected to ship worldwide by mid-2002. IBM controller will involve 0.18-micron process and 200mm wafer fabrication line. IBM plans to shift to 0.13-micron process and 300mm line next year. It also is weighing introduction of enhanced DVD chip that would conform to standard being finalized by DVD Forum, Sixsmith said, declining to release details. Several companies, including Cirrus Logic, which recently purchased MPEG-2 chip supplier Stream Machine, and Vialta, also are developing similar ICs.

THIS WEEK'S YEN RATE

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

NINTENDO & MICROSOFT BATTLE: Nintendo of America (NOA) and Microsoft each claimed first round victory in next-generation game console launch war last week.

NOA said "nearly 600,000 units" of its GameCube console were sold in N. America over 15 days in which system has been on sale — average of 27 per min. NOA Exec. Sales & Mktg. Vp Peter Main also took shot at Microsoft, saying: "In short, although launching at retail 3 days following the Microsoft Xbox, it seems apparent that we have sold through to consumers more game consoles than they have even been able to deliver to retail outlets." Noting that Microsoft so far had refused to announce sales results for Xbox, NOA said "no fully accurate picture of comparative market activity is yet available."

Nintendo didn't offer updated figure in its announcement on how many GameCube console units it had shipped to date in N. America. But it said Nov. 28 it had shipped "some 740,000 hardware units" in initial N. American shipment for Nov. 18 launch and "first of weekly replenishments of approximately 125,000 units are already arriving at stores" (TVD Dec 3 p14). That would indicate at least 865,000 consoles had been shipped by NOA in N. America by then. Unclear was status of GameCube units that apparently had not been sold yet. NOA said Nov. 28 that 75,000 GameCubes consoles had been shipped to U.S. rental and other distribution channels. Therefore, many of those 75,000 could not have been sold through to consumers. But it still left at least 190,000 consoles unaccounted for.

Meanwhile, citing data from NPD Group, Microsoft said its Xbox "had the best-selling videogame console launch on record after 2 weeks of sales." Reuters report said Microsoft had been able to sell more than 560,000 console units in first 2 weeks, also attributing data to NPD. But NPD spokeswoman told us data was "not approved by us" and her company was "not too happy" that Microsoft was linking claim that Xbox was "best-selling videogame console after first 2 weeks" to NPD's data. She said NPD wouldn't be releasing sales data on GameCube and Xbox sales until middle of this week, when it would have had "a full 2 weeks to compare Xbox to GameCube" sales results. Therefore, she said, Microsoft's claim was "a little misleading."

But Richard Ow, senior account mgr. at NPD Funworld division of NPD Group one day later offered decidedly different take on Microsoft's claim. Ow said Microsoft's announcement was "by no means misleading in my mind." Although he also said NPD wouldn't be announcing GameCube and Xbox sales figures until this week, he said attach rate of software to hardware was important factor in determining success of any game console's launch and Microsoft's ability to sell 2.4 games for each console in first 2 weeks was — in and of itself — legitimate reason to claim its system experienced best-ever rollout of any game system to date.

Ow said GameCube and PlayStation 2 (PS2), in comparison, each had attach rate of only 1.9 games for each console sold in first 2 weeks on market. NPD spokeswoman also had confirmed accuracy of Microsoft's statement that consumers were buying 2.4 games for each Xbox console purchased — which would be highest-ever attach rate for console at launch. But she said it wasn't yet clear how significant that number was in comparison with GameCube's results because data wasn't available yet for full 2 weeks.

At our deadline it remained unclear where Reuters received information that 560,000 Xbox consoles were sold in first 2 weeks. Although Reuters report attributed figure to NPD, Ow and NPD spokeswoman insisted number didn't come from their company, while Microsoft continued declining to provide sales numbers, referring us back to NPD. Another report quoted Credit Suisse First Boston Analyst Heath Terry as estimating, based on his own analysis of NPD data, that 556,000 Xbox systems had been sold through Nov. 24, compared with only 469,000 GameCube consoles. But that comparison was made after Xbox was available at N. American retailers for 10 days and GameCube was available for only 7 days.

Hollywood Entertainment (HE) CEO Mark Wattles opened 2 stores in Ore. under licensing agreement with chain that was part of employment contract signed earlier this year. Under agreement, Wattles, who isn't expected to open more than 20 stores, must pay \$25,000 per store license fee, royalty of 2% of revenue and purchase some products and services from HE, chain said in proxy for Dec. 17 annual meeting filed with SEC. As of Sept. 29, Wattles owed HE \$506,000, payment that has been delayed as company seeks to comply with franchise laws, SEC filing said. Wattles' HE stores are first that would operate as franchisees. Chain has 1,809 company-owned stores. Wattles, who is being paid \$975,000 annual salary under current contract, was granted 3 million shares of common stock as part of original 1993 incentive plan and given options for another 3 million shares at \$1.09 under 2001 program. Chain also has terminated consulting contract that Wattles's father, Bruce, had with previous management. Bruce Wattles, who operates Game Trader Entertainment that supplies testing services, had worked with chain's Game Crazy Div., which operates videogames section in 60 HE stores. HE paid \$392,312 to Game Trader in 2000, SEC filing said. Mark Wattles, who founded HE, returned in Aug. 2000, replacing former COO Jeffrey Yapp. Three other Wattles relatives are employed by chain and are paid salaries of \$62,000-\$140,000, according to SEC filing.

Copy-protected CD title from Universal Music also will be available on analog cassette. Label is making available tape of *More Music from Fast & Furious* to accommodate customers whose audio equipment is unable to play copy-protected CD. First copy-protected title from Universal will be released Dec. 18 and is believed to use Cactus Data Shield system from Tel Aviv's Midbar Tech, as BMG did on problem-prone *White Lilies Island* CD by Natalie Imbruglia. Universal has said *Fast & Furious* CD will have label advising that disc is copy protected. Label has advised retailers that disc won't play in some CD players, DVD players, videogame consoles or Apple Macintosh PCs — effects already encountered with Cactus-encoded Imbruglia CD. Universal has changed its policy and authorized retailers to accept returns of opened CDs from customers.

Fujitsu Hitachi Plasma Display will double monthly production capacity to 80,000 units in 2002, Japanese news reports said, to focus on smaller 32W and 37W screen sizes. Fujitsu thus far hasn't announced plans for 32W, instead has moved ahead with plans for 50W. Hitachi, which markets 42W in U.S., hasn't finalized plans for smaller sizes here, Mktg. Vp Leo Delaney said. It sells 32W and 37W displays in Japan that have 1,024x852 and 1,024x1,024 resolutions, respectively. Meanwhile, Hitachi had no plans to add new version of 55W rear-projection TV based on Texas Instruments' DLP technology next year and any new models won't arrive until 2003 at earliest, Delaney said.

DVD PARENTAL-CONTROLS USED: Without notice to consumers or CE makers, studios have installed DVD Parental Control Levels (PCL) on top-selling children's titles *Shrek* and *Dr. Suess's How the Grinch Stole Christmas*. As result, DVD player manufacturers have been fielding complaints from hardware customers unable to play discs.

Problem flummoxed CE makers briefly as no movie-playback incompatibilities had been reported for highly feature-laden titles — although some special features on *Shrek* won't run in some PCs using Microsoft's new Windows XP. Then, veteran CE engineer at Oritron-parent Orient Power (OP) sniffed out hidden PCL settings on discs. Besides own Oritron brand DVD players, OP is big OEM for market-share majors in U.S. and elsewhere. We ran own tests to confirm presence of PCL on discs.

PCL is seldom-implemented function of DVD format — at least until now. It lets studios author discs in way that movie-content some viewers might deem objectionable is skipped over seamlessly, so missing scenes or dialog aren't noticeable. To invoke feature, owner of DVD player must use hardware menu to set Parental Control "level" for content that's acceptable. Settings range from 1 through 8: Level 1 exerts most extreme censorship while Level 8 permits unimpeded playback. Hardware owner — presumably parent — also must enter password to make level-settings secure from tampering.

Apparent genesis of problem is that some player-owners inadvertently had entered too-low PCL in doing first set-up on players. Because there have been virtually no DVDs movies with PCL until now, snafu went unnoticed. Moreover, by this time, most DVD owners affected by problem had forgotten password necessary to change PCL — assuming they ever recorded it, as DVD owner manuals advise. If disc doesn't pass muster for PCL, onscreen messages authored by studios instruct viewer to either change level or eject disc.

Studios' response to situation was as CE industry has come to expect — none. Studios — DreamWorks for *Shrek* and Universal for *Grinch* — appeared unaware of issue, and surprised. Spokeswoman for DreamWorks said, "It is typical of DreamWorks titles that the authoring facility sets Parental Control levels to match the [MPAA] rating." That's PG [Parental Guidance] in case of *Shrek*. But she couldn't say to what extent PCL was implemented on all DreamWorks titles or explain why DVD's packaging carried no advisory of PCL. Spokeswoman also couldn't give number of studio's DVDs that used PCL.

Comment wasn't available from Universal at our deadline on *Grinch* or studio's policy on PCL. Similarly, queries to other studios on use of PCL went unanswered, although Warner Bros. executive Stephen Nickerson (ex-Toshiba) phoned from road to say he would investigate situation.

"Seamless branching" technology needed for PCL is difficult and cost-added function for DVD authoring studios to employ — and risky in that some players, mostly early-generation, might not be able to navigate it. Studios generally have avoided using PCL so as not to create playback problems, especially with big-hit DVDs.

We checked selection of DVDs for kids and adults on variety of DVD players and PCs and found no PCL. Children's titles that lacked PCL included *The Little Mermaid* (Disney),

Willie Wonka and the Chocolate Factory and *Pokemon: The Third Movie* (each Warner). Even adult movies with MPAA "Restricted" rating had no PCL. These were *Traffic* (USA Home Entertainment) and *Akira* (original and violent Japanese "anime" animation from Pioneer). Likewise, PG-rated *Crouching Tiger, Hidden Dragon* from Sony-owned Columbia TriStar had no PCL.

Amazon.com purchased Egghead.com's assets in bankruptcy court for \$6.1 million, acquisition that's likely to further expand its CE business. Online retailer bought Egghead's URL and other intangible assets and started redirecting customers from former egghead.com Web site to Amazon's CE store. Amazon acquired assets because of Egghead's well-known brand name and potentially to add new customers, spokeswoman said. Egghead.com, which filed for bankruptcy protection in Aug., had stopped selling CE, PCs, peripherals and software in Oct., shortly after Fry's Electronics pulled plug on its proposed acquisition of company. Fry's later bought e-tailer Cyberian Outpost. Relaunched Egghead site will be similar to those Amazon hosts for Target and Borders, company said. Latter 2 retailers have their own co-branded sites within Amazon.com that carry some unique product and content. Amazon will acquire Egghead's customer information as part of sale, but doesn't plan to use it, Amazon spokeswoman said. Sale represents end of road for Egghead as independent company. It got its start in 1984 as PC software retailer and at one point operated more than 200 stores. But Egghead shut its bricks-and-mortar outlets in 1998 and morphed into Internet-only retailer. In 1999 it merged with Onsale.com in \$400 million deal that saddled it with debt and proved its undoing.

Sony dropped price of UltimateTV PVR/DirecTV satellite receiver to \$249 after \$200 in manufacturer and UltimateTV mail-in rebates. Price includes keyboard, and Microsoft's UltimateTV service carries \$9.95 monthly fee in addition to cost of DirecTV programming package. Thomson cut price on its UltimateTV receiver to \$199 earlier in fall after \$100 rebate. Microsoft has rebranded former WebTV service as MSNTV, but has kept same \$24.95 monthly fee. Recent Circuit City ad carried Philips brand MSNTV set-top box at \$99 after \$50 mail-in rebate, with 2 months of free service. Latter offer has several requirements, including that service be activated by Feb. 28 and that customer remain subscriber for at least month and return promotional coupon by March 31. Offer is available only to new subscribers who buy Classic WebTV or Plus WebTV receiver. Philips is last manufacturer offering WebTV product. Sony discontinued product earlier this year.

First pirate DVDs of *Harry Potter and the Sorcerer's Stone* to emerge in U.K. were seized Sun., Dec. 2, in London, Federation Against Copyright Theft (FACT) reported. Group said police and FACT investigators impounded 20 remaining counterfeit copies of hit Warner movie from Chinese stall owner in open air market, along with £500 (\$715) in proceeds from bootleg sales through 10 a.m. Quality and other details of pirate disc were being assessed at our deadline — such as how lengthy movie is made to fit on nominally 2-hour DVD. MPEG-1 Video CD counterfeits of Potter movie have been sold on 2 discs, with ending cut short owing to CD's 74 min. capacity.

JVC is offering headphones whose color can be switched to match user's apparel or whim. Change is achieved by turning ring around headphones, Japan press report said. Model with 5 color choices costs \$33, that with 4 choices is \$27.50.

SONICBLUE GAINS PVR PATENT: SonicBlue received patent covering personal video recorder (PVR) with integrated program guide that allows user to record and store TV signals as "personal channels." Technology first debuted as Replay Zones when ReplayTV marketed PVR before being acquired by SonicBlue earlier this year.

New patent, granted Nov. 27, is most recent entrant in race to secure technology central to personal video recorders. Earlier this year, ReplayTV rival TiVo received patent covering method for simultaneous playback and recording of TV programs. TiVo's combo product with Hughes Electronics' DirecTV satellite service has dual tuner that allows such recording.

SonicBlue patent, which lists Senior Engineering Vp Anthony Wood and Donald Westward as inventors, notes TiVo's invention. While TiVo patent describes "randomly accessed video recording and playback device," it doesn't suggest "significant functionality which may be implemented in such a device," SonicBlue patent said: "Thus what is needed is an improved video data recorder having increased functionality."

"The PVR space is one where you're going to see a number of players getting various pieces of intellectual property at various times," TiVo Pres. Morgan Guenther said. "Our approach is very much to build a portfolio of intellectual property around the entire system and we're pretty confident that that approach is the right one."

PVR patent describes device in which processor is coupled to channel guide and criteria databases that control recording of video signals. Recording of latter is based on pattern matching or fuzzy logic analysis of criteria database and channel guide. Criteria database stores specified information for selection of shows to record, patent says. User can specify criteria for recording programs including titles, keywords such as actor or director, genre rating (mystery, action, etc.).

In building case for its invention, SonicBlue patent also cites Gemstar-TV Guide International's program guide, which lists program, time and channel with brief description. "Unfortunately, there has not been sufficient integration of the channels with the record and playback capabilities of video data recorders," SonicBlue patent said. Gemstar officials weren't available, but company has been aggressive in defending patents involving its on-screen program guide technology. It sued TiVo in Jan. 2000, alleging latter's PVR violated patents held by subsidiary StarSight Telecast that covered certain aspects of interactive program guide. TiVo also was sued by TV networks earlier this fall for alleged copyright infringement.

Meanwhile, Gemstar said it added 5 national advertisers to interactive program guide (IPG) and TV Guide — Best Buy, Cuisinart, Maybelline/Garnier, Olympus America, Volkswagen of America. Gemstar, which has worked toward structuring ad agreements that stretch across its electronic and print businesses, said promotions involving new advertisers started in Nov. and run into first quarter 2002. Best Buy is using IPG to promote its holiday gift guide in ads that run through Dec. 23. Its ads also will be featured in print version of *TV Guide* and *TV Guide Channel*. Olympus is targeting cable customers with its 4 megapixel digital cameras.

SONY FACES PS ONE DILEMMA IN EUROPE: PS one dilemma facing Sony in Europe is having no impact on U.S. market, Sony Computer Entertainment America (SCEA) spokeswoman told us last week. Dutch authorities had stopped PS one shipments out of Netherlands warehouse because of environmental and health concerns caused by high levels of cadmium that were discovered in game system's peripheral cables.

Dutch govt. also blocked shipment of 800,000 PS one accessories because of same issue. SCEA spokeswoman said higher levels of cadmium had been discovered in PS ones that were to be shipped out of Netherlands warehouse than usually were found in such units. Sony had yet to determine cause of excess cadmium, although issue was "under investigation," she said. She said there was no reason for concern in U.S.: "Between the time that we were notified by the Dutch authorities to now we've had ample time to check any and all shipments coming into North America and we found that we do meet regulatory standards for this market for both state and federal agencies. So, right now it's an isolated European incident."

"The main thing for the European market is that an investigation was able to take place before the products got out into the market, so we made sure that there's no obvious health hazard or risk," SCEA spokeswoman said.

Sony is gearing up to start shipping PS one consoles again in Europe by mid-Dec., Tokyo reports said. Company said it was replacing cables for 1.3 million PS one consoles although it had "reservations about the interpretation of the regulations" by Dutch authorities, Reuters reported, adding that Sony didn't plan to recall PS one consoles already sold in Europe because it didn't feel there was health concern to warrant that. SCEA spokeswoman said: "I don't know what their schedule is [for shipping PS one again in Europe]. Obviously, this is a very important selling season for us and I know they're doing everything they can to get additional product into that market."

When asked whether SCEA planned to take any steps in N. America to assure buyers that PS ones were safe, spokeswoman said situation "doesn't affect any product that's in the market or en route to the U.S. and so, right now, we don't really think that this issue is — in terms of awareness about what happened in the European market — to the level where we need to inform people." She said PlayStation 2 (PS2) didn't use same cables as PS one and there were no cadmium concerns over that console.

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Stereo system with hard drive and Memory Stick storage is available in Japan from Pioneer. System can transfer music from CDs to hard drive and then onto Sony Memory Stick for portable and autosound systems, Japan press report said. Hard Disk Digital Jukebox X-HD1 sells for \$833 and has 6 GB hard drive, space equivalent to 100 CDs. Data transfer speed is 5X real time, meaning 60 min. CD can be copied in 12 min. Drive also has titles and artists for 80,000 prerecorded, for display when users plays registered CD.

DVD-RW recorder to be priced at \$833 has been developed jointly by Pioneer and Sharp. New lower priced model is to go on sale in Japan in Jan., Japan press report said. Companies developed key components together and Sharp will build 30,000 decks monthly for sale under 2 brands. Pioneer now OEMs DVD-RW for Sharp. Current DVR7000 recorder from Pioneer just became available in U.S. at \$2,000 MSRP, \$1,800 street price. Panasonic's DVD-RAM format DRM-E20 has \$1,500 MSRP but sells for \$1,000.

SONYSTYLE.COM TAKES LOWER: While SonyStyle.com has started various promotions to boost its presence on Internet this holiday season, company isn't planning same kind of advertising blitz it lined up year ago when site launched in N. America, we were told by executives at Sony's e-Solutions Co. division.

Last year, company set out to run major ad campaign on national cable and broadcast TV in 5 markets, but dark-humored spots featuring kidnaping of Santa Claus were quickly canceled by company. Sony spokeswoman at time told us spots were killed because company was "concerned that consumers might misinterpret the edginess and irreverence of the campaign and may even be offended."

Same situation won't befall company this holiday season because no TV ads are even planned this time around, said Jack Halperin, e-Solutions Senior Business & Strategic Planning Vp. He said company had opted to spend its dollars on internal investments instead of major ad campaign via print or TV. Halperin said he would be "far more comfortable" running major ad campaign for SonyStyle.com after next "iteration" of site.

Extensive management changes were made at e-Solutions in April, when Pres. Robert Ashcroft was replaced by Michael Fasulo. Since then, Web site has undergone major overhaul and was completely redesigned in time for holidays. New features at site include Express Shop for speedier online purchases and Gift Center. But Halperin pointed out that most obvious difference now was site's new home page. When site launched in Nov. 2000, it was organized around 6 separate life-style areas designed to appeal to specific consumers: "Code Breaker," "Connoisseur," "Free Agent," "Homelander," "Transcender," "Virtual Professional." But that concept has been scrapped and instead home page now is divided into 3 separate boutique stores: Electronics, computers and handhelds, digital imaging. Although Halperin said "we've always had these 3 distinct boutiques" at site, he admitted that "there was a lot [more] marketing emphasis set on life-styles" in past. That life-style approach now is gone.

Halperin said: "The indications that we were getting" was that "many people weren't really sure that [SonyStyle] was a commerce site. Many of the products were not clearly identified as to what they were... The feedback was that we needed to try and make the home page clarify to the consumer that in addition to marketing, we were also a direct commerce site and try to find an effective way to bring the 3 individual boutiques together in a common environment."

Sony, Halperin said, will "continue to make another evolution of this site probably in time for the holiday season next year." At that point, he said, "I do believe you will see an inclusion of more marketing towards life-style — not in the same manner [as before], but we will add that to the site for the next iteration."

Sony also no longer is playing up broadband possibilities of site. When it announced Web site's launch year ago, it also said it had signed agreement under which Covad Communications, Santa Clara, Cal., was to provide for Sony branded dial-up and broadband Internet access powered by Covad. Network access service in deal was to be known as Sony Style Connect and ISP service was to provide seamless connectivity for Sony customers as more and more devices

that link to Internet became available. Ashcroft told reporters last year that service would start "at some time in the first half of next year." Unclear at our Fri. deadline was status of deal with Covad, which filed for bankruptcy protection in Aug. as it attempted to eliminate \$1.4 billion in debt. In Nov., Covad secured \$150 million in loans and other financing from SBC Communications.

On marketing front, SonyStyle is involved in 3 main initiatives, e-Solutions Co. Business Development and Strategic Planning Dir. Brian Siegel told us. Company is continuing its alliance with Yahoo that kicked off last summer with deal that extends through Aug. 2003. Noting that Sony had "pretty large presence" on Yahoo Shopping site, Siegel said Sony was "working with Yahoo to profile [consumer] demographics and [was] targeting them with offers." SonyStyle also launched "Who's Your Santa?" campaign to market products to 15-18-year-olds. As part of latter campaign, Sony highlights best-selling products and gives consumers opportunity to buy them or pass along e-mail wish list to friends and relatives who would become "Santas" if they decide to buy product off wish list for other person. Siegel added: "The Santa would get some kind of complimentary gift."

Halperin said SonyStyle also kicked off "That's My Style" campaign in conjunction with SonyStyle divisions in Europe, Hong Kong, Japan. As part of that promotion consumers can get special bundles featuring SonyStyle bags when they buy select products and in T-shirt design contest they can vote on design they like best.

When Sony unveiled plan to launch SonyStyle.com in N. America year ago, manufacturer's authorized retailers had mixed reactions. Some expressed concern, but most seemed to be expecting it, although those we spoke with at time said Sony still would be providing at least some level of competition for them. By most accounts, direct sales sites run by CE manufacturers including Sony and Thomson have failed to put major dent in sales of online retailers, although Sony and Thomson consistently have declined to give specifics on sales results at their sites. Halperin said Sony continued to see importance of its authorized retailers and, to that end, continued to offer dealer locator at site. Siegel said Sony even draws attention to its authorized dealers via Yahoo site.

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Sanyo will halt VCR production at Indonesia plant by spring in bow to intense price competition that has overtaken market. Sanyo confirmed it would continue to market VCRs sourced from S. Korean manufacturers. Indonesia plant will boost capacity for digital cameras and recorders for surveillance cameras. Sanyo, which closed VCR plant in Germany earlier this year, is forecasting VCR sales of \$274 million in fiscal 2001, half level of 3 years ago. VCR price competition in U.S. has been fierce, with all models retailing for less than \$100. As example, Walmart.com Web site Dec. 6 promoted Emerson 4-head mono model built at Funai plant in China at \$49.

Broadband video-on-demand service from Vanguard Cinema will use MPEG-4-based compression from DivXNetworks for movie downloads. Movies are available from www.vanguard-cinema.com/divx for 5-day viewing after they are downloaded. "Progressive Download" feature of DivX compression enables viewers to begin watching movie within few min. after download begins.

DISPLAYTECH RESTRUCTURES: Displaytech has cut more than half its work force in shifting increased production responsibility to OEM supplier Miyota and moving some focus to development of single-panel 0.78W microdisplay for rear-projection TV applications.

In 2 rounds of layoffs that started in early Sept., privately held Displaytech trimmed 85 positions including some in material procurement that now will be handled by Miyota. Last round of layoffs, in Oct., which involved some sales and marketing posts, came after Displaytech raised \$20 million from investors, Displaytech CEO Haviland Wright said. Amount raised was "far short" of goal, but will be enough to carry restructured company to break-even by late 2002 or early 2003, he said. Investors included Deutsche Bank, J.P. Morgan Chase and Kingdom Capital. "This has required the company to sharpen its focus," said Wright, who described decision to cut jobs as "painful and difficult."

While Displaytech is continuing to market 0.24" and 0.19" microdisplays for camcorder and digital camera viewfinder applications, respectively, it's shifting development for rear-projection TV to single-panel design from 3 panels in effort to enable 30-40" sets to hit sub- \$2,000 price, Wright said. Displaytech has delivered sample versions of 0.78W ferroelectric LCD (FLCD) microdisplay that uses same backplane as previous generation product in Samsung 50W TV in 3-panel configuration, but has updated interface routines, Wright said. It will have 1,280x768 resolution, 300:1 contrast ratio and hit volume production by 3rd quarter 2002, COO Dick Barton said. Displaytech previously had been studying 0.85W version.

New display will largely target "mid-to-high 30" sets, category that's "sweet spot" of market and would enable FLCD technology to achieve "commercial success," Wright said. Samsung had targeted 50W and 43W TVs and shipped limited quantities of former before halting deliveries earlier this fall. "People would like these to be in much larger TVs, but you start to cross the line between engineering development and scientific research," Wright said.

Samsung Mktg. Dir. James Sanduski confirmed company had had discussions with Displaytech on single-panel design, but said plans haven't been finalized.

"The technology has a clear road map of being able to hit certain price points in the future," Sanduski said. "A single-panel design is inherently less expensive. But because it's going down from 3 panels to one panel and you may not be able to get the same size out of the product. To do a single-panel 50W design is probably a stretch."

While Sanduski declined to release details of FLCD strategy, he conceded that technology could evolve into line of products. "Three-panel clearly would be your premium performance and single-panel would be your cost-effective model."

Miyota, which started production year ago, is forecast to manufacture one million FLCDs this year on single line, primarily in 0.19" and 0.24" sizes. Capacity is expected to double in 2002, Wright said. He said 70% of current production was for camcorder viewfinders. Displaytech will continue some production at Colo. facility. JVC is Displaytech's sole camcorder customer, while Concord Camera and Minolta have used FLCDs for digital cameras.

Meanwhile, eMagin CEO Gary Jones, whose company laid off 66% of work force, told *Microdisplay Report* that it had been seeking to raise \$20 million but discussions had "dragged on and on." Earlier this year, eMagin received \$3 million investment from SK Corp. "We have a loyal and enthusiastic customer base that is ready to commit to sizable production orders," he said, "but we need the funds to produce these orders and thus far we have been unable to close a deal."

EMagin staff has been reduced to 26 who will keep production line at E. Fishkill, N.Y., plant running at minimum levels, Jones said. Meanwhile, company is weighing range of options including merger, buyout, capital infusion or, as last alternative, bankruptcy protection, said Jones, who said several new potential suitors had emerged. Creditors include SK Corp., which holds \$3 million in 4% convertible debt.

Proclaiming that PS2 "broadband revolution" now was "a step closer," Telewest Broadband said it had started "trials of the world's first PlayStation 2 broadband network." Company said closed trials in U.K. were "expected to continue into the new year, with a limited public trial expected to commence in early first quarter" 2002. Tom Cotter, head of games at Telewest, said: "The Telewest Broadband PlayStation 2 network will, for the first time, establish protocols for networked games, making the development of these titles much more straightforward." He said company was "investing heavily in the PlayStation 2 service." Company said it would unveil more details of its PS2 network "in early 2002." Sony Computer Entertainment Europe Business Development Dir. Nainan Shah said "we expect the service to offer a plug-and-play experience for multiplayer gaming, downloading of game demos and other content as well as news and reviews presented in a way that PlayStation 2 consumers have not experienced before." U.K. report said BT Openworld also unveiled PS2 online trial plan, but details were unavailable at our deadline.

Ames will close 54 stores in 10 states by Feb.-March as it struggles to emerge from bankruptcy protection. Rocky Hill, Conn., retailer, which has operated under bankruptcy since Oct., will start liquidation sales at outlets Dec. 30. Hardest hit will be Pa., where 18 stores will shut. Closings are most recent Ames has made since Nov., when it shut 16 outlets. After closures, it will have 333 stores in Northeast, Mid-Atlantic and Midwest markets.

Top-selling DVD in 4-1/2-year history of format is *Shrek*, which sold 5.5 million copies to consumers in N. America in little more than 4 weeks, DreamWorks said. Previous recordholder, *Gladiator*, has sold 5 million copies since its 2000 release, DreamWorks said. Studio said retailers had purchased 7.3 million *Shrek* DVDs, and additional copies were being made to avert holiday shortages.

Sony is shipping floor samples of 60W Grand Wega (\$8,000), with volume deliveries in Jan., spokeswoman said. Models are being shipped to XBR dealers, although quantities weren't available. Grand Wega has three 1.3" LCD panels with 1,024x768 resolution.

Panel will discuss "DTV: Track the Transition and Prepare for Profit" noon Wed. Jan. 9, at CES, Rm. N257. Dallas Mavericks owner and HDNet Pres. Mark Cuban will participate, CEA said.

ZIGHT HIT WITH LAYOFFS: Zight Technologies has undergone major restructuring as it struggles in face of slowdown in sales.

Zight, formerly Colorado MicroDisplay, cut 20 jobs at Boulder, Colo., facility last month, reducing work force to 50. It had trimmed 20 positions in July.

At privately held Zight, Mktg. Dir. Rainer Kuhn declined comment on options company was weighing in restructuring, although reports indicated merger or buyout might be among those considered. Zight, which has developed 0.47" and 0.25" microdisplays for head-mounted products and viewfinders, counts InFocus and Polaroid among its investors, although latter currently is operating under bankruptcy protection. InFocus recently said front projectors based on microdisplays might be 2 years from coming to market.

"When you look at the revenue side of things, if they're not coming in fast enough, that's because the demand isn't there yet," Kuhn said. Zight raised \$34.3 million last fall in 4th round of financing designed to carry it to breakeven, which it currently forecasts for end of 2002. Among Zight's customers is I/O Display, which developed i-Glasses based on company's 0.47" microdisplay and remains confident Zight will "emerge as a stable and credible display supplier," source close to company said.

Zight hasn't been alone in its financial travails. InVisio, which developed 0.47" display for its eShades head-mounted product, closed doors earlier in fall and is negotiating sale of assets. Thomson has struggled to bring 50W rear-projection TV to market based on Three-Five Systems' 0.78" microdisplay. It had planned limited rollout for late Sept., but postponed it to year-end as it worked to improve performance. Displaytech and eMagin also have undergone restructuring (see related story, this issue).

ATI Technologies stock hit 52-week high Fri. at \$13.98 after Markham, Ont., graphics chip maker said first quarter results would show increased revenue and improved profitability in line with analysts' consensus estimates. COO David Orton said: "We are pleased with the revenue growth we have seen in our core business during the first quarter and also with the earnings contribution that has resulted from the very successful launch of Nintendo's GameCube, for which ATI developed the graphics technology." He also said that for rest of fiscal 2002, "we continue to be optimistic about our ability to increase market share, as we have been generating significant design wins in the desktop and mobile segments." Orton added: "We are beginning to see positive effects from our new business strategy in the worldwide system integrator channel and we look forward to a continued strong flow of royalties from sales of the GameCube console." ATI said it would release full results for quarter Jan. 9.

Specialty game retail chain Electronics Boutique (EB) said it was comfortable with consensus mean analysts' earnings estimate of 99¢ per share for 4th quarter because sales were increasing at stores at higher rate than predicted after rollouts of new videogame consoles, Reuters report said. Report said EB expected fiscal 2002 sales to reach \$1 billion. CFO James Smith told Reuters EB expected sales for 4th quarter ending Jan. 31 to increase 45-50% from same quarter year ago.

Consumer Electronics Personals

Jack Hinley appointed NHT dir.- engineering, replacing Chief Engineer Bill Bush, who leaves to pursue other interests... Harvey Lee and Kelly Zmak join V Global Media advisory board... John Avagliano shifts to Warner Music as senior vp-financial operations, new post, from senior vp-finance at Warner Home Video... Elected dirs. at VTech Holdings: Raymond Chien, Chinadotcom Corp.; William Fung, Li & Fung Ltd.; Michael Tien, G2000 Group; Patrick Wang, Johnson Electric Group... Richard Lehrberg, ex-Activision and Interplay Entertainment, appointed a 3DO dir... Eric Feiner, ex-Mainstream Sales & Mktg. Group, named NewKidCo sales vp.

NewKidCo International revised its results for 3rd quarter ended Sept. 30, citing "specific events that have adversely impacted previously reported figures." N.Y. children's videogame maker said it was "required to correct several significant inventory movement issues with certain key retailers" that "has resulted in the company taking some conservative reserves against sales in the 3rd quarter to reduce net revenue to approximately \$2 million." COO Arthur Levine said: "While this adjustment is very disappointing, it is a reflection of the spotty and, at times, uneven conditions at retail, which have been exacerbated by platform transition issues, current trends indicating a recession and retail market instability following the events of September 11." However, NewKidCo said "current indications suggest that these revenues will be made up in the 4th quarter." As result, company said it had to "make a downward adjustment in its gross margin contribution" and its earnings by \$800,000 from previously reported \$200,000 profit. It said last month its 3rd quarter profit fell from year-earlier \$900,000 on 20% lower revenue to \$5.1 million. Company blamed lower revenue on fewer-than-expected shipments of unidentified new title released in quarter on unnamed "older transition platform that has shown signs of retail resistance" in 2001's 2nd half.

Sharp unveiled Zaurus Linux/Java-based handheld for professional applications as it seeks to regain foothold in market. Sharp, which has marketed handhelds based on Microsoft's Windows CE and Apple's Newton operating systems in past, will make new push with unit with 206 MHz Intel processor, 64 MB RAM, 16 MB ROM, mono display with 320x240 resolution and CompactFlash and Secure Digital card slots that will allow for optional 802.11b or Bluetooth wireless connectivity. Device will ship early next year. Sharp is among few companies that have adopted Linux platform for handheld PCs. Both Royal Consumer Business Products and Vtech have weighed Linux-based products in past.

Audible began shipping Audible.com Otis, portable digital audio player weighing less than 3 oz. that Wayne, N.J., company said could store and play more than 20 hours of Audible's downloadable audio books. Device also plays MP3 and Windows Media Audio files and comes with 64 MB of internal flash memory. External Flash memory card slot allows for 128 MB of total memory, company said. Audible is selling device for \$49.95.

DVD players will be hottest gift this holiday season, 2nd only to music CDs, according to Boston-based Yankee Group. MiniDisc players also figure in top items, along with TVs, home-theater-in-box, next-generation videogame devices.



TELEVISION DIGEST WITH **CONSUMER ELECTRONICS**

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

DECEMBER 17, 2001

VOL. 41, NO. 51

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Broadcast - Cable

Ch. 52-59 RULES SET by FCC, but not band-clearing rules. Fewer problems expected than for 60-69. 'Case-by-case' decisions planned. (P. 1)

EEO RULES REDUX: FCC rulemaking focuses on outreach. Filing requirements more limited. (P. 2)

N.Y. PROBLEM 'WEIGHTY': Stations form group to seek joint antenna site. Empire State Bldg. role unclear. (P. 4)

MERGER REVIEW 'ANALYTICAL': DoJ official sees limited govt. review role, doesn't automatically reject concentration. (P. 4)

NCTA TO SEEK REVIEW of FCC ownership attribution rules. No decision likely soon. (P. 5)

NATPE TO CHANGE, NOT GO AWAY, group says. New Orleans still set for 2003. Task force to review future. (P. 5)

NPR2 SATELLITE DEBUT SET for Sirius. Some opposition still seen. (P. 6)

@HOME DEAL APPROVED by bankruptcy court. Bond-holders still target cable. (P. 6)

FCC ADOPTS SERVICE RULES FOR LOWER 700 MHZ BAND: FCC unanimously adopted allocation and service rules for 48 MHz of spectrum in lower 700 MHz band now occupied by Ch. 52-59 TV broadcasters, but declined to set band-clearing rules. Order voted in Dec. 12 paves way for introducing new fixed and mobile wireless operations in band, Commission said. Covering spectrum that Congress required to be auctioned by Sept. 30, 2002, order reallocates that part of band to fixed and mobile services and keeps existing broadcast allocation for new and incumbent services during transition to DTV. Spectrum being reallocated is subject to same DTV transition target of 2006 as upper channels in 700 MHz. Because lower channels don't have additional public safety allocation as do Chs. 60-69, Commission said it wasn't putting in place same presumptive guidelines used to expedite clearing in upper bands. Order doesn't contain specific band-clearing rules, instead providing that regulatory requests for voluntary band clearing be considered on "case-by-case basis."

Service rules contain band plan that divides lower 700 MHz band into three 12 MHz blocks, consisting of pair of 6 MHz segments, and two 6 MHz blocks of contiguous, unpaired spectrum. Commission said unpaired and paired blocks were designed to allow for multiple uses of spectrum. At end of DTV transition, remaining broadcast operations above Ch. 51 will be relocated into core broadcast spectrum (Chs. 2-51). Order includes technical criteria to protect incumbent TV operations in band during DTV transition and allows LPTV and TV translator stations to retain secondary status and remain in spectrum after transition. FCC also dismissed pending petitions for new NTSC allotments in Chs. 52-59 and provided 45-day window to modify pending applications for new NTSC construction permits to provide analog or digital service.

Consumer Electronics

CODEC UNVEILED FOR HD-DVD by Microsoft, whose 'Corona' upgrade for Windows Media compression could make DVD blue lasers unnecessary. (P. 9)

SONY CLAMPS DOWN on European sellers of PlayStation modification chips that defeat regional coding, play pirated discs. (P. 10)

DIGITAL RIGHTS MANAGEMENT still faces technology and policy hurdles, speakers say. (P. 10)

COPYRIGHT CHANGES DEBATED at House hearings on DMCA, but revisions may not be needed, Coble says. (P. 10)

GAMECUBE-XBOX BATTLE CONTINUES as Microsoft and Nintendo each claims it has shipped 1.1 million consoles. (P. 12)

OLEDs SUPPLY CONSTRAINED for 4-5 years as companies bring factories on line, Stanford Resources conference is told. (P. 13)

LCD OEM PRICE RISE pegged at 2% in Dec. Manufacturers seeking concessions from component suppliers. (P. 14)

FCC Comr. Copps said order advanced goals of promoting DTV transition and creating path for making that spectrum available for new services. "Importantly, the order furthers these goals without reducing our responsibility to conduct a public interest review of any proposed transaction that would clear an existing broadcaster from the band," Copps said. He said he hoped spectrum eventually would be used to bring more broadband wireless services to rural Americans.

CTIA Pres. Thomas Wheeler said order "continues to labor under the conflicting constraints of the congressionally mandated auction deadline of September 2002 and the sweetheart deal that allows the current incumbents to squat on this valuable and underutilized national resource." Wheeler called on Congress to "find the courage" to free that spectrum "from infomercials, reruns and home shopping networks so it may be available to wireless consumers."

Aside from lack of public safety allocation in lower bands of 700 MHz, that spectrum also is seen as different from upper channels because it is somewhat less tailored for 3G wireless. Also, FCC officials said one major incumbent didn't hold majority of bands, as was case in Chs. 60-69 with Paxson Communications. Instead, larger group of smaller broadcasters holds spectrum in Chs. 52-59, which generally is seen as more encumbered by broadcasters than is upper band. Asked at news conference after meeting about approaching auction date, Wireless Bureau Chief Thomas Sugrue said it represented "daunting task," but said "the law is there" to enforce Sept. 30, 2002, deadline for proceeds being deposited into U.S. Treasury. While concerns remain among wireless carriers about how incumbent broadcasters will be cleared, one potential benefit of service rules is that it accommodates large providers as well as small, rural operators. Band has 100 analog broadcasters and 160 digital stations.

Comr. Martin said he was "disappointed" by approach order took on pending applications. Citing extent to which FCC was "asking applicants to reapply for analog licenses in the core," he said that in many cases the stations involved would provide first local service in some small communities. He cited markets such as New Iberia, La., and Hampton, Va. "I think if there was more of a prospect that you would be able to be proceeding on clearing out this band, then I would feel more comfortable denying these pending applications to provide analog service," Martin said. Because band is 4 times more encumbered than Ch. 60-69 spectrum, "it may be unrealistic for there to be clearing the band anytime soon," he said. As result, Martin said he would have at least voted for approving analog services for local communities that now had no local broadcast service: "I am disappointed in that regard today."

FCC TAKES ANOTHER SHOT AT EEO RULES: Having been reversed twice by courts, FCC proposed new set of equal employment opportunity (EEO) rules that were worded more broadly than 2 sets that preceded it. Commission adopted 2nd Notice of Proposed Rulemaking (NPRM) seeking comments on EEO rules for broadcasting and cable, including multichannel video program distributors (MPVDs). Proposed rules respond to latest decision by U.S. Appeals Court, D.C., which held that portion of Commission's EEO rules was unconstitutional (TVD Jan 22 p2).

Rulemaking begun Dec. 12 essentially is redux of Option A of earlier version, requiring broadcast licensees to widely disseminate information about job openings to various segments of community and asking cable entities to conform with same principle as much as possible. In addition to requiring broad outreach for all full-time vacancies, proposed rules would require: (1) Sending job vacancy announcements to recruitment organizations that requested them. (2) Selecting from menu of general outreach activities, including job fairs and internship programs.

In past, broadcast stations with fewer than 5 full-time employees and cable entities with fewer than 6 didn't have to comply with EEO rules. New NPRM asks for comment whether that exemption should be raised to include companies with more employees. New rules also would require companies to place annual EEO report in their public file detailing outreach efforts. Under old rule, broadcasters had to file statement of compliance every 2nd, 4th and 6th year of license term. Proposed new rules would eliminate requirements in 2nd and 6th years and require filing only by radio stations with more than 10 full-time employees and TV stations with 5 or more full-timers. At midterm of their licenses in 4 years, they would be subject to FCC review of their EEO efforts. Commission also seeks to retain requirement that broadcasters file annual employment reports, which was struck down by court. New rules would keep requirement that cable entities file annual employment reports. However, Commission would use information in those reports only to monitor industry employment trends and to prepare reports to Congress.

While Commission vote was 4-0, Comr. Copps called proposal a "retreat" and said he didn't feel it "reflects the deep and passionate commitment to a diverse workplace." He said court reversals had caused Commission to use "too much caution." He said Commission "can do better" and should "push the edge of the envelope" on issue. Chmn. Powell said he strongly supported EEO rules but wanted ones that were "judicially sustainable." He said proposed new rules "are not onerous. Everyone knows they are not." Copps called for hearing to create forum for discussion on proposed rules

involving broadcasters, cable operators, public advocates, legal scholars, public, others. Powell expressed support for that idea.

NAB Pres. Edward Fritts said his board would review FCC's new proposal at its Jan. meeting. Broadcasters were primary opponents of previous rules. "NAB has always encouraged broadcasters to employ a diverse work force, and our industry has sponsored by many innovative programs to accomplish that goal," Fritts said. In April, NCTA had said its MSO members would comply voluntarily with FCC's old EEO rules, even though they were struck down (TVD April 16 p5). NCTA didn't comment on new rules. Minority Media & Telecom Council commended FCC for disclosing its efforts to formulate new regulations. However, MMTC said it and 32 other organizations were seeking Supreme Court review. FCC declined to join that appeal.

Public broadcasters expect digital carriage agreements with top MSOs in first quarter next year, APTS Pres. John Lawson said. Public broadcasters have signed deal with only one MSO — Time Warner. He said negotiations with cable operators were continuing, with "complex" issues involved, and NCTA was playing constructive role facilitating negotiations. Asked about sticking points that were holding up carriage agreements, Lawson said there were "different issues and sensibilities with different MSOs," but one "commonality" was that they all were seeking precise definition of PTV's program services. Programming is driving cable operators' decision, he said, and they're looking for as much "clarity" as public broadcasters could provide. Lawson said there were many variations in plans of local stations in what they would offer on digital spectrum: "We think it is a healthy thing, but MSOs don't view it the same way." While cable operators don't expect all PTV stations to offer same kind of programming, they want "firm understanding" of what PTV's digital offering would look like 2-5 years from now. On decision of commercial broadcasters to drop demand for dual cable carriage, he said public broadcasters had "different nuances" and were sticking to their demand for dual analog/digital carriage during transition to DTV. "Our goal is to get carriage of public TV stations," he said. Public broadcasters would consider giving up demand if MSOs agreed to carry all of PTV's digital noncommercial services and program-related data. As for revenue-producing ancillary and supplementary services, public broadcasters expected to reach separate agreements for their carriage, he said.

Vivendi Universal will give EchoStar \$1.5 billion cash in exchange for 11% equity in EchoStar and nonexclusive rights to distribute films, TV programs and music in U.S. under 8-year agreement, companies announced Dec. 14. Vivendi will offer pay-per-view and video-on-demand movies from Universal Films library. Services are expected to begin in 2nd half of 2002. Money from deal will help EchoStar finance acquisition of Hughes Electronics and DirecTV, EchoStar CEO Charles Ergen said. EchoStar also plans to use transaction as leverage in EchoStar-DirecTV merger review by regulators by creating "more formidable competitor" to cable, spokesman said. Deal also secures U.S. distribution network for Vivendi, which is holding talks to acquire USA Networks entertainment assets. Companies plan to collaborate on developing new channels, including sports, music and interactive games, and EchoStar plans to integrate Vivendi Universal technology into its services and new set-top boxes. Possible transaction with USA Networks and its Chmn. Barry Diller reportedly would give Vivendi access to 85 million U.S. TV households and USA Network and Studios USA. Vivendi already owns 43% stake in company.

Regent Communications said it closed on purchase of 5 FM and 2 AM stations in Lafayette, La., from ComCorp. for \$38.1 million cash, plus Regent stock worth \$1.5 million. Group now owns 61 radio stations outside major markets.

NBC TV Network confirmed it would begin taking hard-liquor ads from Diageo PLC, based in England, with first such commercial scheduled to run Dec. 15 for Smirnoff vodka on *Saturday Night Live*. NBC referred reporters' questions about policy change to its long-standing "Advertising Guidelines for Alcohol Products." That statement limits liquor ads designed to promote sales to after 9 p.m. and to show no models under 30 years old, no on-camera consumption, no active professional athletes, plus more than dozen other restrictions. NBC-owned WJAR-TV Providence has been airing commercials for Bailey's Irish Cream since late summer. ABC and Fox each told us it had "no plans at this time" to accept hard liquor ads. Said CBS official: "We are constantly reviewing our policy" of not accepting such ads. Distilled Spirits Council has been pushing TV stations to accept hard liquor ads since it removed its voluntary ban 5 years ago. Council's efforts were intensified earlier this year at NAB convention and in May when Chris Rohrs, pres. of TV Bureau of Advertising (TbB), wrote to members, pointing out that hard liquor commercials offered stations "a new revenue opportunity." According to Council, about 400 TV stations are accepting liquor commercials, and figure has increased substantially since Rohrs wrote to TbB members.

UPN and CBS TV networks will retain separate over-air identities and affiliate relationships, owner Viacom pledged when it announced that UPN would be reporting to CBS Pres. Leslie Moonves starting in Jan. Sources said move was being made primarily as money-saving venture and same account executives would sell both networks. Viacom Pres. Mel Karmazin said combining 2 networks was "a culmination of a process that began with the merger of Viacom and CBS [in May 2000] and realizes an important opportunity to bring new efficiencies to the broadcast business." Making no reference to how many employees would lose their jobs in move, Viacom said "additional details of the integration of the 2 networks... will be announced over the next several weeks." However, Viacom's action prompted Paramount TV Group Chmn. Kerry McCluggage to take advantage of clause in his contract and announce he was leaving at end of Jan.

What Las Vegas "official" hotels charge for NATPE conference in Jan. and NAB convention in April varies widely — with Hilton adjacent to convention center posting by far largest increase. Rates for all hotels listed by both groups are considerably lower for NATPE than for NAB — with Hilton rate jumping from \$119 for preregistrants to \$219 in April. Other large differences (with NATPE rate listed first): Bally's \$99 vs. \$152; Caesar's Palace \$179 vs. \$195; Hard Rock \$119 vs. \$159; Mirage \$179 vs. \$195; Paris \$119 vs. \$182; Riviera \$134 vs. \$149; Treasure Island \$139 vs. \$179. Daily rates for all but couple of hotels increase week NAB delegates are in town. Venetian, which will be heavily populated by programmers during NATPE, isn't listed as official hotel for either convention.

N.Y. PROBLEM 'WEIGHTY': Eleven N.Y. and N.J. TV stations formed Metropolitan TV Assn. (MTA) consortium in their continuing search for a new analog antenna site that would satisfy demands of FAA and FCC rules and would provide acceptable signals. Search has been under way since shortly after Sept. 11 terrorist attack on World Trade Center that destroyed their antennas and transmitters (TVD Sept 24 p1). William Baker, pres. of noncommercial WNET N.Y.-Newark, is chmn. of MTA, whose members have put embargo on talking officially to reporters.

"We face a ton of weighty problems in our search for a new site, but they all will be solved satisfactorily," member of consortium said. Another source said Empire State Bldg. (ESB) officials were "eagerly pursuing" TV stations to reestablish their antennas and transmitters atop that building, once the world's tallest — whence stations departed en masse about 25 years ago to taller World Trade Center Tower 1. "They're saying the Empire State Building is the only solution to our problem," source said, "and that may well be where we'll end up." Stations can't locate permanently in Alpine, N.J., where most now are transmitting analog signal from temporary antenna with reduced power, "because nobody can see us [our signals] from there," official said.

Studies of ESB are underway to determine its structural ability to handle massive weight of dozen or more new analog transmitters and antennas and what would be required to shore up building. ESB officials said building also could provide future space for digital antennas. MTA also is looking at possible sites on Governor's Island (official said reports that FAA had turned down proposed sites on Island weren't true). MTA and Port Authority, owner of World Trade Center, have hired separate FAA consultants.

Greatly complicating problem of building new antennas and transmitters atop ESB is 18 FM stations already broadcasting around clock from that location. "Ideally, we could move them temporarily or just shut them down for a few months, but that just wouldn't be acceptable" to FM broadcasters, official said. Consequently, any workers putting in new installations probably would have to wear "space-suit type" protective gear to ward off radiation from FM transmitters, he said. With FM towers and transmitters already in place and in operation, "that makes it much more cumbersome" for installers of new TV equipment, official said.

Several area TV stations within last year had installed digital transmitters and antennas atop Trade Center, all of which were destroyed Sept. 11. To replace them and shore up Empire to handle weight of new equipment could cost "hundreds of millions of dollars," source said: "And, the same would be the case if a totally new standalone tower is built on Governor's Island or elsewhere."

While no public announcements have been made, MTA hired former ABC and Chris-Craft TV executive Douglas Land as its exec. dir. and retained James Grossman of Howard Rubenstein Assoc. PR firm. Said Grossman: "We haven't gone public with anything." Land couldn't be reached for comment. But in TV stations' current situation, one fact stands out "loud and clear," TV executive said: "The broadcasters can never ever again rely on a single transmitter site, even when we have redundant antennas and transmitters."

MERGER REVIEW 'ANALYTICAL': In frank outline of his antitrust views, new Dept. of Justice (DoJ) Antitrust Chief Charles James said he didn't see his job as working to assure large numbers of competitors in particular industries, nor to automatically stop a company from developing market dominance. Speaking at Practising Law Institute conference in Washington on Dec. 13, James said his views didn't signal laissez-faire approach, but he believed in analyzing mergers on case-by-case basis, taking into account changing industries. "I think I'll quote him in filings with the FCC," one attorney joked.

"We want this audience to know we're not going to just jump to conclusions" that mergers of companies in similar product lines automatically raise anticompetitive questions, James said. "Convergence could cause us to redefine our markets." He said opponents sometimes complained that merger would disrupt markets, but it was FCC's job, not DoJ's, to assure there were "large numbers of competitors." Companies should have "opportunity to compete efficiently" as long as they "do so without hurting others' efficiency," he said. He also stressed that DoJ "is not an anti-tipping agency," meaning "we do not see our role as looking for markets about to tip and throwing our bodies in the way."

Mergers can have "beneficial effects in terms of efficiency," he said. "We need to intervene where a particular company with market power engages in anticompetitive behavior [but] not to stop firms from developing dominant positions," James said. In competitive market, "someone occasionally wins and that is not necessarily an anticompetitive result." It's not Justice's role to "punish success," he said: "Economics of scale and scope matter." He said DoJ wouldn't be swayed by vague arguments that one's company had to get bigger to compete, however.

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Thirteen broadband providers in competition with Bells and incumbent cable companies formed new association, said Knology CEO Rodger Johnson. Johnson is chmn. of Broadband Service Providers Assn. (BSPA), and Gemini Networks CEO Haynes Griffin was elected vice chmn. of group of alternative facilities-based broadband providers. Initial focus of BSPA will be to eliminate barriers to broadband deployment, and members have vowed to work at federal, state and local levels with legislators and regulators.

AT&T said it was considering offers for its broadband unit and asked each company that submitted proposal to make some changes. AT&T also warned that it might not do deal at all. Comcast, Cox and AOL Time Warner have submitted bids and Microsoft, in effort to block AOL-TW from getting unit, has offered to back Comcast or Cox or help AT&T keep broadband as standalone unit. AT&T has said it's considering 3 options: sell it, spin it off, and keep it. AT&T spokeswoman said board would make decision before end of year.

News Corp. named Hearst-Argyle's (H-R) Tony Vinciguerra pres. of its Fox TV Network effective Jan. 1. Post has been vacant for year. Vinciguerra, former exec. vp of CBS TV Stations Group, joined Hearst TV just 2 months before group merged with Argyle in Aug. 1977 and was promoted to exec. vp of H-R TV Stations Group in June 1999. He is scheduled to become chmn. of NATPE at close of its convention Jan. 25 in Las Vegas.

ATTRIBUTION RULES QUESTIONED: FCC's attribution rules are linked inexorably to ownership limits and agency should take "a fresh look" and consider changing them, NCTA Pres. Robert Sachs told reporters Dec. 11. Outlining NCTA's regulatory strategy for coming year, he said his group would ask Commission to reconsider whether company that held only 5% stake in another actually should be considered as having control of 2nd company. Sachs said attribution rules should be reconsidered across board for cable, broadcast, other media. He said it was unfair that FCC, when looking to limit ownership, didn't take into account fact that small investments in other media companies didn't amount to control. "What we want are attribution rules, bottom line, which establish that a company is credited with ownership where it actually controls an entity," Sachs said. Rules say person or entity has attributable ownership if that person or entity has 5% of voting stock or 33% of combined debt and equity.

Sachs said he believed it was "entirely possible" that ownership issue would come up in transaction "well before" Commission completed rulemaking on ownership limits, although he declined to predict possible merger or acquisition that would test limits. Some industry analysts have predicted that successful bid by AOL Time Warner for AT&T Broadband could pose such challenge. NCTA will make its move in Jan. filing on notice of proposed rulemaking (NPRM). Comments are due Jan. 4 and replies month later. Sachs said it would be "very difficult" for Commission to come up with "rational" set of horizontal rules in absence of new attribution rules. FCC issued NPRM in reaction to decision by U.S. Appeals Court, D.C., that reversed Commission's horizontal and vertical ownership limits and remanded them back to agency. FCC rules had said that no MSO could own cable systems with more than 30% of cable subscribers nationwide, and programming in which MSO had attributable interest could fill no more than 40% of channels on cable system. Appeals court said FCC didn't provide justification for rules. However, it did uphold agency's attribution rules for cable ownership of programming services, which are based on broadcast TV attribution rules.

Supreme Court recently denied petition for certiorari filed by Media Access Project (MAP) and other consumer groups seeking to uphold FCC's ownership rules. MAP's Andrew Schwartzman said AT&T and Time Warner repeatedly had made same argument as Sachs and had been turned away by courts. AT&T has 25.5% stake in AOL Time Warner and wants to hold on to it. Attribution is not about control, but about influence, Schwartzman said: "You do not need to control something to influence it." For example, 5% stake can allow entity to hold board seat and influence stock price and performance by threatening to sell stock or mount proxy campaign, he said.

FCC granted must-carry complaint against DirecTV filed by KVMD (Ch. 29, Ind.) at Twenty Nine Palms, Cal., requiring DBS company to begin carrying signal by Jan. 1 or within 75 days after station provides good signal to DirecTV's local receive facility. Commission said in order Dec. 13 that KVMD had argued DirecTV was providing local service in L.A. and DirecTV was obligated to carry its signal. DirecTV said KVMD didn't provide quality signal. Commission also granted similar request by Entravision filed on behalf of owners of WVEN Daytona Beach against EchoStar.

NATPE TO CHANGE, NOT GO AWAY: Annual NATPE convention may be down, but not out, NATPE Pres Bruce Johansen said at annual preshow briefing in L.A. last week. Organization caused furor when news leaked that it had cancelled its 2003 hotel reservations in New Orleans, but Johansen said conference was indeed returning there in 2003, and presumably 2004, as planned, despite resistance by some distributors. "There are going to be some people who are not happy about that decision, but we think it's the smartest thing for us to do, to honor that commitment."

NATPE assembled task force to consider NATPE's future, headed by Hearst-Argyle COO Tony Vinciguerra, in line to be NATPE's 2002 chmn. Other members include Lifetime Pres. Carole Black, AOL-Time Warner's Julie Kantrowitz and Studios USA's Steve Rosenberg. Task force is expected to present recommendations to NATPE board in spring. Johansen said most in industry still supported NATPE, but whether it would keep same format or time of year were open questions: "We don't want to do a quick fix right now. These are complex issues and we want the input of the entire industry before we make the decision as to what we are going to look like."

Among possibilities is joining with other conferences, such as PROMAX marketing organization or domestic syndication advertising group SNTA. Johansen said consolidation was fact of life for corporations, and NATPE might be wise to follow same path. Beth Braen, senior vp-mktg., said current registered attendance for Jan. 2002 conference was down 40%, with 500 exhibitors. Johansen said NATPE was working with distributors who are hosting off-site minimarket at Venetian Hotel. Two sides will share shuttle costs, and NATPE agreed to list Venetian companies in official NATPE guides. In turn, NATPE would have kiosk at Venetian.

FCC Chmn. Powell will keynote Jan. 23, and Comrs. Abernathy and Martin will participate on panels, NATPE announced.

"We must reevaluate the FCC's media regulations in the context of the current marketplace," Comr. Martin said at Dec. 11 Media Institute lunch. "Today, we have an astounding array of options," he said, "hundreds of television channels, thousands of radio stations," along with various other media into homes. He said many of current regulations assumed shortage of frequencies. But, Martin said, "while available spectrum [for broadcasting and other services] has grown... that assumption" of spectrum shortage still results in content regulation, licensing rules and ownership restrictions: "I think it is imperative for us to reevaluate the whole landscape [of regulation] to make sure we're taking into account the increasing number of [information] sources that are available today." In answer to question, Martin said FCC rules should be based on competition, not structural issues. Commission, he said, has "obligation" to make sure its licensees have a stable regulatory environment.

FCC granted must-carry complaint filed by Entravision, licensee of WJAL (Ch. 68, Ind.) in Hagerstown, Md., against DirecTV. Commission ordered DirecTV to begin carrying WJAL's signal by Jan. 1 or within 75 days after station provides good signal to DirecTV's local receive facility. WJAL said DirecTV was providing local-into-local satellite service in its Washington, D.C.-Hagerstown market. DirecTV said WJAL didn't provide quality signal to its receive facility, but station committed to delivery of its signal through alternate means.

NPR2 SATELLITE DEBUT SET: Little more than 2 years after it was created, NPR2 is to debut on Sirius Satellite Radio Feb. 14. However, NPR member stations remain displeased about potential new competition, despite NPR decision to withhold some popular programs from satellite radio. "We are ready" for 24-hour broadcast streams on Sirius, NPR Vp-Programming Margaret Smith said. NPR2 will operate 2 channels on Sirius — NPR Now and NPR Talk.

In deference to local stations' concerns about competition from satellite, NPR2 won't carry NPR's "crown jewels" — *Morning Edition* and *All Things Considered* and their weekend counterparts, Smith said. "We did not want to put these newsmagazines on satellite stream because they are the anchor for many stations' programming," she said. But critics, who envisioned NPR as "bypassing" them through satellite programming, were far from assuaged.

"I'm not satisfied in the least [by decision to exclude newsmagazines]," said Steve Spencer, gen. mgr. of WYSO(FM) Yellow Springs, O., questioning whether such shows might air on satellite in future. When NPR announced creation of NPR2 it had promised that programs on satellite channel would complement, not duplicate, station programs, he said. But within 6 months of announcement, decision was made to include *Car Talk* on satellite with "extensive" explanation, he said.

There was no mention of original programming for NPR2 in program list provided by Smith. When it was conceived, NPR had said its Satellite Div. would produce "innovative" morning newsmagazine and "fresh" NPR classical and jazz features for NPR2. NPR was looking at 2 satellite channels to "incubate programs we are creating," Smith said. NPR2 currently has one staff member, Kingsley Smith, who is program dir. for both channels, she said. Kingsley Smith would operate channels with engineering help from NPR, said Margaret Smith, while she would oversee overall operations. As for NPR2's financial model, she said NPR would not be involved in any subscription fee charged by Sirius but would carry underwriting credits.

Canada's proposed amendment to Copyright Act's retransmission provision (Bill C-48) calls for govt. to establish qualifications for retransmitters of programming on Internet: "The bill clarifies that existing distribution systems such as cable and satellite may continue to rebroadcast over-the-air radio and TV signals by paying royalties set by the Copyright Board," Canadian Heritage Minister Sheila Copps said. U. of Ottawa law prof. Michael Geist said that since govt. also said that law wouldn't be passed until first set of regulations was ready, "this would seem to leave the issue in much the same spot as before with the question of Internet retransmission in Canada still up in the air." Until those regulations are drawn up, real intention of legislation is unclear, Geist said: "It seems like the government has held off doing what the Minister said it would do, which was to close off a loophole. This really doesn't stop anyone from retransmitting." Copps said legislation would extend copyright law to Internet retransmission to discourage sites such as JumpTV from rebroadcasting TV programs: "If you want to take someone else's signal, you'll have to pay for the creative rights. Producers and broadcasters have to pay the actors, pay the producers, pay the news people." Canadian Assn. of Bcstrs. Pres. Michael McCabe praised govt. for clarifying intent of Copyright Act, but said "we need to be mindful that significant challenges still lay ahead and we urge Parliament to treat this matter without delay when they return in the New Year."

@HOME DEAL APPROVED: Judge finally approved @Home's agreement to supply high-speed Internet access to Comcast, Cox and 9 other cable companies through Feb. for \$355 million before shutting down its service. Bankruptcy Judge Thomas Carlson, San Francisco, said it was "very easy" to conclude that no potential claims @Home would give up under deal outweighed value of payment and releases by MSOs of hundreds of millions of dollars' worth of claims against @Home.

Bondholders' attorneys, with little hope of recovering from @Home much of \$750 million owed their clients, have made no secret of their eagerness to go after cable companies, including AT&T, which they contend took advantage of inside positions as major shareholders and board members. Company responded with analysis saying it was giving up any contention 11 cable companies had breached contracts by starting to build out their own broadband Internet connections — because @Home's service exclusive didn't seem to preclude it — or effectively robbed @Home by paying company too little. Company retains rights to pursue other claims, including breaches of fiduciary responsibilities.

That satisfied creditors' committees, including bondholders, and in turn Carlson. He emphasized significance of @Home's obtaining waivers of cable-company claims arising from its repudiation in bankruptcy of its previous service agreements, which company valued at \$290-\$500 million. Cable companies' claims against @Home could have been considerably easier to win than @Home's against them, Carlson indicated.

Year-long test of portable people meter (PPM) by Arbitron in Wilmington, Del., was completed successfully, company said, and showed PPM was "tracking" public's use of TV, cable and radio "that's been missed" by Nielsen ratings. As result of test, Arbitron said, it was "on a fast track to deploy [PPMs] in local markets across the United States." First step, company said, will be another, much larger test in the Philadelphia designated market area, using sample of at least 1,500 persons starting next month. Wilmington sample included only 200 (TVD July 23 p8). Nielsen, only U.S. service currently providing estimates of viewing of local TV stations, is participating financially in Arbitron tests (amount of investment not disclosed). Nielsen also has option to acquire interest in any "commercial deployment" of PPM nationally. Nielsen had no further comment. With expanded sample size in Philadelphia test, "by the 2nd quarter of [2002], the industry will have the first direct comparisons of PPM audience estimates for individual radio and TV stations as well as cable networks," said Marshall Snyder, pres.-Arbitron PPM development. PPM is pager-sized device carried by sample participants, inside and outside their homes, that automatically detects inaudible codes embedded in audio portion of radio, TV and cable signals.

Gemstar-TV Guide International said it signed long-term license agreement with Matsushita for Japan market. Under agreement, Matsushita will incorporate Gemstar-TV Guide interactive system in its TV-related product lineups. Matsushita and Gemstar said first Matsushita product incorporating system in Japan — 36" DTV with built-in hard-disk recorder — would be available in retail stores Dec. 20. Gemstar will support system by broadcasting its data in both vertical blanking interval of TV signals of Tokyo Best System and on Megaport, which provides digital data services.

BROADBAND MOVING AHEAD: Several upcoming proceedings at FCC could "clarify the regulatory scheme that applies to broadband," FCC Comr. Abernathy told reporters last week. She noted that Commission had issued notice of inquiry last year that covered issues such as how cable modem service should be classified, particularly whether it was cable service, information service or something else. "We hope to move on this issue or issues sometime in the early part of next year," she said.

On FCC's announced plan to merge Mass Media Bureau and Cable Bureau (TVD Sept 17 p3), Abernathy said there was nothing formally before commissioners to accomplish that. Chmn. Powell had told us month ago that he expected merger to be completed by year-end and Abernathy said "I suppose that's possible... I just don't know where we are" at present. As for continuing transition to DTV, she said issues were much more complicated than envisioned several years ago when analog stations were ordered to make switch. On stations on analog Ch. 52-59 voluntarily moving to make room for public safety services, Abernathy said: "Even if you offered them a lot of money, I don't know where they would go."

Of pending EchoStar-DirecTV merger, she said: "I'm not aware of any specific deadline" for FCC to act, but "it's going to take a while and then there will be coordination with the Justice Dept." She said Commission wouldn't wait on Justice to act first.

Second U.S. Appeals Court, N.Y., vacated and remanded summary judgment by Dist. Court that 3 fired African-American employees of Time Warner, who had filed suit alleging, among other things, race-based employment discrimination, had failed to rebut TW's legitimate, nondiscriminatory reasons for termination. Employees, who were working in TW's accounts payable dept., were dismissed in 1995 by company, which cited reduction in dept.'s workload. Employees said they represented 3/4 of dept.'s African-American employees and none of Caucasian employees were terminated. Saying Dist. Court had failed to evaluate evidence properly, appeals court said fired employees had raised questions of "material fact as to whether the reasons Time gave for their firings were pretextual and the true reason was discrimination."

Outgoing AOL Time Warner (AOL-TW) CEO Gerald Levin said if govt. wanted more broadband deployment, it would have to form more public-private partnerships. He said TW agreed several years ago to build out broadband in each of its cable franchises in exchange for regulatory relief on various issues, and that govt. needed to "somehow superimpose" that same idea and obligation on telephone and satellite companies to deploy broadband faster. "Here's an example where public policy and private companies are just not working together," Levin said at taping of TV program *Kalb Report: Journalism at the Crossroads* at National Press Club. Levin said he had decided to step down next May in part because Sept. 11 terrorist attacks, for him and his family, opened wound of 1997 death of his son, Jonathan, who was murdered by a former student. Levin said this was first opportunity to trigger resignation clause in his contract since his son's death, and he took it.

EchoStar 7 spot beam satellite is on schedule for Feb. launch, CEO Charles Ergen said. He said satellite should be shipped to Cape Canaveral in Jan. and enter service in 2nd quarter. Satellite is expected to provide additional capacity to help EchoStar comply with must-carry requirements.

Commercial broadcasters should "foot the bill" to set up trust fund that would take public broadcasting off "annual federal dole, remove corporate program sponsorship and free the service to pursue its mission without constant censorship pressures that come with private funding," said Jerold Starr, exec. dir. of Citizens for Independent Public Bcstg. (CIPB). He said commercial broadcasting was only industry that made money off public resource without paying for it. "Oil drillers, cattle grazers, cable operators and cellular phone companies all pay a fee for using public resources. Why not commercial broadcasters?" Starr asked. CIPB estimated public broadcasting needed \$1 billion per year for all TV and radio, local and national programming and said funding could be accomplished by 5% tax on sale or transfer of TV and radio licenses, 2% tax on broadcast advertising and 2% annual spectrum fee or tax on spectrum auctions. Gore Commission, which explored social responsibilities of digital broadcasters, had suggested in 1998 that Congress create trust fund for public broadcasting and that, if it did, PBS should reduce or eliminate "enhanced underwriting," which "closely resembles full commercial advertising," Starr said.

Sinclair Bcst. exercised improper de facto control over Glencairn Ltd., FCC said, but not enough to justify agency's withholding approval of transfer of station licenses (TVD Sept 17 p5). Commission approved Sinclair purchase of 14 TV stations from Sullivan Bcstg. for \$1 billion, but said Sinclair was subject to \$40,000 forfeiture for exerting undue control over Glencairn stations. FCC approved Sinclair purchase, which had been pending for more than 3 years, only after U.S. Appeals Court, D.C., in highly unusual action and on its own motion, gave agency 40 days to act or explain to court why it hadn't. Comr. Copps dissented in part, saying "Sinclair has crossed the line" on control issue and forfeiture wasn't enough penalty because it allowed "Sinclair to run over these lines and to continue its multiple ownership strategy... The assessment of a fine combined with the approval of the transfers at issue is incongruous." He said transfer applications should be designated for full hearing. Majority said facts of case demonstrated that Glencairn owner "was not in control of Glencairn and passively permitted Sinclair to dictate the terms," but there was no "intent to deceive" Commission, so there was no need for hearing.

Center for Digital Democracy (CDD) is urging public to tell President Bush, FCC and congressional representatives they should oppose cable concentration. Center said proposals by FCC and cable companies eventually could allow 2 companies to own all of nation's cable systems. Jan. 4 is deadline for comments to FCC on ownership caps. CDD Exec Dir. Jeffrey Chester said he was especially concerned by AOL-Time Warner's recent offer to buy AT&T Broadband. "Given the cable lobby's opposition to open broadband access, the cable industry's TV monopoly could extend into the Internet as well," Chester said. Cable insiders said some deregulation had allowed cable to raise private funds to build networks and some deregulation would reap efficiencies and better deals for customers. NCTA spokesman said no single MSO served more than 14 million of nation's 86 million cable homes and antitrust laws already protected consumers from unlawful combinations. "Mr. Chester speaks mostly for himself and his reckless claims about cable concentration are not likely to influence policymakers," NCTA spokesman said.

Women are gen. mgrs. of 15% of radio stations in top 100 markets, up from 13% year ago, survey by *Radio Ink* found.

Personals

Tony Vinciquerra, ex-Hearst-Argyle, named pres., Fox TV Network... Promotions at NBC: **Mark Vachon** to exec. vp-CFO, replacing **Mark Begor**, who moves to COO, GE Card Services; **Brandon Burgess** to exec. vp-NBC Business Development... Promotions at ABC: **Henry Hoberman** and **Scott Fain** to senior vp-counsel; **Jeffrey Ruthizer** to senior vp-labor relations... **Richard Schrott** advanced to gen. mgr., WJAC-TV Johnstown, Pa.

Larry Cockell, ex-U.S. Secret Service, named AOL Time Warner senior vp-chief security officer, new position... **Jaime Bianchi** moves his cable litigation practice to Miami office of White & Case, from Bienstock Law Firm; associates **Jeffrey Jacobs** and **Elizabeth Graddy** also move... **Bill Burke**, ex-pres.-CEO, broadcast TV and Internet company RSN, will become pres. of The Weather Channel Companies effective Feb. 4... **Charlie Collier**, ex-Oxygen Media, appointed exec. vp-ad sales, Court TV... **Mark Irwin** promoted to Discovery.com vp-operations... **Steven Pechman**, ex-vp, College Sports, Southeast, joins Cox Interactive Media as dir.-network sales.

Chuck Dziedzic, assistant chief, FCC Video Services Div., will retire at year end... **Erwin Krasnow** and **Michael Berg**, partners in communications section of Washington law firm Verner, Liipfert, Bernhard, McPherson & Hand, join Shook, Hardy & Bacon Jan. 1... Named to Media Institute board: **Patrick Butler**, Washington Post Co.; **Michael Regan**, News Corp.; **Anne Wexler**, Wexler Group... **Brian Moreno**, ex-Style365.com, moves to Warner Bros. Online as vp-strategic mktg.

More than 90 municipally owned power utilities provide cable services, and at least 108 offer Internet service, thanks to prohibition on exclusive contracts on cable's video programming, American Public Power Assn. (APPA) said in FCC filing urging Commission to retain and expand ban that's due to sunset Oct. 5. Were it not for that prohibition, fewer, if any, public telecom systems would be operating, because denial of even handful of "must-have" cable channels could destroy new provider's ability to compete effectively with incumbent, it said. APPA said general ban didn't reach exclusive contracts in certain circumstances in which cable operator's action had "purpose and effect of thwarting competition." For example, it said, cable operator and program distributor could circumvent curb by delivering programming through terrestrial means rather than by satellite. Allowing prohibition to expire would "seriously jeopardize" competition in more than 2,000 communities in which APPA members serve, it said.

Households with multiple PCs or Internet access are more likely to rent VHS tapes and DVDs, buy pay-per-view (PPV) programming and pay \$50 or more per month for cable or satellite service, said report from Knowledge Networks/Statistical Research (KN/SRI). It said use of computers, Internet and TV wasn't mutually exclusive. Report said that, compared with homes with no computers, homes with 2 or more PCs were about twice as likely to have rented VHS tape in last month (64% vs. 34%) and to be paying \$50 or more per month for cable or satellite service (31% vs. 15%). Report said PPV purchases in last month were more than 3 times higher in multiple-PC homes (14% vs. 4%). Similarly, homes with online access are 50% more likely to have rented VHS tape in last month (57% vs. 37%) than non-Internet homes and are nearly twice as likely to be paying premium prices for cable service (25% vs. 15%).



WARREN COMMUNICATIONS NEWS Ideas & Media Intelligence www.warren.com

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497 1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

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

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

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Claim that media violence contributes to violence by children "not only diserves science, it diserves youth," group of academics said in letter responding to American Academy of Pediatrics (AAP) Nov. statement on media violence. Group said studies cited by AAP were not "scholarly" works and accused AAP of "factual inaccuracies" and "distortions." Group said many scholars believed "trying to understand the media's impact on human development through laboratory measurements and other numerical methods is inherently flawed... The effect of violent entertainment depends on context." Letter was organized by Free Expression Policy Project and signed by professors from 6 universities and others.

Consumer Electronics

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

STATE OF THE INDUSTRY

Sales to dealers, from CEA, for week ending Nov. 30 and year to date:

	NOV. 24- NOV. 30	2000 WEEK	% CHANGE	NOV. 17- NOV. 23	48 WEEKS 2001	48 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	873,475	870,713	+ 0.3	540,308	24,410,830	28,125,057	- 13.2
DIRECT-VIEW**	847,390	834,372	+ 1.6	518,129	23,549,776	27,015,272	- 12.8
TV ONLY#....	678,064	681,781	- 0.5	433,536	19,272,272	22,314,175	- 13.6
TV/VCR COMBO.	169,326*	152,591	+ 11.0	84,593	4,277,504	4,701,097	- 9.0
PROJECTION TV	26,085	36,341	- 28.2	22,179	861,054	1,109,785	- 22.4
TOTAL VCR**...	738,920	677,940	+ 9.1	399,087	18,401,414	26,814,915	- 31.4
HOME DECKS...	569,594	525,349	+ 8.4	314,494	14,123,910	22,113,818	- 36.1
CAMCORDERS.....	182,165	243,486	- 25.2	126,667	5,011,990	5,547,962	- 9.7
DVD PLAYERS....	687,333*	510,272	+ 34.7	349,710*	11,531,145*	7,705,726	+ 49.6

Direct-view TV 5-week moving average#: 2001--517,442; 2000-647,508 (down 20.1%).

Projection TV 5-week moving average: 2001-23,276; 2000-26,302 (down 11.5%).

VCR deck 5-week moving average: 2001--399,812; 2000-621,767 (down 35.7%).

TV/VCR 5-week moving average: 2001--119,283*; 2000-113,179 (up 5.4%).

Camcorder 5-week moving average: 2001--162,008; 2000-145,758 (up 11.1%).

DVD player 5-week moving average: 2001--493,676**; 2000-275,356 (up 79.3%).

* Record for period. **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.

NEW MICROSOFT CODEC IS CANDIDATE FOR HD-DVD: "Corona" is code name for upgraded Windows Media from Microsoft that could be used to compress high-definition video on DVDs — replacing MPEG-2 encoding and side-stepping need for costly blue lasers.

Corona has greater compression ratio than current MPEG-2 and is capable of storing full-length movie in 350 MB in current DVD resolution, raising possibility of collection of movies on single 4.7 GB disc. For high-definition DVD, Corona would encode video at 24 frames per sec. and yield 1280x720 pixels, with 5.1 channel surround sound at 24-bit coding, 96 kHz sampling. Corona also could be used as compression platform for broadband streaming over Internet. It was unveiled at Internet World conference last week in N.Y.C.

Most proposals for HD-DVD to date have entailed use of blue laser, whose shorter wavelength would be needed to read more densely packed MPEG-2 data from disc. But higher cost and greater complexity of blue laser compared with current red ones is barrier to adoption — and legal situation involving competing patents complicates issue. Switchover to new disc-making equipment also is of concern to industry, but this could be made unnecessary if new software compression format were adopted. Meanwhile, it's open question whether CE and movie industry would want to be beholden to Microsoft.

Technology in Corona also could be used for audio compression in next manifestation of Windows Media Audio (WMA). Microsoft said CD could hold 22 hours of audio using future WMA, compared with current 74 min. in Red

Book standard. Meanwhile, current version of WMA will be appearing in more DVD players. Five top chipmakers — Cirrus Logic, ESS, LSI Logic, STmicroelectronics and Zoran — said their next chips would support WMA. ESS already has such chip and supplies it to Apex Digital, whose DVD players will be first to play WMA-compressed CDs in addition to those compressed using MP3.

SONY POUNCES ON PS2 MODIFICATION CHIPS: Threat of legal action by Sony caused European vendors of PlayStation 2 (PS2) modification chips to remove items from sale last week. First 2 vendors jumping ship are in U.K., but more are likely to abandon “mod” market. “SCEE is currently actively pursuing prosecutions against various mod-chip distributors... across Europe,” said David Reese, senior vp of Sony Consumer Entertainment Europe (SCEE).

“Mod” chips have been around since PlayStation One days. They eliminate limitations on console, such as regional coding on PlayStation games and movie DVDs. Although it’s not clear whether chips themselves are illegal, some do permit illegal activity, such as enabling consoles to play pirated and counterfeit game discs. That’s longtime problem for Sony in Europe, where high prices and delayed release of titles compared with Japan and N. America has spawned lively trade in copies.

First 2 U.K. mod-chip vendors to fold are Channel Technology and Playstationmods.com. Former sells “Messiah” chip while latter offers “NEO4” mod. Playstation.com site said company would “comply without reservation and without prejudice” to Sony’s request. Channel site’s message read: “Anyone out there lend me a fiver? I placed a bet at the bookies that the Messiah would come in 2001. I lost!”

TECHNOLOGY, POLICY COMPLICATE MANAGING DIGITAL RIGHTS — PANEL: Copyright protection technology for digital material still has many hurdles to jump before becoming common in marketplace, digital rights management experts told Streaming Media conference in N.Y.C. last week. One major obstacle is psychology of Internet users accustomed to free online content, they said. “They think when they pay their monthly ISP bill, they get everything for free,” said Jeff Albertson of RealNetworks.

Businesses need to develop ways to entice consumers to pay for digital content, offering such things as easy-to-use directories of music titles, which are absent from many free Napster-type sites, Albertson said. “It’s about providing an alternative that’s better than free, if not cheaper than free,” he said. Other challenges, panelists said, include developing uniform technical standards for copyright shields and making sure that finished products aren’t so cumbersome that they turn off consumers.

Recent entrance into WTO of China, where copyright rules routinely have been flouted, should boost acceptance of digital rights technology, said Scott Burnett, dir. of business development at IBM’s media and entertainment unit. Panelists said copyright matters often were complicated. Deepak Srinivasan, CEO of enScaler, which makes DRM and other technology, recalled working on one project recently in which client had digital rights to transmit music from concert worldwide — except for Japan.

Digital rights issues aren’t limited to large entertainment companies, speakers said. One audience member told panelists of his involvement in Cornell U.’s efforts to digitize its vast collection of animal sounds. Marc Dantzker said university hoped to put sounds, as well as video images, on Internet as early as next year. First, however, it’s trying to iron out rights questions. Among them, Dantzker said, is how to assure that Cornell receives credit if its work is used by educational institutions and how to be paid if it’s used by commercial enterprises.

HOUSE DMCA HEARINGS DEBATE COPYRIGHT ACT CHANGES: After 2 days of hearings on Copyright Office report on Digital Millennium Copyright Act (DMCA), chmn. of House panel said he still wasn’t persuaded that changes were needed to update copyright law to Internet Age. Rep. Coble (R-N.C.), however, who heads Judiciary Subcommittee on Internet & Intellectual Property, said he was “easy dog to hunt with,” and so was keeping open mind. First day of hearings last week focused on whether artists and music publishers should be able to collect royalties for RAM or buffer copies of musical works made to facilitate streamed programming. While 2nd session was mostly more of same, it included spirited debate between Webcasters and music publishers over whether buffer or server copies should be subject to mechanical license fees.

Register of Copyrights Marybeth Peters recommended against adopting “digital first sale” provision, saying there was no convincing evidence of any problems with current law. However, report also urged Congress to exempt from re-

production royalties buffer copies incidental to licensed transmissions of public performances of sound recordings. Peters stressed that recommendation applied only to audio files whose sole purpose was to facilitate public performance via streaming. She said situation is analogous to deal cut with broadcasters in 1976 under which they were exempted from fees for server copies made simply to carry out licensed broadcast.

Some argue that on-demand streaming performances implicate reproduction right, Rep. Cannon (R-Utah) said. He asked Digital Media Assn. (DiMA) Exec. Dir. Jonathan Potter whether anything in law now prevented Broadcast Music Inc. (BMI) and other performance-right societies from raising their rates to ensure that artists were fully rewarded, even if they weren't entitled to mechanical license (reproduction) fees. Potter replied that although on-demand performances had potential to reduce sales, thus cutting reproduction royalty payments, situation could be corrected by higher performance royalties. "In theory" that might be true, said BMI Senior Vp-Gen. Counsel Marvin Berenson, but in practice, the minute BMI tried to raise its rates it would end up in rate court. There's no reason why songwriters and music publishers should be penalized online because they're only allowed to collect one fee, he said.

When both reproduction and performance rights are involved, they should be licensed, Peters said. But Copyright Office's position is that when streaming takes place, and performance occurs only in ephemeral copy made to facilitate that stream, no performance royalty should accrue. Berenson said problem was that business models for online music changed "by the hour." Although some copies are made purely for streaming process, others may be capable of being downloaded and played several times before they disappear from PC. At each end of continuum no one is asking for fees, he said. But for situations in between, artists are entitled to reproduction and performance rights, he said.

Webcasters want to compete with broadcasters but "in the real world, isn't everything going to go [the Webcasters'] way?" ranking Democrat Berman (Cal.) asked Potter. Can't Webcasters be more optimistic and stop griping about small provision on server copies? Potter replied that "single greatest threat" to Webcasting industry was inability to clear licenses to pay creators and publishers.

Coble said later his philosophy toward amending Copyright Act was: "If it ain't broke, don't fix it." Although he said he wasn't sure he was ready to back Copyright Office's other legislative recommendations, he indicated some support for its request for amendment to Sec. 117 (archival copies). That section involves "day-to-day practicalities," Coble said. He said even with that, he was not yet convinced congressional action was necessary.

Royalty-administering organizations are "terribly concerned" that downloading or streaming will cut into their piece of action, Potter said at news briefing after hearings. He said DiMA had made clear that online music and media services were "absolutely committed" to paying royalties, but BMI, Harry Fox Agency and others were feuding over who got to administer which rights and who got money. He said Coble and other subcommittee members were facing "enormous pressure" from those who would prefer to see marketplace solution to issues, but market wasn't working, as even RIAA had admitted. Because Copyright Office is well respected on Capitol Hill, it's likely that some sort of legislative activity will occur in early Feb., Potter said.

DVD player production worldwide will grow only 8.2% next year owing to weakening consumer confidence in U.S., according to Nikkei Market Access estimate cited in Asian news report. That would put 2002 production at 40,833,000, compared with 37,749,000 this year — 88.5% increase over 2000. Report said Samsung and Sony each produced 5 million players this year, followed by Matsushita (4 million) and 2-3 million each from Acer, Funai, LG Electronics, Pioneer, Sanyo and Toshiba. Report didn't mention Chinese OEMs such as Jiang Kui, which supplies Apex Digital in U.S., or Orient Power, which builds for own Oritron brand as well as others. China's Chang Hong and Shinco also are major OEMs. Consensus among DVD manufacturers and other industry observers we canvassed is that Nikkei forecast for 2002 is far off target. Executives said production is more likely to reach 50 million players next year.

Price of MiniDV digital camcorder dropped to \$399.99 last week when N.Y.C. retailer J&R Music World pared \$50 off sticker for Samsung SCD67 model with 2.5" LCD, FireWire input and output.

Kash 'N Gold will introduce AT&T branded remote controls at CES in Jan. that include 8-function touch-screen version at \$99. In addition to being able to control up to 8 products including TV and DVD player, learning remote has backlit LCD and voice recorder. Other products in line include pair of separate 8-function backlit models without touch-screen (\$29-\$39) and lower priced version not packaged with charging cradle and rechargeable batteries. At low end is 4-function remote at \$19. Under Jeep brand, Kash 'N Gold will show lantern with 5" color TV, AM/FM weatherband radio and twin tube fluorescent lamp (\$400). Company also will unveil 900 MHz Bugs Bunny and Goofy cordless phones (\$99) and Wilson brand insulated cooler bag with AM/FM radio (\$36).

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥126 = \$1, except where noted.

GAMECUBE-XBOX BATTLE CONTINUES: As GameCube-Xbox battle continued in N. America last week, Nintendo of America (NOA) said Dec. 14 its console shipments reached 1.1 million units and "more than 800,000" had sold through in U.S., Canada, Latin America.

Earlier in week, Microsoft had said it also had shipped through 1.1 million Xbox consoles to retailers. But at our deadline, it still had not announced how many had sold through. Although NPD Group spokeswoman told us week earlier her company was planning to release GameCube and Xbox sales figures by middle of last week (TVD Dec 10 p13), those data still were unavailable from NPD at our deadline.

NOA also said Dec. 14 that "while retailers report out-of-stock situations every day, Nintendo is shipping more than 100,000 [console] units every week to replenish supplies." NOA said sales of its game *Super Smash Brothers Melee* reached "more than a quarter of a million units in just 9 days in the U.S.," which it said made title "by far the fastest-selling game for any new console launched this year." It also made slight change in its release schedule numbers. Last month, NOA said it expected to ship total of 22 GameCube titles by year-end, growing to 35 by end of its financial year in March (TVD Dec 3 p14). On Fri., company said GameCube titles instead would "reach 21 by calendar year end and 37 by fiscal year end."

NOA said its Game Boy Advance was "top-selling videogame system across all platforms in November" and said U.S. sales of all Nintendo systems last month "nearly equalled the combined sales of all systems from all other manufacturers." Based on results, Nintendo said it would "enjoy the best selling U.S. holiday season in its 17-year history," while entire game industry's total 2001 retail revenue was up 19% from year ago and was "on track to exceed \$8 billion for the first time ever."

Separately, reports out of Japan said Nintendo raised its shipment target for GameCube by 500,000 units and planned to ship 4.5 million consoles worldwide through end of its fiscal year March 31. Majority of extra shipments apparently will be earmarked for N. America, where demand has been strongest and where Nintendo plans to ship 1.3 million consoles by year-end. Although

console started shipping in Japan in Sept. — 2 months ahead of N. America launch Nov. 18 — increase could bring total of units shipped to N. America to more than domestic shipments by Nintendo. Ability to boost target now was said to be based on ability to mass-produce key parts, including semiconductors, in timely fashion.

But NOA spokeswoman said that while company was increasing GameCube hardware production, she couldn't say by how much or when that would happen. Target for how many consoles will be shipped by fiscal year-end still is 4 million, she said.

Another report out of Japan said Nintendo would start selling GameCube in Europe in spring, most likely in April or May. If true, that would mean Xbox would beat GameCube to stores there if Microsoft's March 14 European launch date remained in place. Another report said sources in Japan predicted Nintendo also could ship as few as 300,000 GameCube con-

soles at start in Europe, which could give Microsoft even larger advantage. But NOA spokeswoman said details on European launch probably won't come from Nintendo until Jan.

On Xbox front, Microsoft continued to say how strong software-to-hardware tie ratio had been for its console at outset, saying "on average, gamers are purchasing several first and third party Xbox games every time they buy an Xbox." NPD said week earlier that 2.4 games were sold in first 2 weeks for every Xbox console sold — tie ratio NPD said was best of any game console's first 2 weeks to date. Robbie Bach, Microsoft's chief Xbox officer, said company was "very pleased with the consumer response to Xbox." Cross-section of retailers told us they also were pleased with Xbox results.

Microsoft said it planned to ship "at least 300,000 additional units into North American retailers through the end of [this] year, putting the system on target

with Microsoft's goal of delivering 1 million to 1.5 million units for the calendar year."

Despite reports indicating Microsoft might be delaying its console's debut in Japan, company said it was "on track to launch the Xbox videogame system in Japan on Feb. 22, 2002, as previously announced." It also said it was "moving forward with the planned March 14, 2002, launch of Xbox in Europe." Other reports last week said Microsoft was considering options for Taiwan market and — although company earlier had ruled out Xbox in Hong Kong — company now was considering its options for that market, too. But only comment Microsoft spokesman would supply was that company still "has not announced specific launch plans for any regions beyond North America, Europe and Japan."

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TiVo has been granted additional U.S. patents for its personal video recorder (PVR) technology and service, San Jose company said. One patent covers functions of digital recording devices while 2nd applies to networking of multiple streaming media devices in home. TiVo said TrickPlay patent (6,327,418) describes method of controlling streaming media in digital device, such as ability to pause live TV and perform other disc transport functions. Storing, editing and manipulating video also are among 64 claims in patent. Company earlier this year received patent (6,233,389) for Time Warp technology that enables simultaneous recording and playback. Other new patent (6,310,886) is for home networking that permits TiVo PVR and other streaming media devices to be linked in home — application that TiVo said will proliferate in future. Company is now embroiled in PVR patent dispute with Replay TV owner SonicBlue.

LG.Philips Display formally opened new color picture tube factory in Durango, Mexico, in major move to shift production from U.S. Plant will start production with 27" flat-screen tubes, with one million unit annual capacity and 800 workers, expanding to add 36" Cybertubes. **LG.Philips Displays**, joint venture formed year ago by Philips and LG Electronics, invested \$245 million in building plant, which is forecast to have 4.5 million unit capacity and 2,000 employees by 2003, company said. Philips had produced picture tubes at Ottawa, O., factory, which has shifted focus to higher end product in cutting work force. In addition to picture tube joint venture, LG and Philips formed **LG.Philips** for LCD business in 1999.

OLED SUPPLY CONSTRAINT: Fledgling organic light-emitting diode (OLED) industry will face supply constraints for 4-5 years as companies bring factories on line, industry sources said at Stanford Resources conference in Monterey Dec. 12.

Lack of volume production capabilities will force OLED companies to focus development effort on low-volume, high-value products including handheld PCs and cellular phones, DuPont Displays CEO Chester Pribonic said, and larger 10-13" OLEDs for PC monitors aren't likely to be available for at least 3 years.

Ritek, which is DuPont supplier, and Kodak-Sanyo joint venture SK Corp. are expected to start volume production next year, with 20 plants forecast to be fully operational by 2007, industry experts said. During that time sales of passive matrix (PM) and active matrix (AM) OLEDs are forecast to increase to \$1.6 billion by 2007 from \$86 million this year, Stanford Resources analyst Kim Allen said.

Ritek is expected to ramp up production of PM OLEDs in 2-4" sizes in June-July with initial yields expected to be around 30%, Pribonic said. Yields are likely to increase to around 50-60% by year-end 2002 when capacity hits one million units per month, he said. Ritek facility has maximum capacity of 3 million units per month. DuPont started preproduction of 2" PM OLED with 120x80 resolution in Nov. at subsidiary Uniax's pilot facility in Santa Barbara and expects to shift to 160x160 resolution in first quarter. Display is likely to have 30-70 lumens and 200:1 contrast ratio at 100 lumens, company said. It will start prototype production for OEM customers in April and expects to have 2-3 PM OLEDs available in 2-4" sizes in 2002. Goal is to have color PM OLED available late next year, adding color AM display following year, Pribonic said.

"The biggest issue we face now is how do we make sure that the capacity keeps pace with demand," Pribonic said. "The OEMs are unforgiving, but the industry needs time to scale up [production] and grow."

Kodak expects to produce 1-6" sizes at 2 Sanyo facilities in Japan and is forecasting sales of \$500 million by 2005. Companies, which signed joint development agreement in 1999, earlier had shown 2.4" and 5.5" PM and AM OLEDs, respectively. It also will focus on handheld PC and cellular market, but will add versions for digital cameras and camcorders to serve as preview screens, Kodak Display Products Pres. Leslie Polgar said. OLEDs "have far more value in digital camcorders and digital cameras than most people assume," Polgar said. "The preview screens on even some of the most modern models leave a lot to be desired right now. What you see on the backplane of the camera isn't really what you will see on the PC screen."

Facing competition from incumbent LCD technology, OLED will rely on low power consumption of 5-20 v and 40 nanosec. response time, but will face immediate cost disadvantage. Allen said PM and AM LCDs were priced at 99¢ and \$2.15 per sq. inch, respectively, targets that OLEDs weren't likely to achieve until 2007. PM OLEDs carry price of \$8-\$10 per sq. inch, she said. OLEDs also may benefit from lower cost of production, industry officials said. PM OLED production facility can be built for \$70 million, while AM may run \$300 million, experts said. OLEDs are likely

to carry 10-20% premium over comparably featured LCDs at start, Pribonic said.

OLEDs also will face challenges in lifetimes. DuPont, which is operating joint venture with Three-Five Systems for PM OLEDs, has achieved 10,000 hours for green color, but remains at 4,000 hours at 200 lumens for blue and red with goal of hitting 10,000 within 12 months, Pribonic said. "There are some barriers in some of the colors to getting beyond that [10,000 hours], which is why we have materials research going on for the 2nd generation display," Pribonic said. DuPont also is expected to sign joint development agreements with 2 new partners in 30-45 days, said Pribonic, who declined to identify companies. Potential partners could be both customers and suppliers of backplanes needed for OLEDs. DuPont has reviewed amorphous and low-temperature poly-silicon and continuous grain silicon for possible use as backplane, Pribonic said.

As DuPont readies for production, Cambridge Display Technologies, which signed cross-licensing agreement with DuPont this fall, will start prototype production of 1-6" PM OLEDs in March at 25,000-sq.-ft. Godmanchester, England, facility, Business Development Vp Stewart Hough said. Cambridge, which also has licensed its polymer OLED (PLED) technology to Philips, Delta Electronics and Seiko, will use 350x350mm process at start.



Hot Products Exec. Vp Gregory Struthers resigned after alleging that company's CEO James Copland had sought to manipulate company's stock price. Struthers said in Nov. resignation letter to Hot Products board, which was also filed with SEC, said that Copland in Oct. 17 e-mail, had "encouraged" International Global Positioning (IGP) CEO John Madsen, whose company was in merger talks with Hot Products, to "enlist" IGP shareholders to "unlawfully" manipulate price of Hot Products stock. Struthers said Copland's action "undermined" Hot Products proposed merger with IGP and deal collapsed in Oct. Hot Products said Copland sent e-mail to Madsen Oct. 15 at latter's request on "several action items" on proposed merger, among them how Hot Products share price might increase in value before merger. Hot Products stock was trading at 10¢ last week. Hot Products, which developed controllers and other accessories for DVD players based on VM Labs' Nuon enhanced DVD technology, said in SEC filing that Struthers was "fully informed of all merger activities" and that his allegations were "baseless." Struthers was "privy to all written communications" between companies and his position was "in direct conflict" with IGP's stated reason for calling off proposed merger, Hot Products said. IGP has said Hot Products' financial condition led it to end negotiations. Hot Products has conceded in past that cash flow has been "difficult" and remained "potential barrier" to growth. However, it said 3rd quarter loss narrowed to \$295,492 from \$1 million despite decline in sales to \$154,504 from \$186,666.

Sage will deliver new FLI2300 in sample quantities in Jan., first of its display controllers to integrate video processing technology developed by Faroudja, sources said. Companies have been pursuing integration since Sage acquired Faroudja in 2000. FLI2300, which will replace earlier FLI2200 single-chip motion adaptive deinterlacer, will feature deinterlacing, decoding, video enhancement and dynamic noise reduction, company said. It will be slightly more expensive than FLI2200, source said. Meanwhile, Genesis Microchip is expected to complete acquisition of Sage by mid-Jan.

LCD PRICES CONTINUE TO RISE: As LCD manufacturers reached agreements with major PC makers on 2% price increase on Dec. contracts for panels, they also sought concessions from component suppliers, sources said. LCD makers had sought 2-4% increase, they said at Stanford Resources conference in Monterey.

LCD prices have drifted upward at rate of \$5-\$10 per month since Sept. as industry-wide oversupply fell into 2% range from 16% in 2nd quarter. Increase raises OEM price of 15" LCD to \$220-\$230, industry sources said. Oversupply earlier this year triggered industry-wide move to free itself of inventory, resulting in 50-60% drops in prices. Component suppliers typically have been asked to cut prices 20-30%, industry sources said. Depth of problem is shown by fact that \$30 billion invested in LCD market in last 6 years produced \$60 billion in sales along with \$2 billion loss, NEC Assoc. Gen. Mgr. Omid Milani said, quoting from recent JP Morgan Chase report. Downturn in LCD pricing has reduced entry-level retail for 15" LCD monitor to \$199.

"Our prices went down 50% this year, so why shouldn't everyone else's?" asked LG.Philips Exec. Mktg. Vp Bruce Berkoff. "Everybody is sucking it in." To offset lower prices, LG.Philips has started building some components itself, including color filters, he said. Nitto Denko Sales Engineer Mark Parish, whose company supplies polarizers and other components to LCD market, confirmed price cuts and said they were offset by "improved manufacturing efficiencies. We have worked with manufacturers to come up with lower prices."

Prices are expected to stabilize in Jan., but 2nd round of increases is likely in 2nd quarter, sources said. Price increases are largely to be linked to oversupply that's expected to remain in 3% range throughout 2002, they said.

Sharp downturn in pricing, which has been focused primarily on 15" that dominates monitor market, is forcing manufacturers to look elsewhere for profit. LG.Philips probably will boost production of 18" LCD next year as it brings on 5th generation production line with 1x1.2 m mother glass, Berkoff said.

Sharp Display Products Dir. Kraig Kawada said company was looking toward "all-in-one" displays in which much of electronic components are grafted onto panel itself. "We're not pushing to get a lot more 15" business," although he said Sharp was adding production capacity in first quarter for LCD TVs. "With the profit margins negotiated in that type of business, each supplier has to decide what is going to be the target area. Where can they be profitable?" he asked.

Sharp also is shifting some attention to its continuous grain silicon (CGS) technology that has been in development for several years. It shut down amorphous LCD production line last Aug. to convert it to CGS manufacturing, process that's expected to completed next year, Kawada said. Sharp has shown CGS displays ranging in size from 2.4" to 7W, but is likely to focus production on sub-4" at start, he said. Sharp once used single CGS panel at heart of 60" rear-projection TV, but dropped product plans. Sharp also is continuing joint venture with Pioneer on development of electroluminescent (EL) displays, Kawada said. Product plans weren't available, but companies had said earlier they expected to introduce 2" EL display in 2002.

Meanwhile, Rainbow Technologies started limited direct sales of 37.5" "tiled" active matrix LCD display at \$10,000. Display, which consists of three 21.4" LCD panels seamlessly stitched together, has 852x480 resolution, 500:1 contrast, 500 lumens, 16 millisecond response time and 300 w power consumption. Display is scheduled to enter mass production at Chunghwa Picture Tube plant in Taiwan in mid-2002.

Rainbow Senior Vp Edward Sinn said Chunghwa, which has invested \$9 million in building production line for display, also will deliver 42W in 2nd quarter based on 24" LCD panels with 1024x768 resolution and slightly lower power consumption at 200 w. New 42W will be \$10,000, resulting in lower cost for 37.5", although exact amount hasn't been finalized, he said. Rainbow also will add 50W with 25" LCD panels and 1920x1280 resolution in 2003. Chunghwa will have 50,000-unit annual capacity for tiled product, Sinn said.

Philips retains 25% stake in Rainbow and board seat, but hasn't finalized product plans, Sinn said. While Philips had sought exclusive for transportation market, companies couldn't reach agreement on volume commitment, he said.

Chunghwa reportedly was in discussions with Hyundai Display Technology on LCD manufacturing agreement. While company declined comment, *DigiTimes* reported that in proposed agreement, Chunghwa would build 15-18" LCDs using its 3rd and 4th generation production lines while Hyundai handled 14.1" and 17" with its 2nd, 3rd and 3.5 generation equipment. Companies were said to have been brought together by Harry Ling, who is heading group that has proposed buying 80.1% of Hyundai Display shares. Chunghwa board was expected to consider agreement, *DigiTimes* said.

U.S. Customs seizure of unlicensed DVD hardware imports week before last wasn't first and may not be last. "We had in the past many such cases," said Makoto Inabayashi, pres. of DVD Format/Logo Licensing Corp. (DVD FLLC), which administers licensing for DVD Forum. DVD FLLC has been working with U.S. Customs and others to halt flow of unlicensed and untested DVD products. Authorities in L.A. impounded 1,000 DVD-ROM drives from Taiwanese manufacturer EPO Science & Technology, pending proof from manufacturer of license to use DVD logo. Such seizures of infringing DVD products by Customs have "resulted in the importer's forfeiture or return of the infringing goods to the country of origin," Inabayashi told us. "The damage to the infringers business is very serious. The customers are waiting, and precious business timing could be lost," he said. "We are trying to encourage all the prospective licensees to approach us for the license, to keep this from happening."

Dell Computer is being sued for unlicensed use of MPEG-2 video compression technology in its PCs. Plaintiffs are members of MPEG Licensing Authority and include France Telecom, JVC, Mitsubishi, Philips, Scientific-Atlanta, Sony. Suit, filed Dec. 7 in U.S. Dist. Court, Wilmington, Del., said plaintiffs controlled 44 of 380 patents related to MPEG-2 digital compression. It cited Dell's inclusion of DVD drives in its PCs, as well as options for digital video editing that entail MPEG-2. Suit seeks injunction against further infringement and unspecified damages. Dell, which had no comment, is supporter of DVD+RW recording format co-developed by Mitsubishi, Philips, Sony and others.

SILICON IMAGE DROPS COMPLAINT: Silicon Image dropped complaint filed with International Trade Commission (ITC) that sought to bar import of Genesis Microchip (GM) integrated circuits containing digital visual interface (DVI) technology. Display controller chip in question also is subject of separate federal patent infringement lawsuit filed in April that remains pending, GM said.

GM Chief Technology Officer Robert Bicevskis said SI's decision to withdraw ITC complaint showed company had "no evidence to support their claims" and that its patents were "invalid." SI spokeswoman said complaint was withdrawn so case could be tried in federal court, which would give company chance to recover damages and get injunction blocking product shipments.

At same time, Analog Devices unveiled dual interface controller with DVI. Integrated chip has analog-to-digital converter (ADC) as well as company's Phased Locked Loop (PLL) technology. Controller can handle displays with resolutions up to 1280x1024 at 75 Hz for analog, 60 Hz for DVI, Analog Devices said. It's based on 1.0 DVI spec, company said. Chip is priced at \$9.50 in lots of 1,000 for 1024x768 resolution version, \$10.90 for 1280x1024. Among products with controller is Compaq front projector based on Texas Instruments' Digital Light Processing (DLP) technology.

DVI technology has gained prominence in recent months, with 2.0 version expected to be unveiled at CES in Jan. DVI CE transmitter/receiver allows transmission of digital audio as well as digital video over DVI interface. New DVI chip is said to be less expensive than earlier version and to feature more USB-like plug connector as opposed to previous 15-pin version, sources said. CEA also recently formed DVI committee as CE manufacturers increasingly weighed adding technology to displays.

While many CE companies said they were committed to IEEE-1394 connectors for products, experts said DVI must be considered as low-cost option. "We're a 1394 supporter, but we have to look at DVI because it's a big part of the DirecTV spec," Samsung Mktg. Dir. James Sanduski said. Zenith and Hitachi are said to be considering adding DVI to LCD and/or plasma displays, while Thomson already has it as part of 50W plasma monitor.

As companies debated merits of DVI, Pixelworks said it had signed agreement to acquire video processor developer nDSP in exchange for 1.2 million shares of common stock. For Pixelworks, which markets integrated display controllers, acquisition represents competitive response to Genesis Microchip's proposed purchase of Sage and its Faroudja video processing technology.

NDSP also will give Pixelworks foothold in China. Company has offices in Beijing and Shenzhen, China, with 24 employees. NDSP, which like Pixelworks uses Taiwan Semiconductor Mfg. to build its chips, is forecast to generate \$500,000 revenue for first quarter ending March 31 and \$5-\$7 million in year ending Dec. 31, Pixelworks said. NDSP will be accretive to Pixelworks earnings by 3rd quarter ending Sept. 30, it said. Deal is expected to close in 45 days.

While Pixelworks considers nDSP technology as standalone product, it will study integrating technology into its

own ICs. It also will have it serve as complement to reconfigurable DSP video processors developed by Jaldi Semiconductor in which it has financial stake, spokesman said. Pixelworks is likely to consolidate nDSP's 20 employees in Campbell, Cal., with its own offices in San Jose, spokesman said.

Meanwhile, Pixelworks started sample shipments of Jolt display controller with Internet browser and Toshiba 400 MIPS Risc processor. Prototype products equipped with Jolt are expected to be ready by mid-2002, with volume production to begin that fall, spokesman said. Pixelworks has selected browser for Jolt, although spokesman declined to identify supplier.

Three-Five Systems (TFS) took wraps off 0.85W liquid crystal on silicon (LCoS) display with 1920x1200 resolution, volume production of which is to start in fall 2002. Microdisplay, which is available in kit form for \$6,500, has 650:1 contrast and 250 nits brightness, company said. Thomson is expected to ship 50W rear projection with TFS' 0.78" microdisplay by year-end to limited number of retailers on West Coast. Thomson is building light engine for set using lens from Corning Precision Lens and assembling device at plant in Mexico. While it has quoted \$5,900 price for set, retailers said it could hit \$5,000-\$5,200 by launch. Thomson postponed plans to ship first sets in late Sept. as it worked to improve resolution. Part of delay has been tied to development of components including imager, sources said. "It has had to be perfect," TFS Strategic Programs Dir. Joseph Riccio said: "It's new technology and they don't want to have anybody say, 'you forgot something.'" TFS also plans 0.53" microdisplay with 1900x1200 resolution to be available in "critical volumes" for rear-projection TVs by first quarter next year. TFS has backed off plan to supply 0.53" display for InFocus Systems-designed front projector, largely because of latter's focus on model with Texas Instruments' Digital Light Processing (DLP) technology, Riccio said. "They've slowed that down because DLP is so much simpler for them to build and when their business slowed down, they didn't want to spend the money to develop this," he said. InFocus has said that any LCoS-based front projector was at least 2 years away and that development of sub-2 lb. DLP-based front projector was being considered. InFocus had considered using 0.53" TFE display for 1.5-lb. front projector. Samsung Electro Mechanical Co. (SEMCO) also has shown 43W rear-projection TV based on TFS 0.78" microdisplay that's expected to target Far East market. Samsung earlier had worked on developing 0.78" microdisplay for 25" PC monitor, but moved to larger size in bow to lower-priced LCD technology.

Movie Gallery (MG) is weighing acquisition of Canadian video rental dealer VHQ Entertainment. VHQ, which operates 48 stores, said Dothan, Ala., chain had shown "strong and immediate interest" in buying it in all-cash deal. MG has reviewed VHQ's operations and discussed its market value, rental dealer said. MG officials weren't available for comment, but in past have expressed interest in expanding into Canada. VHQ would be acquired via MG's proposed Video Update subsidiary. MG wants to buy 300 Video Update stores as part of bankruptcy reorganization plan, on which hearing is scheduled for Dec. 21.

Kmart's e-commerce subsidiary, BlueLight.com, expanded Music and Movie Stores at www.bluelight.com. Increased inventory now has more than 65,000 CDs, DVDs and VHS titles, company said. It said it also had added features, including ability for consumers to listen to CDs before they buy.

REPORT HITS GAME RETAILERS: Sixth annual Video & Computer Game Report Card results released last week said most stores still weren't preventing children kids from buying violent, M— (Mature) rated games.

National Institute on Media & the Family (NIMF), which released report, said sting operations it conducted this year showed most retailers didn't stop kids even as young as 7 years old from buying M-rated games. Report said "several of the largest retailers have not developed any policies" and "several others that have policies have poor enforcement," although report didn't single out specific offending retailers. NIMF also said survey of 250 randomly selected households showed 93% of Americans believed stores should prevent sale of M-rated games to those 16 and under.

While retail enforcement of Entertainment Software Rating Board (ESRB) ratings and arcade industry each earned grade of "D" in report, accuracy of ratings and industry overall received "C." Only bright spot was video and computer game industry itself, which earned "A-."

NIMF Pres. David Walsh presented report's findings in Senate hearing room, where he said video and computer game industry's improvement this year in areas of marketing and ratings education was encouraging sign. But he said ESRB's accuracy was getting worse, saying his group's "Media Raters" found more than 10% of E- (Everyone) rated games to be objectionable for children 3-7 years old. Raters also said they would have given M rating to nearly 1/3 of titles rated appropriate for teens (T-rated). In comparison, raters found only slightly more than 1/5 of T-rated games deserved M rating year ago.

"Although the vast majority of retailers" didn't stop kids from buying M-rated games in last year, Walsh said "Target, Sears and Wal-Mart have age-appropriate policies that are beginning to work. And if they can do it, so can everyone else." However, Sears stopped selling M-rated games altogether.

Providing suggestions to improve results, NIMF said it renewed its "recommendation that the game, film and television industries adopt a universal rating system that is administered independently." NIMF also encouraged parents "to become more knowledgeable about the games their children are playing and should exert greater supervision."

Commenting on report, Interactive Digital Software Assn. (IDSA) Pres. Douglas Lowenstein said his group "greatly appreciates the 'A-' grade the video and computer game industry received... for our voluntary efforts to address marketing practices and to educate parents and consumers about our ratings system. We are gratified that our industry has been recognized for the progress we have made over the past year and are particularly pleased that the NIMF recognized our industry as being 'more responsible than the other media industries' in responding to parental concerns about entertainment products."

But Lowenstein said: "The report says research points toward a relationship between violent games and youth aggression. This has been repeatedly questioned by numerous credible sources, including the Federal Trade Commission, the U.S. Surgeon General, the Government of Australia and, most recently, the Washington State Department of Health. This agency issued a study by 2 epidemiologists, published in the *Journal of Adolescent Health*, who reviewed all the research on

violent games at the request of the state legislature and found, 'In conclusion, current research evidence is not supportive of a major concern that violent video games lead to real-life violence.'"

Lowenstein also criticized NIMF report for saying demographics of games "skew toward the very young." He said: "This is quite misleading. In fact, the average age of a videogame player is 28, according to a survey by Peter D. Hart Research Associates." He also said report "quotes a parent as saying that retail enforcement is important because parents are not always there when their kids buy games." Lowenstein said: "While we do support retail enforcement, as the NIMF well knows the FTC has found that parents are involved in the purchase and rental of videogames 83% of the time; IDSA's own research shows that 9 out 10 games are purchased by adults, and of kids under 18 who purchase games, 84% say they get their parents' permission before doing so."

Echoing findings of NIMF report, Sens. Kohl (D-Wis.) and Lieberman (D-Conn.) criticized members of Interactive Entertainment Merchants Assn. (IEMA) for continuing to sell Mature (M) rated titles to children.

Senators said they had "serious concern about the lack of action taken by [IEMA's] member companies with respect to the enforcement of interactive entertainment ratings." Like NIMF, senators said policies adopted by national retail chains to restrict sale of M-rated games "have often not made it from paper to practice" while "even worse, many companies have yet to enact policies or even acknowledge the problem."

IEMA's members include Amazon.com, Ames Dept. Stores, Best Buy, Blockbuster, Circuit City, CompUSA, Crazy Tree, Electronics Boutique, GameStop, Half.com, Hastings, Kmart, Meijer, Sam's Club, Shopko, Target, Toys "R" Us, Toysrus.com, Trans World Entertainment, Wal-Mart, Wherehouse Music.

Online comparison shopping Web site Best Web Buys opened Electronic Buys store — www.bestelectronicbuys.com — featuring cameras, DVD players, game consoles, handheld devices, MP3 players, other electronic hardware. Site searches across 13 online stores for best prices on hundreds of CE items from more than 24 manufacturers. Sites searched include Amazon.com, Computer4sure.com, Walmart.com. Manufacturers represented include Handspring, Hewlett Packard, Microsoft, Nikon, Palm, Sony. Noting that its online search indicated prices on Canon EOS Rebel 200 camera ranged from \$560 to \$334.95, Best Web Buys said consumer could save \$225 on that item alone. Company's 4 other product-specific sites are Best Bike Buys, Best Book Buys, Best Music Buys, Best Video Buys. Altadena, Cal., Best Web Buys was started in 1997 by former Jet Propulsion Laboratory computer scientist Steve Loyola.

Hollywood Entertainment (HE) filed with SEC to sell \$126.5 million in new stock and \$300 million in new nonconvertible debt securities. Offer is part of HE's efforts to open new stores. Under current credit facility, HE can't open new outlets unless balance is less than \$100 million — it currently stands at \$200 million. New credit agreement with SBS Warburg is contingent on sale of \$100 million in new stock, proceeds from which will be used to pay debt. HE, which operates 1,809 stores, has said in past there was room in video rental market for an additional 5,000 outlets.

MOULIN ROUGE DIRECTOR TOUTS DVD: As Fox Home Entertainment prepares to ship 2-disc "Special Edition" version of musical feature film *Moulin Rouge* packed with bonus features and priced at \$29.98 on Dec. 18, director Baz Luhrmann praised DVD format in interview with *Television Digest*.

Fox said *Moulin Rouge* was "first-ever DVD created, directed and produced by the director of the film" and featured more than 6 hours of exclusive extras developed by Luhrmann. Company is backing release with major promotional campaign and went all out in unveiling DVD to media in N.Y.C. at Morgans Hotel last week, where Fox decked out 5th floor to look like film's setting, complete with actresses costumed as Parisian courtesans circa 1900.

While Fox also is making *Moulin Rouge* available on DVD for both retail and rental, its VHS version has same street date but is being offered only for rental. Widescreen DVD version of movie is presented in 1.85:1 aspect ratio and offers choice of English 5.1 DTS, 5.1 Dolby Digital or Spanish Dolby surround sound.

First disc offers audio track for visually impaired, exclusive "Behind the Red Curtain" version of movie featuring little green fairy that leads viewer on behind-the-scenes look into film, and 2 audio commentary tracks featuring director, co-writer Craig Pearce, production designer Catherine Martin, cinematographer Donald McAlpine. Second disc has multiple documentary shorts on movie's production process, 15 hidden "Easter Egg" extras, HBO "First Look" making-of film, multiple extended scenes including full versions of choreographed dance sequences with multiple angle options, "Come What May" and "Lady Marmalade" music videos, MTV Movie Awards live performance of "Lady Marmalade," theatrical trailers, still gallery.

Luhrmann told us he worked on DVD set "for 6 months with my entire team," adding: "I became a fan [of DVD format] about a year ago." He called DVD its "own medium... a very powerful medium." Explaining why he felt it was important for him to supervise making of *Moulin Rouge* DVD, he said: "What I'm very disturbed about is that kind of cynical thing where [studios] put a whole lot of marketing material on a DVD and say 'here's the extended experience of it.' So it was worth the 6 months that my team and I worked on it because I hope that we've taken some kind of steps toward genuinely letting the audience into the journey we went on to make it... I am aware that it's like any form — you can put effort into it or you can do a quickie and get it out there. The thing I want to say is our film is very personal and it takes many years to make our movies and anything that's related to it we're involved in — the marketing, the DVD material and the music — everything. So it's sort of natural that we had to become involved with this."

Saying he and his team of collaborators had "had a relationship with Fox for 10 years," Luhrmann told us studio had been strong proponent of DVD — something proved by acclaimed *Fight Club* DVD Fox also did, he said. Luhrmann said Fox had been "very clear that if you can get a director involved [in making of a DVD], that's got to be a good thing." Besides, he said: "I think that in terms of taking an audience on a journey into the making [of a] film, a director's going to be able to capture some kind of access that you're not going to get if it's out of your hands... If it's connected to your movie and it's talking all about

your movie and it's having a point of view, the audience assumes almost that it's the point of view of the filmmaker."

Extra feature on DVD set Luhrmann said he was "most happy" to be able to include was extended dance sequences, explaining that creators of dramatic entertainment including movies and theater usually must "subjugate all of that material to telling a story." In the process, it's difficult to keep full dance sequences intact, he said.

SADOWSKI TO HELP AMAZON: Amazon.com spokeswoman said Frank Sadowski, recently appointed e-tailer's CE vp, "is going to be working to help further direct relationships with vendors." He recently replaced Carl Gish at Amazon.

Sadowski previously was mdsg. vp at 800.com, which — unlike Amazon — has carried only products it has been authorized by manufacturers to sell. 800.com — also unlike Amazon — has been able to sign direct relationship with Sony for core CE line.

Replacement for Sadowski hadn't been named by our deadline, 800.com Pres. Greg Drew told us. "We're probably going to leverage the existing organization," he said, noting that 800.com had "business unit structure in place that is headed by 3 merchandising managers" for each of different product lines "and they tend to run pretty autonomously already and have been in place for over a year, so the good news is that will remain unchanged and we will continue to leverage that certainly through the beginning of next year."

Drew said Sadowski "made a great contribution to the company over the last few years and we will certainly miss him and as a close friend I'm going to certainly miss spending time with him on a daily basis." Despite loss of key team member, he said, "we're a company that's

just entering our 4th holiday season and we're more than \$40 million in size and have got a pretty capable team here, so I think you'll see us sticking to our knitting and focusing on business as usual."

Although 800.com has no plan for major ad campaign to promote itself this season, Drew told us it had just started its 3rd catalog, Electronic Ideas, which he said "went to over a million and a half consumers and the response has been really, really strong." Fifty-two page

catalog featuring some of most popular CE items this season is being sent out via regular mail to "both customers and

prospects," he said. Drew said 800.com continued to be "heavily focused on personalized, targeted direct marketing activities, whether they be via print or via electronic e-mail, and those 2 tend to work hand in hand pretty well together."

Drew said it's "been a good season for us so far." Although the privately held company doesn't release specific sales results, he told us "almost all the categories" were faring well: "Clearly, digital cameras are very hot. You've got personal video recorders, which are doing well, and also, in the home entertainment category, satellite systems are up pretty significantly."

SONICBLUE SUES TIVO: SonicBlue escalated battle with TiVo, suing rival for patent infringement in U.S. Dist. Court, San Francisco.

SonicBlue CEO Kenneth Potashner said it was "no longer acceptable" for TiVo "not to enter some kind of relationship with us." He said companies had been discussing possible licensing agreement for 3 months and SonicBlue, which purchased ReplayTV earlier this year, gave rival "one last chance in good faith to negotiate with us."

SonicBlue recently was granted patent covering personal video recorder (PVR) with integrated program guide that allowed user to record and store TV signals as "personal channels." Suit will seek to halt production of TiVo PVRs and damages for existing infringing products.

TiVo denied it was seeking to license SonicBlue technology and branded latter's news release that disclosed possible discussions as "inaccurate." "As a market leader for digital video recording, we have a strong intellectual patent portfolio that protects our technology," Chief Technology Office James Barton said. TiVo spokeswoman also rejected allegations of patent infringement and said company would defend its intellectual property.

TiVo said it had been granted 3 new patents including those for TrickPlay technology that allow for controlling of streaming media in digital devices, including pausing live TV transmissions and storing, editing and manipulating video. Other patents were for simultaneous record/playback of multiple video streams and home networking for connection of TiVo PVRs to other streaming devices. Those patents were in addition to one it received in May on simultaneous playback and recording to TV programs. TiVo has deployed dual tuner approach in combo PVR/DirecTV satellite receiver.

SonicBlue and TiVo are no strangers to litigation. TV networks sued SonicBlue for copyright infringement earlier this fall charging that its ReplayTV PVR allowed users to share video files. TiVo was sued by Gemstar-TV Guide International in Jan. 2000 for patent infringement.

Legal actions, especially TV networks' suit, have had unintended effect of drawing attention to product category that has current installed base of slightly more than 300,000 units, industry sources said. TiVo also signed high-profile multiyear agreement with Sony earlier in fall. "Any attention brought to the marketplace is good," said executive of TiVo PVR supplier. "It would be nice, however, for both companies if something gets sorted out and one of them has clear ownership" of PVR patents.

Spatialight signed agreement with Skyworth Digital to license its liquid crystal on silicon (LCoS) technology for use in TVs, company said. Skyworth is 4th China-based manufacturer since Nov. with which Spatialight has signed licensing agreement for its 0.77" microdisplay. Spatialight agreed to similar deals with China Electronics, Irico and HiSense Electric. Skyworth, whose name has been mentioned as possible licensee since midsummer, is expected to take delivery of 30,000 units in 2002 with value of \$48 million, increasing to 50,000 in 2003 (\$80 million), Spatialight said. Spatialight developed microdisplay, while Fuji Photo Optical supplies light engine. Chinese manufacturers are expected to market sets based on Spatialight's LCoS in Far East.

Consumer Electronics Personals

Chuck Turigliatto named Runco sales & mktg. vp, new position... **Will Poole**, vp of Microsoft's Windows Digital Media Div., to keynote NARM Convention March 10 in San Francisco... **Mali Kuo** resigns as CEO of Digital Video Systems and chmn.-CEO of DVS Korea, replaced by DVS Korea Pres.-Co-CEO B.H. Lee... **Charanjit Singh**, Ultralife board member, appointed chmn., replacing **Arthur Lieberman**, who remains a dir... **Paul Yanover** named senior vp-gen. mgr., Buena Vista Game Entertainment Studio... DTS appointments: **Andrea Nee** advanced to vp-operations from vp-gen. mgr., Cinema Div.; **Mike Archer** moves to dir.-business development from dir.-sales, Cinema Div.; **Patrick Watson** expands duties as vp-business development to include Consumer Div.; **Lorr Kramer** shifts to dir.-technology mktg. from dir.-special technology projects; **Jeff Levison** appointed technical dir., DTS Entertainment; **Kristin Thomson**, ex-Weber Shandwick PR agency, joins DTS as PR dir., new post.

Steve Race, ex-Sony Computer Entertainment and MicroProse, named Majesco CEO, succeeding **Morris Sutton**, who remains chmn... **Harrison Parrish** to resign as Movie Gallery pres. at Jan. 4 close of fiscal year but will remain a dir.; Chmn.-CEO **Joe Malugen** to assume pres. post... **Paul Russo**, Silicon Optix and Genesis Microchip founder, named to Atmos Corp. board... Former Stream Machine CEO **Michael Canning** appointed gen. mgr., Cirrus Logic's Video Recording Div., formed after latter's acquisition of Stream Machine... **Michael Killeen**, ex-Arthur Anderson, named Officemax senior vp-finance & corporate strategies... **Joseph Kennedy**, pres.-CEO, Internet products supplier Pluris, joins Adaptec board.

Tony Hart, ex-Accenture, named vp-enterprise customer relationship management, new post, Best Buy... **Lowell Peters**, senior vp of services, Partsearch Technologies, appointed advisory board chmn... Proposed changes on Philips management board: **Gottfried Dutine**, currently Alcatel, will join Feb. 1, assuming duties of retiring **John Whybrow** for CE operations, digital networking, other areas; **Ad Huijser**, Philips chief technology officer, to be proposed for board membership; **CFO Jan Hommen** to add responsibilities for medical systems; **Arthur van der Poel**, board member, adds oversight for quality programs... **Richard Horner** appointed Altec Lansing CFO, having served in interim post since July... Appointed at Vivendi Universal Net USA: **Paul Ouyang**, ex-MP3.com, as exec. vp-OO; **Steven Sheiner**, also ex-MP3.com, as chief revenue officer; **Lori Weintraub** named exec. vp and will continue to serve as pres. of InsideSessions, joint venture of Universal Music and Penguin Putnam; **Laurie Rubenstein**, ex-GetMusic, as senior vp-public relations... **Paul Rice**, ex-Apogee Acoustics, joins professional audio supplier Mackie Designs as exec. vp-sales... **Jonathan Brooks** to resign as Arm Holding CFO effective March 1, to be replaced by **Timothy Score**, ex-Rebus Group.

Audible is creating promotions within 79 Good Guys stores featuring digital audio players that are "AudibleReady" — capable of playing Audible.com's collection of more than 32,000 hours of downloadable audiobooks, magazines, newspapers, radio programs and original content. Wayne, N.J., provider of spoken audio services said in-store promotions would call attention to rebates off retail prices of AudibleReady devices when user signed up for AudibleListener flat-rate monthly membership plan at \$12.95.



TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

DECEMBER 24, 2001

VOL. 41, NO. 52

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Broadcast - Cable

LIQUOR BILL LIKELY: Legislation to ban hard liquor ads on TV could come early next year unless NBC does turnaround. (P. 1)

CONSUMER GROUPS FEAR IMPACT of AT&T Broadband-Comcast merger. Deal to be scrutinized for its effects on access. (P. 2)

FCC SUSPENDS RULE: Says broadcasters should have same exemption as cable on attribution for ownership. (P. 5)

VIVENDI BUYS USA NETWORKS: Deal for \$10.3 billion in stock and cash gives VU vertical integration. (P. 6)

MUSIC CASES SETTLED: Two suits over royalty payments for downloads and for Internet radio streams involved. (P. 7)

SBCA ENDORSES MERGER of members EchoStar and DirecTV. Hill hearings expected. (P. 7)

PRIVATE SOLUTIONS SOUGHT: Commerce holds discussion with industry leaders on why broadband deployment isn't happening quickly. (P. 8)

LIQUOR BILL LIKELY UNLESS NBC REVERSES DECISION: Legislation to impose "mandatory federal regulations" prohibiting TV broadcast of hard liquor ads could be introduced early next year, bipartisan trio of House members said last week. House Commerce, Justice & State Appropriations Subcommittee Chmn. Wolf (R-Va.), flanked by subcommittee member Roybal-Allard (D-Cal.) and House Telecom Subcommittee ranking minority member Markey (D-Mass.), denounced NBC for being first national TV network to drop voluntary ban on such ads. Wolf expressed "extreme disappointment" in news conference at Capitol that NBC had abandoned its position as "responsible corporate citizen" for sake of its bottom line.

NBC Pres. Randy Falco defended company's decision to accept hard liquor ads, saying standards for such ads were more stringent than for any other product category. Broadcast industry sources also questioned whether congressional intervention would violate First Amendment. Distilled Spirits Council said distillers were "committed to responsible advertising" and had spent millions of ad dollars each year "to fight drunk driving and underage drinking." Council also said there was no link between liquor ads and consumption or abuse and that such ads had appeared on individual TV stations for last 5 years "with broad public acceptance."

Falco said "real issue" was "how to regulate a body of advertising that has been growing rapidly without any real regulation at all." NBC standards for liquor ads, he said in op-ed piece in *Washington Post* Dec. 19, "are more stringent than for any other product category." He said distiller advertising on NBC must commit in advance to 4 months of "100%-paid branded social responsibility messages" before it could begin advertising product directly. After 4 months, he said, liquor advertiser must con-

Consumer Electronics

PHILIPS AFFIRMS ACCURACY of Dutch report quoting its CEO Kleisterlee as saying company may scrap U.S. CE business if there's no improvement in 3 years. (P. 10)

PROTECTED CD IS COPYABLE on PCs we learn in continuing evaluation of Universal Music's disc with Cactus Data Shield. (P. 11)

BMG ROGUE DISC ISN'T CD, label concedes. Compact Disc logo left off copy-protected title in deference to Philips and Red Book, it says. (P. 11)

PIRATE DVD DEMONSTRATED on British TV show raises questions about technology that makes picture vanish — and legitimacy of demonstration. (P. 13)

\$999 FRONT PROJECTOR TARGETED for late 2002 introduction in move that could alter dynamics of consumer video market. (P. 14)

APPEALS COURT UPHOLDS BOSE PATENT in backing lower court ruling that Harman infringed on company's technology. (P. 14)

tinue to devote at least 20% of its commercials to such “social responsibility themes as designated drivers.” TV Bureau of Advertising (Tvb) official said “it’s a little too early to tell” whether NBC decision would result in major increase in number of TV stations (now estimated at about 400 by Distilled Spirits Council) accepting hard liquor commercials.

Wolf said industry could expect congressional review and possible legislative action in 2002 if NBC didn’t reverse its decision: “We would hope that Congress will not have to become involved in this matter, but Congress has a responsibility to protect the public interest and the public airwaves. Therefore, we must be candid and let you know that we are prepared to hold extensive hearings on alcohol advertising on television and to introduce legislation to replace the system of self-regulation of hard liquor advertising.” Wolf said Senate Commerce Committee Chmn. Hollings (D-S.C.) was concerned and would take closer look at situation, although that couldn’t be confirmed by Hollings spokesman. Wolf also said he was consulting with legal experts before drafting legislative language: “By the time we come back in session, we’ll have a better idea” of legal ramifications and appropriate language for bill.

Markey said industry was “preaching temperance from a bar stool” and airing liquor ads during sporting events such as Olympics would be contrary to public interest: “The decades-long self-imposed restraint is ending and I believe that it represents poor public policy. NBC is one of America’s premier platforms for advertisers to mainline messages into our homes. When NBC says ‘yes’ to liquor ads, it becomes much harder to just say ‘no’ to alcohol abuse. I implore NBC to reconsider its actions.” Roybal-Allard said NBC decision would have domino effect across industry, thereby increasing consumers’ appetite for hard liquor.

Center for Science in the Public Interest (CSPI) released recent study that showed broad public opinion against alcohol ads, with 68% of respondents strongly opposed to network’s decision. George Hacker, CSPI Dir.-Alcohol Policies Project, said new policy of allowing such ads 9-11 p.m. and late-night slots showed that NBC was out of touch with American public: “How many 16-18-year-olds magically disappear from their TV sets at 9 p.m.?” He said that despite NBC’s statement it was abiding by responsible advertising standards, millions of kids would be exposed to hard liquor advertising. American Academy of Pediatrics (AAP) expressed similar concerns: “While NBC may be facing a decrease in advertising dollars, they should not be allowed to pad their revenues at the expense of children.”

FCC Comr. Cops also was critical of NBC’s acceptance of liquor ads. Whether or not such ads should be regulated, he said, “this is certainly an area where we could use some sense of social responsibility, some understanding of what is being foisted on our children and some vision to reach for the stars instead of plumbing the depths.”

Broadcast source said any proposed ban would raise issue of free speech rights, which he predicted would result in fallout on Hill. He said that once restrictions were proposed for one industry or product, rights of all industries potentially were threatened. If Congress banned liquor ads, beer ad ban could be next, jeopardizing major income source that supports local programming, he said.

Meanwhile, Spirits Council — which has been selling concept of liquor ads to TV stations since voluntary ban was removed 5 years ago — is negotiating with Tvb to exhibit at latter’s March conference in N.Y. in association with Auto Show. Liquor industry spends \$350 million annually on advertising in U.S., mostly print, with broadcasting and cable getting 15% of total.

CONSUMER GROUPS FEAR IMPACT OF COMCAST TAKEOVER OF AT&T BROADBAND: Consumer groups said Comcast’s proposed \$72 billion purchase of AT&T Broadband would “place a chokehold” over nation’s access to TV, Internet and other broadband services and warned they would try to persuade federal regulators to block deal between nation’s first and 3rd largest cable operators. Two senators called for hearing early next year, saying they had “serious concerns” and wanted to explore impact of new AT&T Comcast Corp., as well as proposed merger of satellite service providers EchoStar and DirecTV. Sens. Kohl (D-Wis.) and DeWine (R-O.), chmn. and ranking minority member, respectively, on Subcommittee on Antitrust, said they were particularly bothered by rising cable rates. “We continue to believe that more competition, rather than additional consolidation, is needed in this industry,” they said. However, Kohl and DeWine said they also recognized potential benefits, such as introduction of cable telephony to more consumers as viable alternative to local telephone companies.

House Commerce Committee Chmn. Tauzin (R-La.) met with Comcast Pres. Brian Roberts, who will be CEO of new company, to discuss proposed deal, but details of discussion wouldn’t be revealed, Tauzin spokesman Ken Johnson said: “Big isn’t synonymous with bad. But clearly a combined Comcast-AT&T behemoth would change the dynamics of the marketplace. It could bolster EchoStar’s bid to acquire Hughes Electronics, and it certainly would help us to make a case for passing the Tauzin-Dingell legislation.” Johnson said Congress must determine whether to deregulate phone companies or to re-regulate cable companies “to ensure consumers are protected from monopolistic behavior.” He said

Tauzin was focusing on emerging broadband market and would prefer level playing field. Although Johnson mentioned cable re-regulation, he said Tauzin clearly would prefer to deregulate incumbent phone companies to ensure regulatory parity, as evident by Tauzin-Dingell's deregulatory provisions.

Media Access Project Deputy Dir. Cheryl Leanza said deal put FCC in “terrible position” of having to evaluate sale while weighing rulemaking on cable ownership caps. Notice was prompted by U.S. Appeals Court, D.C., ruling that struck down FCC’s cap that had blocked cable MSOs from reaching more than 30% of national audience. Without cap, there’s no legal, numerical standard by which to measure whether AT&T-Comcast is too big, critics charged. Deal would create subscriber base of 22 million customers, which would top 30% based on figures that showed roughly 65 million cable customers nationwide. However, if whole pay-TV market, including satellite, were considered, deal wouldn’t reach 30% of 88.3 million people nationwide who buy TV services. Another factor in mix is that AT&T currently owns 25% of Time Warner Entertainment, which owns nation’s 2nd largest cable operator with 12.7 million customers, as well as stakes in several other cable companies. It was unclear whether FCC would scrutinize sale before or after it created new rules.

Leanza and other observers said AT&T and Comcast were counting on 30% cap to disappear. That has given Commission “an incredible credibility problem,” she said. “The mergers are premised on the idea that the FCC’s limits will not be re-imposed” and that companies can lobby to get what they want, she said. “Eventually, the FCC can well lose its ability to regulate under those circumstances.” Consumers Union said it would ask FCC to reject deal unless AT&T and Comcast were willing to divest themselves of 5-6 million subscribers and spin off AT&T’s stake in TWE.

Commission has history of evaluating deals while handling pending proceeding, FCC official said. For example, it was weighing cap while examining merger of AT&T and MediaOne, which it eventually approved. Official acknowledged that some FCC critics believed Commission could cater rule to deal or, conversely, to pending rule, but said in reality 2 cases would be “completely separate” and evaluated on their own merits.

High-ranking Comcast official admitted that new company would be above 30% cap, but said by time deal was completed it would be well within bounds. Company is measuring its reach based on multichannel video marketplace of more than 88 million subscribers, official said. Under current FCC rules, AT&T has 5 million customers attributable through Adelphia, Charter, Insight and other cable holdings, and 10 million through its stake in TWE. AT&T has 3 million customers attributable through Cablevision Systems, although it has been shedding that stake in recent months. Comcast Pres. Brian Roberts and AT&T CEO Michael Armstrong, who will be CEO and chmn. of new company, respectively, said in conference call with reporters that they planned to dispose of TWE stake. Asked whether they planned to dispose of other properties, Roberts said it was too early to say. However, one Comcast official said: “When the deal closes, the deal is going to be in compliance with the FCC’s rules and policies.”

Former FCC Cable Bureau Chief Deborah Lathen said challenge for current Commission would be to evaluate deal in “a regulatory no-man’s land” with no cap in place. “Clearly, there has been every indication given that the caps are not insurmountable,” she said. “The bar has shifted on what’s thinkable and what’s not.” Lathen said current Commission, though dominated by Republican free market thinkers, would give deal “very careful scrutiny,” especially with regard to possible harm to public interest.

Analysts said they didn’t foresee federal govt.’s stopping sale. Analyst Laura Behrens of GartnerG2 said she didn’t believe either FCC or Dept. of Justice would pose serious problem. “That cap is not going to be a deciding factor,” she said. “It is perceived in the television industry that the cap goes away.” Paul Glencur of Schwab Capital Markets said size of deal surely would “raise some concerns” but said one alternative considered by AT&T’s board, merger with AOL-Time Warner (AOL-TW), would have caused “more heartburn” than Comcast. Legg Mason analyst Blair Levin, who was chief of staff under former FCC Chmn. Reed Hundt, said he believed sale would pass muster in end. “From my understanding, from an FCC regulatory perspective, there is no hurdle [for Comcast]... since we know the 30% number is going up,” he said. However, he said deal — taken together with proposed EchoStar-DirecTV merger — could prod regulators to take 2nd look at market for purchasing programming. Levin said such large combinations could have significant impact on program buying market, making it more difficult for some programmers to get carriage.

Center for Digital Democracy (CDC) promised to oppose sale. “Americans should be very worried about how this new combination will affect what they pay each month for cable and Internet service,” CDD Dir. Jeff Chester said, “whether they will be able to fairly access different channels and services; and, more importantly, how this new megagiant poses risks to our democratic society. They intend to place a chokehold over a vital sphere which is the essential foundation for a thriving democracy — a communications system which supports the free flow of information.” Leanza agreed, saying new and diverse programming voices would be stifled if they must have carriage on one or 2 system operators to be heard by public.

But Roberts told reporters that acquisition could have programming benefits for consumers. Programming costs have been increasing dramatically in recent years, he said, and company with such large subscriber base would have easier time getting discounts. That could mean lower prices for consumers, although he said he didn't want to "overstate" impact. But he said such discounts could also mean "more and more channels" at economical price.

SBC Communications said there was "urgent" need for lawmakers to establish "fair rules for all competitors" in broadband market. SBC, which supports Tauzin-Dingell bill, is trying to compete against cable modem service in high-speed data market with its DSL product. SBC complained that cable companies controlled some 70% of broadband market and weren't subject to same kinds of regulation as telephone companies — namely, that they didn't have to open up their networks to competitors. "The new company would also become the largest broadband provider in America," SBC said. SBC said rules and regulations it faced added cost, lengthy delays and disincentives to deployment.

NCTA Pres. Robert Sachs said combined AT&T Comcast entity would be in better position to compete with proposed EchoStar-DirecTV. He also said consumers would enjoy benefits of "vigorous competition" among cable, telephone and satellite industries.

Cox CEO James Robbins, calling decision "disappointing," said his company, which also bid for AT&T, would be open to other deals in future: "As always, we will continue to stay abreast of merger and acquisition opportunities in the industry that will allow us to grow strategically while increasing shareholder value." AOL-TW called deal "a major endorsement of the value of cable," indicating it wouldn't oppose deal. During negotiations with AT&T, Microsoft was working behind scenes to scuttle deal with AOL-TW by backing Comcast and Cox bids. Roberts said Microsoft's decision to contribute \$5 billion of AT&T securities it owned and convert them to 115 million shares of new company was "a huge help... It allowed us to bid \$5 billion more than we would have otherwise."

CWA, which represents 3,000 employees at AT&T Broadband and 500 at Comcast, said their "employment future" would be union's top concern in contract negotiations with AT&T set for May. CWA said deal "creates major antitrust issues" at federal and local level. It also sounded warning that Roberts family would own less than 1% of new company's shares, yet would hold 1/3 voting stake through special class of stock. CWA said Comcast had "inconsistent" record on labor issues and showed "a strong aversion" to union organizing. "The impact... on workers and job conditions in this industry should be a major concern of regulators," CWA said. Armstrong acknowledged that "some consolidation will take place," but neither he nor Roberts would predict how many jobs might be lost.

EchoStar-Hughes merger is "best hope" to "compete against cable behemoths" such as one that will be created by Comcast purchase of AT&T Broadband, EchoStar Chmn. Charles Ergen said. He said approval of EchoStar-Hughes merger was essential as market consolidation accelerated. He said 40 million subscribers would be affected by new AT&T Comcast, which would have 48% of Multichannel Video Programming Distribution Market (MVPD). By comparison, EchoStar-Hughes combination represents 17% of MVPD market, he said.

Three incumbents are among 8 candidates seeking 6 seats on NAB TV board for 2-year terms. Incumbents are David Barrett, Hearst-Argyle TV; Ardyth Diercks, Gannett TV; John Lansing, Scripps Howard Bcstg. Other candidates are Paul Dinovitz, KRON-TV San Francisco; James Keelor, Cosmos Bcstg.; Jeff Rosser, Raycom Media; Thomas Scanlon, Scanlon Communications; Jamey Schmitz, WLMB Toledo. Featured race on radio side will be for Dist. 2 (N.Y., N.J.) seat held by William Stakelin of Regent Communications, who is opposed by William O'Shaughnessy, WVOX(AM)-WRTN(FM) New Rochelle, N.Y. Stakelin is former radio chmn. who succeeded Edward Fritts as joint board chmn. in Aug. 1982 when Fritts resigned to make successful campaign for NAB presidency. O'Shaughnessy has served eight 2-year terms on radio board for total of 16 years. Six other radio board incumbents also are seeking reelection. (Elected NAB board members are limited to 2 consecutive terms, may run again after being off board for minimum of 2 years.)

DirecTV 4S spot beam satellite is operating normally, company announced Dec. 20. DirecTV 4s is to begin transmission of 400 local channels in 41 markets Dec. 27. Company said satellite, launched Nov. 26, would play major role in helping it meet federal must-carry requirements.

NBC is buying KNTV (Ch. 11) San Jose — which had been scheduled to replace KRON-TV San Francisco Jan. 1 as NBC affiliate for that market — for \$230 million cash, network announced last week. KNTV owner Granite Bcstg. caused huge industry uproar 2 years ago when it agreed to pay NBC \$37 million annually in reverse compensation in return for 10-year affiliation agreements with KNTV and 3 other Granite stations (TVD Feb 21/2000 p1). NBC purchased KNTV only after it was unsuccessful in attempts to acquire KRON-TV from Young Bcstg., according to several sources. Young had outbid NBC for KRON-TV in 1999 and at that time rejected NBC demands — including \$10 million in reverse compensation (in contrast to \$8 million in annual compensation NBC has been paying KRON-TV — for continued affiliation as "totally unacceptable," Pres. Adam Young said (TVD Oct 25 1999 p1).

Andrew Wright was named pres. of Satellite Bcstg. & Communications Assn. (SBCA). He had been acting pres. since replacing Charles Hewitt in Aug. He joined SBCA as gen. counsel in 1998, after being chief of staff and legislative counsel for Rep. Boucher (D-Va). Wright said his "confidence in future" of satellite industry and SBCA was "unwavering."

ATTRIBUTION RULE SUSPENDED: Broadcasters now can buy 49% stake in other TV companies without stake's counting as attributable interest under FCC rules. Commission ruled last week in 3-1 vote that broadcasters should be granted exemption from attribution rule. That rule said broadcasters or cable companies that owned 5% or more of other companies were considered owners of those companies for purposes of calculating their audience reach and/or subscriber share. Broadcasters and cable operators have long opposed rule, contending 5% doesn't amount to corporate control.

Majority of Commission indicated cable effectively had won similar exemption in March when U.S. Appeals Court, D.C., struck down FCC's cable ownership caps (TVD March 5 p3) and remanded them back to Commission. Weeks earlier, FCC had eliminated cable's single majority shareholder exemption, and court questioned why, although it didn't explicitly overturn exemption. Reacting to D.C. Circuit ruling, broadcasters sought parity on attribution in April filing to FCC seeking reconsideration. Commission said last week that it was suspending rule for both broadcasters and cable MSOs until it resolved ownership issues outlined in its pending rulemaking (TVD Sept 17 p5), which contemplates new ownership limits on cable. NCTA Pres. Robert Sachs has said his group's strategy for 2002 focused in part on seeking FCC review and elimination of 5% attribution rule in favor of attribution standard that contained other measures.

Effective immediately, Commission said, no minority voting interest will count if there is single holder of more than 50% of outstanding voting stock of corporate broadcast licensee, cable TV system or daily newspaper in question. It said suspending rule while ownership questions were pending was "in the public interest" and would enable it to consider "all evidence" in rulemaking.

In 1999, Commission had eliminated exemption for cable, reasoning that regardless of whether companies held controlling interest, they should be considered owners with 5% or more stock "because they potentially have the ability to exert influence over a licensee's core operations." Broadcasters' exemption was eliminated earlier this year. Public interest groups, including Media Access Project (MAP), have supported enforcement of 5% attribution rule. MAP Deputy Dir. Cheryl Leanza criticized Commission for making ruling without seeking public comments first, calling decision "egregious."

Comr. Coppers, sole Democrat and dissenting voter, said suspending rule was "tantamount to its elimination." He pointed out that D.C. Circuit ruled only in cable context, not broadcast. He said other commissioners were taking notion of convergence too far: "No one would assert that broadcast stations and cable television systems have converged to the point that they are subject to the same regulatory scheme."

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TV Bureau of Advertising (Tvb) is having moderate success lining up major TV groups to hold management sessions in N.Y. during its annual conference March 26 at Jacob Javits Center in partnership with N.Y. Auto Show. Tvb said NBC, ABC, LIN TV, Tribune Bcstg., Hearst-Argyle and Nexstar agreed to host meetings. Several other large groups told us they also were considering March management meetings in N.Y. After 10 years of holding its annual conference in connection with NAB convention, Tvb is shifting to N.Y. to meet with auto manufacturers — largest category of TV advertisers.

XM Radio accepted FCC's proposed rules for terrestrial repeaters "with few exceptions," it said in comments on rulemaking (IB 95-91), but said its "acceptance of the FCC's proposed compromise represents a significant concession on its part." It said wireless communications licensees had known about repeaters since 1990 but didn't raise objection until "the last minute," and most wireless licensees were "warehousing their spectrum." Wireless licensees also could solve most problems by improving receivers, XM said. FCC should make it clear that terrestrial repeaters for satellite radio service should be allowed to transmit only exactly same programming at exactly same time, NAB said. Group, like others, objected to phrase "nearly simultaneous" proposed by satellite licensees and said proposed definition didn't absolutely close door on locally originated programming. NAB also said all incumbents should be protected from interference by repeaters, and satellite interests should have to make public full parameters about repeaters. NAB said it was particularly concerned repeaters would interfere with Broadcast Auxiliary Service. WCS Coalition said "fundamental premise underlying the Bureau's proposal is flawed" because it would limit protection for wireless operators: "The proposal runs dangerously close to reducing WCS to secondary status in its own band."

Group of 86 House members urged FCC and Dept. of Justice to "rigorously scrutinize" proposed EchoStar-DirecTV merger, which they said had potential to affect rural consumers negatively. Group led by Rural Congressional Caucus Co-Chmn. Emerson (R-Mo.) and Rep. Clayton (D-N.C.) told FCC Chmn. Powell and Attorney Gen. John Ashcroft in letter Dec. 19 that merger could affect rural residents if it were approved without appropriate consumer protections: "Accordingly, we believe that strictly enforced consumer safeguards regarding price, quality and access to vital telecommunications services must be part of any merger approval between EchoStar and Hughes... Meaningful and enforceable concessions are needed, not empty pledges that provide no protection or value." Congressional review of proposed consolidation of nation's largest DBS providers thus far has produced mixed response. While some members say merger is needed for greater competition with cable and to increase broadband capacity, others say it would eliminate competition in that industry segment.

Campaign finance reform bill that would require broadcasters to offer candidates nonpreemptible air time at lowest unit charge inched closer to being revived last week. Although Shays-Meehan bill nearly died in House earlier this year, supporters have been struggling to get required minimum of 218 signatures on discharge petition to bring bill back to floor for vote. Addition of Reps. Ganske (R-Iowa), Visclosky (D-Ind.), and Johnson (D-Tex.) raised number of signatures to 214. Common Cause Pres. Scott Harshbarger said renewed support "signals a huge surge of momentum for the campaign finance reform fight. The stage is being set for this important prodemocracy bill to be voted on soon after Congress returns."

European cable and broadcast technology firm NTL confirmed it was in "discussions... with a number of 3rd parties" about "strategic alternatives" for its broadcast and continental European operations, although it said no agreements had been reached. Denying press reports, NTL also said it would meet or exceed 4th-quarter operating profit guidance and faced "no immediate liquidity concerns." CEO Barclay Knapp said company had hoped to announce broadcast transaction by end of year, but "unfortunately, this is not the case."



VIVENDI SIGNS DEAL: Vivendi Universal signed another big deal, purchasing USA Networks for \$10.3 billion in stock and cash, adding more content assets to its portfolio just days after it announced \$1.5 billion investment in EchoStar. That content includes USA Network's signature cable channel, as well as Sci Fi Channel, Home Shopping Network, Trio, others. USA Networks will be renamed USA Interactive and will oversee company's Internet assets: Ticketmaster.com, Match.com, CitySearch.com, Hotel Reservations Network, others. Deal also is pending to acquire travel service Expedia. USA Networks CEO Barry Diller said that having all those interactive assets, "so well-funded, so strong and independent... gives us a great chance to dominate a business sector that will undoubtedly become one of the most important in the world." USA will receive \$1.62 billion in cash and \$750 million full value preferred interest. Company said USA Interactive, while having board representation from Liberty and Vivendi Universal, would be "completely independent."

Diller will be CEO of renamed company, as well as CEO of newly constructed joint venture, Vivendi Universal Entertainment. He said USA Interactive would be independent because he would have voting control and other parties wouldn't be allowed veto rights, despite monetary ties. USA and Vivendi joint venture, VUE, will own all of USA's entertainment assets and all of Universal Studios Group's assets, with Vivendi Universal holding 93% stake and USA 5.4%. Diller also will have interest in VUE. Vivendi Universal CEO Jean-Marie Messier said: "Combining with the same operational entity, VUE, USG and the other entertainment assets of USA creates a new U.S. major which will benefit from the full integration of TV and movies... with production and distribution."

Managers of Universal Studios Group — COO Ron Meyer and Universal Pictures Chairman Stacey Snider — are expected to remain in top posts. Combination also will establish U.S. Interactive as company with \$4.3 billion in sales and \$3 billion cash on hand at closing.

For consumers, DBS and USA deals could mean price competition at time when cable rates are rising, industry sources said. Consumers Union Washington office co-dir. Gene Kimmelman said: "Right now large cable companies dictate what content gets a chance to make to the American market. The hope is that this will enable satellite to compete for the lunch-bucket crowd and that as a result, we'll finally see some price pressure on cable."

Vivendi Universal has drawn attention in Congress for use of its market power in establishing presence in Internet music distribution. House Internet Caucus Co-Chmn. Boucher (D-Va.) and Rep. Cannon (R-Utah) introduced bill earlier this year designed to ensure that Universal and Sony, along with other 3 major record producers behind online service MusicNet, didn't dominate music distribution online, including provisions requiring nondiscriminatory rates but avoiding imposition of Internet compulsory license.

Vivendi appears to be banking on EchoStar to start interactive network in U.S., sources said, and deal company signed with EchoStar apparently will help DISH network in effort to prove to regulators that company is viable competitor to cable and not standalone satellite company. With content available from USA networks, company can provide unprecedented level of services including video-on-demand and music from USA's

vast library of content, they said. For first time, satellite provider has many of advantages of cable operators, industry analysts said.

EchoStar merger with DirecTV is key element in Vivendi decision to buy USA and make \$1.5 billion investment in EchoStar, analysts said. EchoStar CEO Charles Ergen has said lack of content has been major element in retardation of satellite growth. "One of the reasons interactivity in U.S. has not taken off as much as the rest of the world is that we have had a hard time getting content providers to work with us," he said.

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Nearly 90% of U.S. households will have access to broadband via cable by end of 2002, NCTA said in comments on NTIA broadband inquiry. NCTA said it believed 128 kbps was adequate to meet user needs "under most circumstances," although cable usually offered 4 times that much. Citing cable's \$55 billion investment in broadband, NCTA said "explosive growth" of broadband was "testament to the wisdom of the government's policy of vigilant restraint." In other comments, AT&T said there was evidence that broadband deployment was "lagging" in some areas where market forces were inadequate to promote deployment. It suggested tax incentives, tax credits for employers, opening local exchange market to competition. Qwest said biggest broadband impediments were regulatory, including "asymmetrical regulatory burdens." For example, it said cable modems were largely free from regulation, while ILECs had to unbundle their networks, providing below-cost capacity to competitors. Although satellite industry doesn't believe there has been market failure in delivery of broadband services to urban America, Satellite Bctg. & Communications Assn. said some govt. intervention might be necessary to ensure same services were provided in rural and remote areas. Tax credits — either focused on consumers or service providers — might be effective way to overcome cost barrier, it said.

In fight over carriage of low-power TV station in Syracuse market, NCTA asked Commission not to begin rulemaking sought by Venture Technologies Group (VTG), which would like Time Warner to carry its low-power WAWA station signal rather than import that of WSBK-TV out of Boston. Both offer UPN programming. NCTA said VTG was trying to upgrade rights and privileges of lower power stations to those of full-power stations but knew limitations of low power status when it bought station. Under current rules, WAWA has no must-carry rights on TWE system. VTG said its WAWA station should be afforded nonduplication rights, in part because it could offer more localized programming than Boston station. UPN is siding with VTG. WSBK was grandfathered by Congress. VTG asked FCC for rulemaking to extend Commission's rules on network and nonnetwork territorial exclusivity, syndicated exclusivity and network nonduplication protection to low-power, Class A and noncommercial broadcast stations. VTG said that by extending rules to lower power stations, FCC would end disparity among broadcasters.

CEOs of 8 TV production companies will answer reporters' questions Jan. 8 in a featured session of semiannual TV Critics Assn. tour in Pasadena, Cal.: Peter Sussman, Alliance Atlantis Entertainment; Thomas Werner, Casey/Werner/Mandabach; Steven Mosko (immediate past chmn., NATPE), Columbia Tri-Star Domestic TV; Garry Hart, Paramount TV Group; Sarah Timberman, Studios USA; Steve McPherson, Touchstone TV; Gary Newman, 20th Century Fox TV; Peter Roth, Warner Bros. TV.

STREAMING ISSUES RAISED: Two important settlements involving online music arrived at U.S. Copyright Office, one addressing royalty payments for individual music downloads, other settling suit over royalty payments for Internet radio streams. Copyright Office released first, which was follow-up filing to settlement involving RIAA, National Music Publishers' Assn. (NMPA) and Harry Fox Agency (HFA) from Oct. that set up system for compensating music license holders for certain forms of individual online downloads. Other involved RIAA, NAB and several radio broadcasting groups. Text of settlement wasn't made public, but reportedly suggested ways for Copyright Office to resolve suit over what royalties radio stations would have to pay to stream music online.

While download agreement isn't with either of 2 major music license agencies, ASCAP (American Society of Composers, Authors & Publishers) or BMI (Broadcast Music Inc.), both of them in joint statement with NMPA called settlement "landmark agreement." Formal agreement submitted to Copyright Office said it could serve as template for any relationship between license holder and online music download service. Under agreement, digital music services can offer "on-demand streams," real-time transmission using streaming technology that can be stored on computer hard drive and listened to at later date, or "use-limited downloads," which are available for limited time or number of plays. HFA said it would be willing to extend it to "other digital music services that wish to negotiate comparable agreements."

Register of Copyrights Marybeth Peters is defendant in suit filed over Internet radio streaming filed by NAB and several broadcasters, including Bonneville, Emmis Communications, Entercom Communications, Infinity Bcstg., Susquehanna Radio. At issue in suit is that radio stations have compulsory license to play music over airwaves, but Copyright Office ruled they must pay royalties when that music is broadcast online. Suit against Copyright Office followed failed suit against music labels, and while U.S. Dist. Court, Philadelphia, ruled for Copyright Office in Aug., broadcasters have appealed.

Confidentiality is at center of proposed agreement submitted to Copyright Office. That office is conducting Copyright Arbitration Royalty Panel (CARP) to determine, among other things, royalty fee schedule for Webcasters that don't also operate radio stations. While under settlement proposed, CARP — due to wrap up in Feb. — would continue to address that issue, but royalty fees for radio operators would be removed. Broadcasters have expressed concern that if their royalty payments, which they have strongly resisted, are part of CARP, those fee schedules will become public at conclusion of proceeding and make it difficult for them to negotiate lower terms in direct dealings with music rights holders.

FCC granted Comsat's application to discontinue providing occasional-use TV, occasional-use International Business Service (IBS) and part-time IBS services provided over Intelsat system by its Comsat World Systems line of business on routes where World Systems was regulated as dominant. Comsat said decline in demand for services, resulting in part from competing offerings by Intelsat, made them no longer economically viable to provide. Company doesn't propose to substitute any other services for those being discontinued, but said all services being discontinued would remain available from Intelsat or other Intelsat distributors.

SBCA ENDORSES MERGER: Satellite Bcstg. & Communications Assn. (SBCA) endorsed merger of EchoStar-Hughes merger in majority — not unanimous — vote of executive committee Dec. 21. "SBCA believes the combined EchoStar-DirecTV would be well positioned to more effectively compete with the entrenched cable monopoly and would help further the rollout of local-into-local into additional markets," Pres. Andrew Wright said. He said combined company also would accelerate delivery of HDTV and broadband services.

Vote came after several motions to keep results secret following 150-min. meeting, industry source said. Motion to support merger passed 8-3, with 2 abstentions, but Stan Kozlowski of NRTC, which opposed merger, resigned as chmn. of SBCA board as "matter of principal". "I will say that the meeting was civil," one member said. "Kozlowski had concerns about whether or not the vote was legal and he wanted an opinion from legal counsel, but President. Andy Wright was the legal counsel and he's now president, so the Association has no legal adviser." Kozlowski is expected to issue statement on resignation later.

Vote on member business operation is believed to be unprecedented and possibly in violation of SBCA bylaws, other satellite sources said. SBCA, like other major trade organizations, has refused to take stance on independent business decisions in past.

Support for public TV initiatives such as Ready to Learn and Ready to Teach was approved by Senate Dec. 18 as part of conference report for education authorization bill (HR-1), move that Assn. of Public TV Stations (APTS) said "recognizes the role of digital TV (DTV) to deliver new educational services." Senate in 87-10 vote passed bill Dec. 18, which House had approved, 381-41, Dec. 13. Ready to Learn is PBS-administered program involving national-local partnerships, production of TV programs such as *Between the Lions* and *Dragon Tales*, collaboration with local workshops, book distribution programs. Ready to Teach includes Web-based teacher development program PBS TeacherLine. Bill would authorize grants for those programs so PTV stations could develop digital curriculum content based on state educational standards, APTS Pres. John Lawson said. Measure allows Secy. of Education to "award grants or enter into contracts or co-operative agreements" with PTV stations and other eligible entities, with aim of: (1) Developing and distributing "educational and instructional video programming for preschool and elementary school children and their parents." (2) Facilitating development of programming and digital content "that is specifically designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet."

Furthering its opposition to merger of EchoStar and DirecTV (TVD Dec 3 p1), NAB commissioned survey that found that 71% of 1,000 respondents believed govt. "should not allow the only 2 satellite television companies to merge into just one." In addition to survey by Luntz Research, separate surveys were done in 4 states and in 3rd congressional district of La. — represented by House Commerce Committee Chmn. Tauzin (R) — where opposition to merger ranged from 62% to 70%. "Consumers are clearly worried that the merger... will negatively impact the choices [of TV programming] available to them," NAB Pres. Edward Fritts said. "An overwhelming majority of consumers believe that the creation of a single satellite service will leave them with no choice at all." Luntz Pres. Frank Luntz said he had "not seen such unanimous opinions on anything."

DIGITAL RIGHTS CALLED KEY: Bush Administration isn't yet "frustrated to the point of legislation" about lag in broadband deployment, but it's looking at ways to "generate some heat and maybe a little light" on issue, Commerce Undersecy. Phillip Bond said. Asst. Secy. Bruce Mehlman said surveys pointed to several problems: (1) Cost. (2) Concern over lack of "plug-and-play" equipment. (3) Belief among many that broadband is solely office service. (4) Lack of consumer dissatisfaction with current services. (5) Absence of killer content.

Mehlman said unlocking content is key. Comments came at Dec. 17 Commerce Dept. Technology Administration workshop on digital rights management.

Neither content nor technology communities wanted govt. intervention in creating technical standards for digital rights management (DRM). Govt. can preach against piracy, get stakeholders talking, foster spread of content on Internet and test new technologies, participants said. But marketplace must be free to craft technical standards for content protection, most said.

Disney Exec. Vp.-Govt. Relations Preston Padden said his company wanted to put *Lion King* and other popular content out "today" in digital format over Internet but wouldn't do so because lack of open, govt. standards would allow that content to be pirated. He warned that without govt. standards for security and interoperability, "you're going to have chaos" and "we'll be having meetings in the Jenna Bush Administration" because private industry couldn't come up with uniform standards for delivering content with appropriate copyright and licensing protections.

Only role govt. should have, most speakers said, was to provide " tweaks" in laws in small areas where private industry had failed to find solution. John Potter, exec. dir. of Digital Media Assn., said U.S. never would achieve deployment of digital media online through broadband "if we let government scientists divine where we're going." IBM Public Policy Dir. Timothy Sheehy said his company was "deeply wary" of any sort of govt. attempt to "legislate innovation." AOL-Time Warner Domestic Public Policy Vp Elizabeth Frazee said industry already was working to set standards, and content en masse would be rolled out in coming months as agreements were reached.

Napster Vp Manus Cooney said none of issues would be resolved until govt. provided guidance on "fair use" standards so it was clear where one person's or entity's rights stopped and another's began. Major hitch discussed was "broadcast hole" that troubled some such as News Corp. Vp Rick Lane, who said content wouldn't be released until protection problem was resolved. News Corp. likes free over-air broadcast model because company is making money at it, he said, and it intends to protect rights using that model.

Responding to question about what technological hurdles remained to online content protection, MPAA Pres. Jack Valenti said market must get together and decide what DRM standards were. In Sept., he said, he met with digital representatives to try to create technical platform from which many different applications could launch. "Unhappily," he said, several companies refused to meet, perhaps out of fear of govt. intervention. Only alternative to private-side solution, Valenti said, is Congress, although he opposed govt. intervention.

Valenti said that without time limit nothing would get done. He said nothing was 100% hacker-proof, but most people weren't hackers if given interesting content at reasonable price.

BSKYB FACES PENALTIES: BSkyB faces up to \$860 million in fines from U.K. govt. after Office of Fair Trading (OFT) said DBS operator was guilty of abusing its dominance in pay-TV market. OFT said in proposed decision that BSkyB had violated competition law over supply of pay-TV channels to rival distributors. Final ruling isn't expected until summer. BSkyB denied any wrongdoing and said it would "robustly defend" allegations.

Competition experts said BSkyB, which has more subscribers than cable and digital terrestrial companies combined, also could face lawsuits from competitors charging its business practices had stymied their growth. OFT finding of abuse of market dominance would be "a huge step forward for anybody wanting to bring damage claims," Clifford Chase Media Dir. Daniel Sanderson said. ITV Digital and Telewest said they probably would sue BSkyB for damages.

BSkyB was informed of OFT's intentions in what British refer to as Rule 14 letter. Lawyers said such letter was "serious legal procedure" that could have "dramatic financial implications." Basically "this is a case for prosecution," U.K. satellite lawyer said: "But the OFT would not have issued a Rule 14 letter with the intention of backing out of it. This is a very serious issue that must be dealt with." OFT started investigation last year after looking into BSkyB's pricing practices. Maximum fine under British law is 10% of turnover for each year of alleged abuse up to 3 years.

ITV Digital applauded OFT decision. "It is particularly good news for consumers and for competition in the pay-TV market," spokesman said: "We and others have long argued that Sky has abused its dominant market position, and it is an important step forward that this has now been recognized by the regulator. We remain concerned at the length of time it has taken to reach this position, and the potential further delay before any remedies are implemented." ITV spokesman said company would be asking politicians and regulators to "examine their processes so that they can deal more effectively with companies that are determined to abuse their market power to the detriment of competition and the consumer."

In first step of what it said would be "a national rollout," Clear Channel Communications (CCC) Wireless Div. launched Delta V high-speed Internet service using portion of digital signal of WKRC-TV Cincinnati. Use of TV signal permits homes and small businesses without high-speed access to download files at 256 Kbps, CCC said. "As entrepreneurs, we saw the holes in the high-speed Internet service coverage map," said Leon Brown, COO of CCC Wireless. "As broadcasters, we saw the opportunity to provide [Internet] to the unserved users in those areas" through DTV. Delta V is available only in Cincinnati, but CCC Wireless said service would expand to other markets throughout U.S. Several station group members of Bcstrs. Digital Cooperative (BDC) have been partners in Delta V rollout, said BDC Chmn. Stuart Beck of Granite Bcstg. "and we plan to work closely with Clear Channel to make Delta V... available to subscribers nationwide." He said that would help stations create "a brand new revenue stream, thus aiding the transition to digital."

Charter Communications was added to Nasdaq-100 list, one of 13 new companies in Nasdaq's annual re-ranking.

Personals

Promotions in FCC Enforcement Bureau: **Suzanne Tetreault** to assoc. chief and chief of staff, **Christopher Olsen** to asst. chief, Market Dispute Resolutions Div... Hill staffers moving to ML Strategies: **Mark Buse**, ex-aide to Sen. McCain (R-Ariz.); **David Leiter**, ex-aide to Sen. Kerry (D-Mass); **Patrick Mara**, ex-aide to Sen. Chafee (R-R.I.).

Kevin Kelly promoted to vp-sales planning & pricing, NBC... **Dennis Berry**, CEI, joins Cox Radio board; **James Kennedy** moves up to board chmn., replacing **David Easterly**, who remains on board... **John Lewis**, ex-SMS Technology, appointed CEO, Knowledge Networks, replacing **Douglas Rivers**, who becomes chmn.

Charles Collier, ex-Oxygen Media, appointed Court TV exec. vp-ad sales, effective Jan. 1... **Janette Corby**, ex-2nd Century Communications, named Wink Communications senior vp-distribution sales & PR... **Michael Sakin**, ex-Fox Movie Channel, appointed senior vp-ad sales, Game Show Network... **Lori McFarling** advanced to senior vp-gen. mgr., Discovery Digital Networks... Changes at CNBC: **Amy Zelvin** promoted to vp-domestic PR; **Paul Capelli** moves to vp-PR, CNBC International... **Barbara Comstock**, ex-Republican National Committee (RNC), named PR dir., Dept. of Justice, replacing **Mindy Tucker**, who joins RNC.

Harold Simpson, vp-R&D, TV Bureau of Advertising, retires in Feb. after 41 years with Assn... **Lynn Levine**, exec. sales dir., Warren Communications News, resigns effective Jan. 1, remains consultant.

Four FCC commissioners, 14 members of Congress, 2 FTC commissioners and several other govt. officials are among those scheduled to attend or speak at Consumer Electronics Show in Las Vegas Convention Center Jan. 8-11, CEA said. Public policy panels at convention include: Jan. 8, Digital Download (11:30, N250), In the Public Interest (1:30, N257), and Driver Focus and In-Vehicle Electronics (1:30, N256); Jan. 9, Tax Relief (noon, N254) and Which Party Is Best for Consumer Technology (2:30, N255); Jan. 10, Electronic Solutions to Energy Use (10:30, N256). Legislators slated to attend include Sen. Burns (R-Mont.) and Reps. Barton (R-Tex.), Bilirakis (R-Fla.), Buyer (R-Ind.), Ehrlich (R-Md.), Herger (R-Cal.), Issa (R-Cal.), Jefferson (D-La.), Johnson (R-Cal.), Oxley (R-O.), Smith (D-Wash.), Stearns (R-Fla.), Upton (R-Mich.), Weller (R-Ill.). FTC Comrs. Sheila Anthony and Mozelle Thompson, as well as Grant Aldonas, Commerce Undersecy. for International Trade, and David Garman, Energy Asst. Secy. for Energy Efficiency, also are to attend.

Analyst **Jessica Cohen** and her staff at Merrill Lynch are predicting slowdown in digital cable rollouts next year. Latest report says pace of digital rollouts is "slowing dramatically" for most cable operators in current quarter, except for Cablevision, which just started its service. Pace is down 9% in current quarter and nearly 40% from record high pace in 4th quarter of last year, Cohen said. What's more, report predicts digital deployments will be down 15% next year from this year. Cohen attributed slowdown to high digital penetration rate of 24%. Cable can re-ignite adoption if cable MSOs begin widespread marketing campaigns to advertise product, report said. It also sees problems with @Home causing slowdown in high-speed data rollouts — down as much as 10% — in first quarter 2002. Longer term, Cohen said she remained "very bullish" on cable prospects.



WARREN COMMUNICATIONS NEWS Issue 4 Month 4 Multi-Industry Broadcast-TV

TELEVISION DIGEST WITH CONSUMER ELECTRONICS

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

(ISSN 0497-1515)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

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

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

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DirecTV will replace national PBS feed with local PTV stations in 41 metropolitan markets where DBS provider delivers local-into-local under voluntary agreement reached with PBS and APTS. DirecTV will continue to carry PBS national service in all other markets under multiyear agreement, subject to consent of PTV stations serving those markets, PBS said. DBS provider has right to carry PBS service under statutory license, but license expires Dec. 31. New agreement will allow it to carry PBS feed in areas where it's not carrying local broadcast signals until DirecTV begins providing local broadcast package that includes local PTV stations, PBS said. "This agreement is a major step for ensuring that locally controlled public television stations will be available to as many communities as possible," APTS Pres. John Lawson said.

Consumer Electronics

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

STATE OF THE INDUSTRY

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

	DEC. 1- DEC. 7	2000 WEEK	% CHANGE	NOV. 24- NOV. 30	49 WEEKS 2001	49 WEEKS 2000	% CHANGE
TOTAL COLOR TV.	668,737	663,035	+ 0.9	873,475	25,079,567	28,788,092	- 12.9
DIRECT-VIEW**	653,949	630,631	+ 3.7	847,390	24,203,725	27,645,903	- 12.5
TV ONLY#....	528,777	556,067	- 4.9	678,064	19,801,049	22,870,242	- 13.4
TV/VCR COMBO.	125,172*	74,564	+ 67.9	169,326*	4,402,676	4,775,661	- 7.8
PROJECTION TV	14,788	32,404	- 54.4	26,085	875,842	1,142,189	- 23.3
TOTAL VCR**....	372,913	314,622	+ 18.5	738,920	18,774,327	27,129,537	- 30.8
HOME DECKS...	247,741	240,058	+ 3.2	569,594	14,371,651	22,353,876	- 35.7
CAMCORDERS.....	103,823	58,455	+ 77.6	182,165	5,115,813	5,606,417	- 8.8
DVD PLAYERS....	353,501*	162,486	+117.6	687,333*	11,884,646*	7,868,212	+ 51.0

Direct-view TV 5-week moving average#: 2001--519,692; 2000-620,215 (down 16.2%).

Projection TV 5-week moving average: 2001-22,165; 2000-29,038 (down 23.7%).

VCR deck 5-week moving average: 2001--332,331; 2000-550,341 (down 39.6%).

TV/VCR 5-week moving average: 2001--121,705*; 2000-121,124 (up 0.5%).

Camcorder 5-week moving average: 2001--149,581*; 2000-138,353 (up 8.1%).

DVD player 5-week moving average: 2001--454,518*; 2000-264,838 (up 71.6%).

* Record for period. **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 AFFIRMS ACCURACY OF REPORT IT MAY LEAVE U.S. CE BUSINESS: Amsterdam-based Philips spokesman affirmed accuracy of quotes attributed to CEO Gerard Kleisterlee in Dutch business magazine *Elsevier* that company might scrap its U.S. CE operations within 3 years if they showed no improvement.

Kleisterlee, who is scheduled to keynote CES Jan. 9, reportedly told Dutch interviewer that new CE management in U.S. was given "concrete targets that must be met in the short term." New U.S. management is led by Larry Blanford, who joined Philips from Maytag in April as pres.-CEO, succeeding Robert Minkhorst. Blanford, who had no previous CE experience, told us then he would add "a little bit of external expertise" in bid to burnish Philips brand image in U.S. Subsidiary shook up some of its core AV operations soon thereafter.

Latest comments attributed to Kleisterlee were not inconsistent with those of Philips CFO Jan Hommen at release of company's 3rd quarter financial results in which U.S. losses were blamed squarely for unprofitable Philips CE operations overall. He bluntly told financial analysts then that "if we can solve the U.S., we have a very profitable business in consumer electronics." He said he and other Philips senior executives "have given ourselves a limited time," adding: "We are not going to take a long time to solve that problem."

Kleisterlee was quoted in latest interview as saying he didn't want U.S. problems to fester "for another 5 or 10 years." Philips CE posted 3rd quarter operational loss of 45 million euros (1 euro = 90¢) vs. year-earlier profit of 98 million euros as revenue fell 18% to 2.65 billion euros. Operational loss in mainstream CE was even worse — 103 million

euros, reversing profit of 43 million euros on 12% lower revenue to 2.04 billion euros. Philips is scheduled to report results for 4th quarter and full year Feb. 7.

COPY-PROTECTED CD FROM UNIVERSAL CAN BE COPIED: With varying degrees of success, copy-protected CD released last week by Universal Music Group (UMG) can be copied in PCs, our evaluation has found.

UMG disc is More Fast and Furious: *The Fast and the Furious* and it's copy-protected with Cactus Data Shield from Tel Aviv-based Midbar Tech. UMG openly acknowledges copy protection on disc's packaging and insert card, and concedes possibility of incompatibility with some CD equipment.

Objective of Cactus is to prevent copying with PCs, for which content owners don't receive royalty as they do for home audio CD recording. We had been able to make digital copy of Cactus disc using home audio CD deck, but at first couldn't copy disc on PC burner. Eventually, we found it was possible to make copies on PC with varying degrees of success.

Cactus copy protection attempts to foil PC software used to copy discs, such as Roxio's Easy CD Creator. Using that program we were able to record some tracks to blank CD, but they wouldn't play on PCs or audio CD players — oddly, only in record drive of home audio CD recorder.

More successful result came when using Windows Media Player (WMP) on PC running Microsoft's new Windows XP operating system. WMP has own utility for recording CDs, and it copied *Fast and Furious* quickly — but not completely. Disc's copy protection denied access to first of 14 tracks on title, although balance recorded fine and played back on wide variety of PC and AV drives. Complete success is more likely using software program called Clone CD (www.elby.org/CloneCD/english), which is designed to make bit-for-bit recording of whatever data are on disc. Program's developers caution that it's not to be used for illegal purposes.

Other preliminary findings from our evaluation indicate new Cactus disc doesn't present large-scale hardware incompatibility problems encountered in past with Midbar Tech's technology, although it does have some unexpected quirks.

Notification on back panel of disc's liner advises it's "protected against unauthorized copying" and "designed to play in standard audio CD players and in computers running a Windows operating system." There and on insert card in box, purchaser is told that if problems occur disc may be returned for refund. In our trials, disc played without problems on several audio CD players of varying types, and even in DVD-Video player. Title also played without incident on 4 PCs with different Windows operating systems. After some tweaking, it even played in Apple Macintosh desktop PC — although it shouldn't. Still, Cactus system showed some quirks.

Disc has 2 parts: Regular audio tracks for use in CD players and compressed tracks for PC playback. Disc has own media player from EverAd to open compressed tracks; player pops up onscreen when disc is inserted. Although it shouldn't be possible to open Cactus tracks on PC with Microsoft's WMP, in 2 instances we did. In other cases, when Windows Media or PC's "Windows CD Player" were activated, EverAd player superimposed itself and hijacked disc. In one instance, attempt to use WMP caused PC to freeze up with blue "fatal error" screen, necessitating power cutoff to reboot.

Cactus system on Fast and Furious differs from that on Natalie Imbruglia's *White Lilies Island* disc from BMG. For one thing, compressed files on *Fast and Furious* have 128 kbps data transfer rate and 44 kHz sampling, compared with lower fidelity 80 kbps/32kHz on *White Lilies Island*. Sampling rate for Red Book audio CD is 44 kHz, but data transfer rate is much greater, at 1.5 Mbps. Other difference is that UMG disc carries Digital Audio Compact Disc logo, indicating compliance with Red Book standards. BMG left logo off Imbruglia disc, which proved to have incompatibilities with CD hardware that prompted label to issue replacement discs to disaffected customers (see separate report, this issue).

BMG CONCEDES COPY-PROTECTED DISC ISN'T RED BOOK CD: Rogue disc from BMG whose copy protection system caused playback anomalies since release last month doesn't comply with Red Book standards for CD format, record label told us. Meanwhile, separate puzzle is new title released that purports to play only in CD players but runs fine in PC drives too and can be copied with ease.

Neither "Digital Audio Compact Disc" logo nor reference to CD format appears on Natalie Imbruglia disc *White Lilies Island* with Cactus Data Shield copy protection from Tel Aviv-based Midbar Tech. Disc caused consternation

among buyers because copy protection system caused variety of playback problems in PC- and audio CD equipment, yet carried no notice of copy protection designed to foil PC copying. Oddly, replacement disc that BMG since has issued to disaffected customers also lacks CD logo and nomenclature.

In response to our query to BMG on lack of CD logo and other identifiers, source at label in N.Y.C. confirmed that logo was left off disc and packaging out of deference to Philips's position on Red Book compliance and respect for CE company's trademarks on CD logo. Philips has taken position that discs must conform to Red Book standard and be playback compatible with all CD hardware devices in order to carry CD logo. In Europe, though, label still had no explanation for missing logo on either disc.

As for lack of CD logo on "clean" Imbruglia disc reissued without copy protection was concerned, source at BMG didn't know reason but speculated that there was oversight in rush to get replacement disc to market. Replacement we received plays fine in all CD hardware, and even can be copied on PC with garden-variety "ripping" software. BMG source told us U.S. version of *White Lilies Island* will not be copy protected and will carry CD logo when it's released on March 5 — more than 3 months after planned Nov. 27 debut here. Source stressed that postponed U.S. release wasn't tied to copy protection problem in Europe, but was owing to "marketing considerations" — not uncommon event in music industry.

Current playback incompatibilities are likely to persist as record labels continue rollout of copy protected music discs, as Universal Music Group did last week with release of copy protected *More Fast & Furious: The Fast and the Furious* (see report, this issue). One reason for glum outlook is increasing use of CD-ROM type drives in home and mobile CD players and growing popularity of DVD-Video players for CD listening.

Sources in CE manufacturing tell us trend among suppliers of OEM components is toward CD-ROM production, while OEM sources for dedicated CD-Audio drives dwindle. Copy protection systems differ, but most seek to confuse CD-ROM drives as those would be used for copying CDs to PC's hard drive or to blank CDs. Copy protection systems have same effect on DVD drives in some home and mobile DVD-Video players.

Although purveyors of copy protection contend their systems shouldn't impair playback in conventional audio CD hardware, unexpected fallout has resulted from use of CD-ROM drives in home and mobile equipment. Problem is likely to increase as CD-ROM drives proliferate in audio players — but "read" problems caused by copy protection can be overcome, CE manufacturing sources told us. They said "patches" were available on Internet that could be downloaded to PC and burned onto blank CD used to update firmware of ROM-type drives in audio CD players.

Brouhaha over Inbruglia and similar copy protected discs caused one record industry veteran to tell us of his disenchantment with labels' short-sighted goals. "Unfortunately, I fear that the commercial trials that music companies have implemented so far, as well as those that I am aware of being launched soon, would appear to do more harm than good to move forward the important cause of consumer-friendly CD Copy Management," said Sami Valkonen, who is leaving BMG as senior vp-new media and business development to become private consultant.

At recent IRMA seminar in N.Y.C., Valkonen bemoaned "old school" copy protection methods such as "lockout" or degraded sound. Music industry was "shooting itself in the foot" by introducing "premature solutions" that caused playback incompatibility, he said. At BMG, Valkonen has been proponent of SunnComm's MediaCloQ copy management. That enables disc buyer to transfer music to PC and even portable digital player after receiving authorized download from content owner. Although music files are tied to individual's devices and can't be transferred elsewhere, music consumers get flexible and liberal uses of content they have purchased.

Meanwhile, new copy protection-related puzzle has emerged in Europe, where labels complain of lost sales from PC copying. Universal/DreamWorks album *Souljacker* by band the Eels carries notice "Important, this DreamWorks Long Play can be played only on CD players." Although message seems to imply some form of encoding to prevent PC or DVD playback, we've found nothing of the kind.

Album comprises 2 CDs, 2nd one with 4 "bonus" tracks including one called "Hidden Track." But there's nothing "hidden" about that track, and we encountered no playback problems with *Souljacker* on either Windows or Macintosh PCs, and were able to copy it to blank CDs with generic ripping programs. Album even copied on Sony MiniDisc recorder. Meanwhile, we found no playability problems with variety of audio CD and DVD-Video players. If copy protection is used, it's not evident — and it's not possible to determine whether audible distortion on some tracks is artifact of spoiling technology or from deliberate artistic intent. DreamWorks didn't respond to our calls for comment. Album is scheduled for U.S. release March 12.



PIRATE DVD DEMO ON TV PUZZLES INDUSTRY: Purported pirate DVD of Disney movie whose picture vanished after few plays was demonstrated by British official on popular TV show there Dec. 11 — but as of last week neither official, show's producers nor studio could shed any light on disappearing act that might have been staged and mistaken.

Broadcast dealing with bogus DVDs appeared on *Big Breakfast* morning show from U.K. independent Channel 4. Tony Northcote, London area Trading Standards Officer, showed pirate videos and asked viewers not to buy them. One purported to be pirate DVD Disney movie *Monsters, Inc.*, still making rounds of theaters. Northcote warned against buying it, saying "although the quality is good when you get it home, the film is encrypted and it starts to fade after a few days."

Northcote repeated assertion several times in different ways while program showed demonstration clip. *Big Breakfast* used split screen in which one half displayed good quality, while other half began with good color then gradually faded to b&w. Although materials technology that could achieve that effect has been proposed for digital rights management on optical discs, it's not known to be in use — and isn't likely to be implemented on pirated discs.

After repeated requests for comment, Northcote returned our calls last week and tried to pass buck on demonstration. He told us he knew nothing of system, had never seen effect before but was speaking on basis of "information supplied by the Anti-Counterfeiting Group" (ACG) about "new developments coming within the industry." He confirmed he didn't know what those developments were and claimed demonstration was prepared by show's producers, saying he "assumed they bought the disc." ACG is multi-industry umbrella group dealing with piracy issues and includes fashion and music industries. U.K.'s Federation Against Copyright Theft (FACT), which polices software piracy, is member of loose coalition.

Representatives of *Big Breakfast* show have been mum to date on background and production of demonstration, which was obvious time-lapse simulation. Cat Halsby, spokeswoman for show, said she hadn't seen original broadcast and, as of last week still hadn't seen copy. Show's reticence might change soon. Question of demonstration's legitimacy is under review by Independent TV Commission (ITC), British body that controls TV standards and investigates complaints. ITC confirmed to us that it was considering investigation whether viewers were misled by program. Cash fine is possible if Channel 4 erred.

Meanwhile, Disney representatives remained puzzled over situation. Debbie Harvey, spokeswoman for Buena Vista Home Entertainment in U.K., saw copy of broadcast item and told us "*Monsters* is not released on video, so the clip I saw from *Monsters* would have come from Buena Vista International, which handles theatrical release." Mary Rose, spokeswoman for Buena Vista International, first said she had heard nothing about the broadcast demonstration. Upon follow-up, she said: "We have not been involved in the *Big Breakfast* piece. You will have to ask *Big Breakfast* about it." Spokeswoman didn't seem concerned that Disney content might have been aired without permission, whether pirated or legitimate.

Meanwhile, FACT confirmed it had been fielding questions on show and pirate disc from industry, said it had no role in show and had distanced itself from issue. "We are disappointed

that this red herring has been raised because it clouds the real issue, which is that people are being ripped off by poor quality product," FACT Dir. David Lowe said. "A better example for them to give would have been *The Lord of the Rings*, where the pirate discs are actually the cartoon version," he told us.

Technology that could cause content on discs to deteriorate deliberately over predetermined period of time was demonstrated at replicators' show in Hong Kong 4 years ago. Nederland, Colo.-based Hide and Seek Technologies showed photosensitive polymer coating that could be applied to optical discs. Coating would darken progressively when exposed to light from laser pickups, becoming opaque over time and making disc unreadable. Polymer mix could be tuned in manner to achieve different goals, such as number of plays permitted or amount of time that playback was possible, including single play for promotionally priced discs. Coating also could be used to tie disc to playback on single device and spoil any copies made.

MGI Software's 3rd quarter loss widened to \$7.1 million from \$4.8 million year ago when shipment of new Cinematic video editing software was delayed. As result, sales slumped to \$7.2 million from \$13.8 million. MGI CEO Anthony DeCristofaro in conference call with analysts said \$700,000 in Cinematic software shipped in first week of 4th quarter after delay that was designed to "ensure the highest quality" of product. Imaging product sales, consisting largely of PhotoSuite photo editing software, were \$5.3 million (67% of total revenue), while digital video sales fell to \$1.9 million. That decline was related to transition to VideoWave 5 editing software that allows DVD authoring, from VideoWave 4, portion of which was returned in quarter, company said. MGI also took \$600,000 provision for bad debt in quarter, DeCristofaro said. MGI, which is expected to complete its sale to Roxio in Jan. for \$57.4 million, had \$2.2 million in cash and cash equivalents as of Dec. 17. It had drawn \$1.6 million on \$1.5 million credit facility supplied to Roxio and had negative working capital of \$453,000. MGI trimmed expenses and personnel, ending quarter with 195 employees, down from 214 in 2nd quarter. Marketing and selling expenses declined to \$4.4 million from \$6.7 million.

Largest haul of pirate DVDs to date came earlier this month when investigators in U.K. seized 3,300 contraband discs in raids on 2 open-air computer fairs there. Federation Against Copyright Theft (FACT) said raids followed lengthy undercover operation, and among DVDs impounded were pirate copies of latest movies, including Disney's *Monsters, Inc.*, Warner's *Harry Potter and the Sorcerer's Stone*, Fox's *Moulin Rouge*. FACT said one pirate Web site involved didn't mention DVDs were counterfeit and of substandard quality when soliciting credit card orders online. Separately, FACT said one of first convictions from its Operation Aaron program against Asian counterfeit DVDs was handed down this month against Julian Goffin, PC shop owner and operator of DVD Silvers Web site that trafficked in pirate discs. Goffin pleaded guilty to 4 counts under 1988 Trademarks and Copyright, Designs and Patents Act. Sentencing is scheduled for Jan. 15, FACT said.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥128 = \$1, except where noted.

\$999 FRONT PROJECTOR TARGETED: In development that may alter dynamics of video market in U.S., front projectors could hit \$999 price by late 2002, InFocus Products & Services Vp Candace Petersen said.

Such projector, which would have 1,000 lumens and minimum 800x600 resolution, could add incremental sales of 27,000 units in 2002, growing to 268,000 and 472,000 in 2003 and 2004, respectively, Petersen said. Figures are based on projected worldwide sales of 1.6 million front projectors next year, 2.3 million in 2003 and 3 million in 2004, she said. Projector could be based on 0.7" or 0.55" polysilicon LCD or Digital Light Processing (DLP) panels, former size for brightness, latter for cost, Petersen said.

Sub-\$1,000 price would be based on \$600 for materials, with assembly and direct sales adding \$150 and \$50, respectively, leaving gross profit margin of 20%, Petersen said. Low-end price would contrast with current \$1,900 tag for SVGA projector that starts with \$850 for materials and adds \$300 each for assembly and brand supplier, she said. Price also is based on building front projector in Asia through contract manufacturing, joint venture or OEM.

Target of low-cost projector would be first-time buyers including consumers, schools and govt., Petersen said. At least 50% of sales should be to first-time buyers, she said. Model also would be targeted in part at developing markets including China, Eastern Europe and Latin America. Among those weighing introduction of sub-\$1,000 front projector is InFocus, although details haven't been finalized, including whether company will sell product under own brand. It has alliances with Toshiba and Runcor for consumer front-projector market and uses Flextronics as OEM for low-end product. It also had worked on developing liquid crystal on silicon (LCoS) microdisplays as possible means for hitting low price, but now considers technology "long shot," Petersen said. InFocus has investment in Three-Five Systems, which is building 0.55" microdisplay, but recently shifted much of focus to DLP, industry sources said.

New projector is likely to be key component in growth of front-projector market that's forecast to hit worldwide sales of 4.5 million units by 2007, up from current 1.3 million, Stanford Resources analyst Sweta Dash said. LCD would account for sales of 2.6 million units by 2007, up from current 1 million, followed by DLP, 1.6 million (300,000); LCoS (200,000) and CRT (less than 100,000), Dash said. LCoS will be most prominent in ultra-portable front projectors, Dash said.

Handspring has raised \$48.5 million in new capital through combination of \$10 million investment in company by Qualcomm and 7-million-share follow-on offering (\$38.5 million). Qualcomm, which licenses its CDMA wireless technology to Handspring, will buy 1.8 million shares to get 1.5% stake in handheld PC developer. Financial agreements appeared to assuage analysts, many of whom had grown concerned about company's cash situation. New \$48.5 million in capital will be added to \$75 million cash and investments Handspring is expected to have at year-end, Robertson Stephens analyst Michael Kim said. Handspring, which is expected to ship GSM-based Treo handheld PC/cellular phone in Jan., will deliver CDMA model within 12 months, company said. Meanwhile, rival Palm 3rd quarter earnings were expected to be \$254 million, down from \$522 million year ago as Palm swung to 7¢ loss from 5¢ profit.

JBL PATENT INFRINGEMENT UPHELD: U.S. Appeals Court, D.C., Dec. 17 upheld lower court ruling that awarded Bose \$5.6 million after finding that Harman International's JBL loudspeakers infringed its patent.

Appeals court backed U.S. Court Judge Patti Saris', Boston, decision that rejected Harman motion of summary judgement based on doctrine of equivalents and found that "reasonable jury" would have returned verdict in favor of Bose. Bose had sued Harman alleging that 11 JBL models, majority of which have been discontinued, violated patent covering elliptical port tube in loudspeaker that is used to radiate acoustic energy from inside enclosure to area outside it in effort to prevent distortion. Port tube also was designed to reproduce improved bass tones.

JBL also appealed on grounds that Saris erred in denying admission of evidence of "Dehaeze" patent. Saris maintained that Dehaeze patent pertained to hyperbola, which is different in both shape and mathematical formula from ellipse covered by Bose patent. Appeals court found "no abuse of discretion" in Saris' ruling. Harman also argued that \$5.6 million award was calculated based on entire value of loudspeaker incorporating ports, which only represented "small portion" of overall product. Appeals panel supported Saris' ruling that Bose port "inextricably worked" with other loudspeaker components as "single functioning unit."

Royalty award also was based on evidence presented by Bose of its efforts to market the benefits of elliptical port technology and an increase in sales in year following introduction of product. "All of this was substantial evidence to support an award of a reasonable royalty based upon the entire value of the loudspeakers," appeals court wrote.

EMachines reached agreement with David Packard and other plaintiffs that lifted temporary restraining order that sought to block company's proposed \$160 million sale to EM Holdings. Packard had said that he and other plaintiffs would have been "irreparably harmed" as result of sale because eMachines lacked funds needed to satisfy claim that floppy disc controllers in some of company's PCs had defects. Terms of agreement weren't available. Suit was filed year ago. Jefferson County (Tex.) district court judge issued temporary restraining order Dec. 14, potentially blocking expiration of EM's tender offer Dec. 27. Tender has been extended to Dec. 28. eMachines reached agreement to sell company earlier this fall to EM Holdings, which is controlled by board member Lap Shun Hui, who also is CEO of KDS America.

EchoStar sold \$700 million in notes in private placement, company said in SEC filing. Notes, due in 2009, have 9.12% yield and are designed to supply portion of financing needed for proposed \$26 billion purchase of Hughes Electronics and DirecTV. If deal, which isn't expected to be final for at least year, doesn't go through, funding will be used to buy Hughes's 81% stake in PanAmSat, EchoStar said. Standard & Poor's gave notes B+ rating. EchoStar sold \$1 billion of 7% subordinated convertible notes in May and raised cash for proposed acquisition last week when Vivendi Universal bought \$1.5 billion (10%) stake in company. Vivendi also will receive programming distribution via EchoStar's Digital Sky Highway (DISH) network, which has 6.4 million subscribers.

XBOX TAKES LEAD: Microsoft appeared to have lead over GameCube in terms of sellthrough numbers to consumers entering final weekend before Christmas. Nintendo of America (NOA) spokeswoman told us 850,000 GameCube consoles had sold through as of Dec. 18. In comparison, Credit Suisse First Boston report last week said projected Xbox hardware units sold in its 4th week on N. American market was 195,000 for total of 934,000 through Dec. 8.

Credit Suisse Analyst Heath Terry told us company based its numbers on NPDFunworld reports, along with some of its own analysis. But it was unclear what difference was between NPDFunworld and Credit Suisse Xbox figures. Although NPDFunworld spokeswoman told us earlier this month her company planned to issue data on GameCube and Xbox sellthrough numbers publicly (TVD Dec 10 p13)), we were told last week that Port Washington, N.Y., market information provider was sticking with its policy.

One industry source told us she believed Xbox sellthrough number of 934,000 through Dec. 8 was "physically impossible" considering Microsoft's statement Dec. 9 that it had shipped 1.1 million consoles to retailers (TVD Dec 17 p12). She doubted that many Xbox systems actually could have sold through to consumers in same time frame. NOA said Dec. 14 it also had shipped 1.1 million consoles to retailers but there was clearly larger disparity between number of consoles shipped and number that actually sold through than was case with Xbox. Reason for disparity between number of NOA consoles shipped and number sold through was unclear at our deadline. But Credit Suisse's Terry said there was "always going to be a lag" between shipments and sellthrough numbers. He suggested one explanation could be that Xbox consoles were being manufactured mostly in Mexico — shorter distance for consoles to travel to U.S. retailers than was case with GameCube, which must make its way from Japan to NOA's U.S. warehousing and then on to retailers.

But Credit Suisse also cautioned that it was "important to remember that in our opinion these numbers are very rough estimates of actual sales... and only represent the U.S. portion of the companies' business." Like NPDFunworld data, Credit Suisse data don't include Wal-Mart and KB Toys, Terry told us. Therefore, NPDFunworld and Credit Suisse data don't take into account full market in all of U.S. either. In contrast, NOA said its figure included sales at KB Toys and Wal-Mart, calling latter its largest retail account.

NPDFunworld earlier this month confirmed Microsoft's claim that Xbox had best software-to-hardware tie ratio in game console industry's history at 2.4 games to every one Xbox console. Tie ratio — like sellthrough rate — is key element in what would make company correct in claiming its system had best-ever launch, NPDFunworld Senior Account Mgr. Richard Ow told us.

Credit Suisse also said GameCube console sellthrough for week of Dec. 2-8 "rose from 65,000 units for the U.S... to 81,000 units sold" — indicating Xbox sellthrough rate was running more than double GameCube. But Credit Suisse also said Nintendo's Game Boy Advance (GBA) in same week was selling at far faster clip than either GameCube or Xbox. Report said 362,000 next-generation handheld systems sold through, increasing installed base on that platform to 3.5 million units in U.S.

Although, NPDFunworld wouldn't give sellthrough figures for consoles last week, it said total U.S. videogame industry — including hardware, software and accessories — generated \$6.4 billion in revenue through Nov., compared with \$4.7 billion in same period year ago. Despite what NPDFunworld called "substantial growth" in overall game industry, it said next-generation systems — including Dreamcast, GameCube, PS2 and Xbox — took in greatest revenue with 436% increase in dollar sales in year. Nov. increase was 624% over Nov. 2000 and "almost 2.6 million next-generation consoles were purchased last month, due in part to the launches of" GameCube and Xbox, NPDFunworld said.

Sony Computer Entertainment America (SCEA) announced last week it had sold additional 1.5 million PlayStation 2 (PS2) consoles since Thanksgiving week, increasing platform's overall installed base to 6.5 million units since Oct. 2000 rollout in N. America. Sales of PlayStation/PS2 hardware, software and peripherals in Nov. generated more than \$700 million in retail revenue. SCEA Senior Vp Jack Tretton said: "Clearly, data for the first month of the holiday sales season indicate that the entire PlayStation family of products will soundly outsell all competitors combined, despite the heralded introduction of new game consoles during this important month."

Tower Records, taking \$3 million pretax charge to cover continued restructuring, said its first quarter loss grew to \$11.2 million from \$733,000 year ago as revenue sank to \$226.6 million from \$255.3 million. Revenue from U.S. stores declined to \$126.4 million from \$147.9 million while international sales fell to \$100.3 million from \$107.5 million. Gross profit margin declined to 31.1% from 33% as Tower liquidated inventory in former book store operation, and several music outlets have been closed. Charge included \$1.5 million in inventory write-down and \$1.4 million for professional fees. Another \$100,000 in pretax restructuring and asset impairment charges were reported separately. Tower's total funded debt decreased to \$307.3 million in quarter ended Oct. 31 from \$328.9 million year earlier. Its senior credit facility expires April 23, but company said it would seek to refinance agreement before then.

Another scam involving pirate DVDs of *The Lord of the Rings* was uncovered in U.K. by Federation Against Copyright Theft (FACT). Movie from New Line opened last week and is expected to be box-office hit. But weekend before last, FACT investigators in London busted ring that was selling \$15 DVD that purported to be pirate copy of *Rings* movie. In fact, 90 min. disc contained nothing but movie's trailer running in continuous loop. On previous weekend, FACT exposed similar scam in raid on open fair. Raid on pirate DVD dealers found copies masquerading as New Line *Rings* movie, but in fact containing 1970 cartoon version of story. FACT said charges in each raid would be under U.K.'s Trademarks and Copyright, Designs and Patents law.

DVD marketer Apex Digital will license Vialta's technology and products for sale in N. America. First product offering will be Vialta's ViDVD multimedia DVD player. Among other things, ViDVD player enables users to access Internet without PC. It also plays Vialta's ViMagazine discs, which contain up to 14 hours of programming using proprietary and undisclosed compression method. ViDVD introduction is scheduled for spring and final agreement on product branding will be announced at CES.



GOOD GUYS NEW STORE DESIGN: Good Guys (GG) introduced new store design that it said would give products more individual presentations and brought videogames back into merchandise mix. L.A. store, for example, provides rear-projection TVs with separate individual displays offering product information, while Sony Playstation 2 and Nintendo GameCube videogames consoles and software are merchandised using 3 "pods" that allow user to try out titles. GG isn't carrying Microsoft's Xbox console.

"Videogames were previously just sort of in the mix and they were not a core area of focus," Exec. Vp-Mdsg. & Advertising Cathy Stauffer said. "In that category you have to be in or out because if you're not in it, you don't get the attention and the right titles."

New format, which will be tested for 6 months before decision is made whether to expand it to other stores, will have same number of products and brands as are deployed in other stores, but makes some layout changes. For example, Stauffer said, videogames are located near personal electronics and serve as "bridge category" between audio and video. Personal electronics category has been revived to include digital audio players, Sony's Aibo robotic dog, handheld PCs. GG earlier had closed personal electronics dept. when it consisted largely of personal CD players and boomboxes.

Store also has selection of seasonal products including karaoke machines, electronic keyboards, novelty phones. "These are items that have a generally lower average ticket for audio/video, but could create excitement and change in the store," Stauffer said: "We want the stores to be as interesting as possible and those kinds of products can bring a lot of variety into the store."

As it tests new format, GG is said to be preparing to end format in which it leased space in Las Vegas and Henderson, Nev., stores to Tower Records, which handled merchandising of video, music and PC titles. GG will re-assume merchandising responsibilities for software at those 2 stores. It plans to continue jointly operating larger Wow stores with Tower. Five Wow locations have "worked really well" because Good Guys and Tower have kept separate identities, Stauffer said.

"I think it diluted our presentation as a consumer electronics store and for Tower it was 'is Good Guys selling software now?'" Stauffer said. "We really want to be focused on our business, which is consumer electronics. We could have gone to subletting it with Tower, but it was a question of 'what could we do with our own products?'"

In online business, GoodGuys.com has "exceeded expectations" after first year of operation, although Stauffer declined to release financial details. Chain promotes GoodGuys.com in ads and has installed kiosks in stores that allow for connection to Web site for additional product information. Good Guys has 20% equity stake in GoodGuys.com



Ultimate Electronics reached agreement with Wells Fargo Retail Finance on new \$80 million credit facility. New pact replaces 3 year, \$40 million facility with Foothill Capital that expired this year. Ultimate has more than \$60 million currently available under new agreement. Pact will reduce annual interest costs by \$100,000, CFO Alan Kessock said.

Samsung Electronics is supplying color LCDs to Sony Computer Entertainment (SCEA) for PS One version of PlayStation, according to *South China Morning Post*, which said Samsung was now making 12.5 centimeter (4.92") thin film transistor (TFT) LCDs for console. SCEA recently started shipping \$129 LCD screen attachment for PS One and plans to follow with \$199 bundle combining LCD and console after Christmas. Unclear was whether LCD already on N. American market for PS One — described as 5" in size by Sony — was from Samsung or another source. Comments were unavailable from Samsung and SCEA by our Fri. deadline. SCEA's Jack Tretton recently told us LCD debut was aimed at least partly at reassuring retailers and consumers that his company had no current plans to abandon its successful older system. One of Samsung's main competitors in LCD category is Sharp Electronics, which supplied 2.9" reflective TFT LCD for Nintendo's Game Boy Advance. Sharp display has 240 x 160 pixel resolution, 30:1 contrast ratio, 45% reflectivity and 80 millisecond response time, Sharp said. While contrast ratio and reflectivity are double that of display used by Game Boy Color, which Sharp also supplied, many GBA users have complained about display, saying it's often difficult to see game play without light accessory that attaches to game machine.

Nov. DTV shipments to dealers jumped 104.8% to 195,914 sets vs. 95,675 in same 2000 month, CEA said. For year's first 11 months, shipments were up 124.4% to 1,246,374 from 555,344 in Jan.-Nov. period year earlier. CEA said with Dec. volume still to be factored in, actual shipments for Jan.-Nov. had surpassed CEA-projected 1.1 million sets for 2001's 12 months. "Consumers have catapulted the DTV transition forward in 2001 simply by embracing the technology in increasing numbers and bringing it home to enjoy," CEA Pres. Gary Shapiro said. He said Nov. DTV shipment report was "a wonderful holiday gift for our industry and for all those who want to see the DTV transition move forward."

Concord Camera reported first quarter net loss deepened by \$400,000 to \$1.2 million as revenue fell \$1.6 million to \$33.5 million after company restated financial results. Change was made after Concord determined that revenue from customer would be recognized in future periods when payments were received. Customer wasn't identified, but one of Concord's largest — Polaroid — is operating under bankruptcy protection. Meanwhile, CEO Ira Lampert's fiscal 2001 salary rose to \$969,444 from \$704,167 year earlier as bonus jumped to \$860,686 from \$400,000. Senior Vp Brian King's pay increased to \$425,000 from \$327,147 and bonus to \$444,809 from \$175,000.

Circuit City signed deal to offer Earthlink's DSL, 2-way satellite and cable modem services in markets where they are available. Services will be sold through Circuit's Broadband Station located in majority of chain's 603 stores. Earthlink reached similar agreement with OfficeMax earlier last week. Earthlink sells satellite service as part of Hughes Network Systems' Powered by DirecPC program. Other companies selling DirecPC service include Pegasus Communications.

DVD player dollar sales increased 53.1% in Nov. 18-24 week that included Black Friday sales compared with comparable week last year, NPD Techworld said. Research firm's early-indicator panel found that other CE categories showing dollar gains included home-theater-in-box (173.2%, with and without DVD player); digital cameras (40.1%); TV combos (38.4%); color TV (23.1%); home speakers (17.6%); car speakers (9.2%) and PVRs (9.1%).

DISPLAYS CUT PRICES: Microdisplay makers are shifting focus to single-panel designs in effort to hit \$3,000 price and loosen CRTs' hold on rear-projection TV market. While many early entrants in microdisplay derby, including Thomson with Three-Five Systems and Samsung with Displaytech, opted for 3-panel products, less expensive route is placing red, green and blue colors on single panel, industry experts said. In moving to single-panel layout, microdisplay companies also are targeting sizes in 30-40" range where they presumably would face less competition from CRT-based sets.

"It's a pretty significant battle [single pane vs. 3-panel]," said Displaytech CEO Haviland Wright, whose company is shifting some of development to single-panel 0.85" product. Texas Instruments (TI) "price is a little bit high, but it's a single panel. You don't have the alignment issue with one panel that you have with 3, but you have trouble getting to higher resolutions."

TI is pushing 0.8" Digital Light Processor (DLP) that it says carries \$1,350 bill of goods that would enable \$3,000 price for finished product. New chip, which has 1,280x720p resolution and 1,000 lumens, achieves lower price in part by reducing number of external memory devices needed to 1 from 4. It has been designed into 15-20 products, which in itself should generate enough competition to ensure lower prices, TI Digital Home Entertainment Mgr. Dale Zimmerman said. At recent Stanford Resources flat-panel conference, TI showed 43W. New display uses 13.8 micron process and 8" wafer, 1,000:1 contrast ratio. Goal is to hit brightness on par with CRT, around 2,000 lumens, Zimmerman said. Earlier this year TI indicated it was considering 3-panel design for 43-50" screen sizes.

"We're trying to prove that making a giant screen is not necessarily the best next step for DLP because a 65" table-top design is kind of an oxymoron and plus you are going directly into the strength of the CRTs," Zimmerman said. "These should be targeted at the space between the direct-view CRTs and the projection CRTs. That's the best location because then you're not directly replacing something and you're adding to the product line."

In first generation product, Hitachi, Matsushita and Mitsubishi marketed 3-panel 55W, 52W and 65W rear-projection TVs, respectively, that retailed for more than \$13,000. Sales were limited and Hitachi then tabled plans for any new DLP-based sets until 2003. Matsushita was said to weighing new model with lower priced chipset, although company has declined comment.

Meanwhile, Three-Five will make drive to lower prices with 0.7" chip that's expected to be available by mid-2002 at 11-12% lower cost, Strategic Programs Dir. Joseph Riccio said. Display will maintain same specs as 0.78" version that's at heart of Thomson's RCA 50W, but will reduce number of ASIC chips required to 9 from 15, Three-Five Senior Microdisplays Dir. Al Davis said.

Yet not all manufacturers are convinced that microdisplay-based products are on brink of making push into CE market. While Samsung has shown 42W rear-projection monitor for commercial applications based on Three-Five's 0.78" display, technology still requires improvements before it hits market, Technology Display Dir. Ian Miller said. Samsung earlier had

designed 25" monitor around Three-Five display and has shown 43W set containing Aurora's 0.97" device that has 1,368x1,024 resolution. On consumer side, Samsung introduced limited number of 50W sets this fall based on Displaytech's 0.78" display, but later withdrew them from market.

"The performance [of microdisplays] isn't good enough for the cost yet," Miller said. "Nobody has yet been able to close that cost/performance equation. Right now we're pursuing it [microdisplays], but whether it will ever come to a product remains to be seen."

Samsung also is pushing to increase size of LCD panels. It plans to ship 40W by 3rd quarter 2002 with 1,280x768 resolution, 500:1 contrast and 500 candelas at price equivalent to that of similarly featured plasma display panels (PDPs), Miller said. On drawing boards is 52" LCD that features 1x1.2 m mother glass that could be built when Samsung switched to 5th generation production technology next year. Miller said "52-inch is the biggest size we can comfortably go with and when we do some analysis it may make more sense to go with it at 48 inches."

Also seeking to elbow into its way into TV market, iFire Technologies expects to have licensing agreement with CE vendors to use its solid-state inorganic electroluminescent technology in 30-40" sets by mid-2002 and is targeting 30-40" sets, Business Development Vp Joseph Virginia said. iFire had said in March 2000 it had expected to have TVs based on its technology available in 2-4 years and would have CE deal by end of 2000. iFire, which has shown 8.5", expects 17" prototype next year that will use 300x400mm substrate. Company is seeking joint venture to enter business with display with 1,280x768 resolution and 450 candelas brightness. Goal is to have pilot line running by 2003 and mass production by 2004 as price for solid-state display-based set hits \$2,500. "There is a minimum threshold of display image quality required just to begin meaningful CE partner discussions," Virginia said. "That doesn't mean you have to produce defect-free 34" display modules to get a deal, but you have to show the best possible performance with the existing tool set and existing fabrication facility."

iFire's technology is expected to be introduced by TDK for commercial applications in sub-12" displays next year. TDK, which signed \$25 million licensing deal in Feb. 2000, has shown 6.7" display for transportation applications.

InterAct Accessories claimed 3rd party market share crown for GameCube and Xbox accessories last week. InterAct held No. 1 position among 3rd party manufacturers in Nov. with 44.3% dollar share for sales of GameCube accessories, according to NPDFunworld's TrsTS report. InterAct's SuperPad, Mobile Monitor 5.4, RFU adapter, SuperPad Colors and S-Video/AV cable all ranked in top 25 in terms of units sold and dollars generated by all first and 3rd party GameCube accessories. Accessory maker also held No. 1 spot for 3rd party manufacturers with 30.4% market share, with 4 products — PowerPad, PowerPad Colors, RFU adapter and S-Video/AV cable — all in top 25 for all Xbox accessories. InterAct, subsidiary of Recoton, said it was "developing several additions to [its] Xbox and GameCube accessory product lines." It said "many of these upcoming products" will be shown at InterAct/Recoton booth at CES in Las Vegas.

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RADIOSHACK RESTRUCTURES: RadioShack (RS), hit by sharp downturn in PC and satellite sales, is taking \$124 million pretax charge to cover store closings and revamping of merchandise mix. Charge covers loss on sale of Ft. Worth hq (\$45 million), closing of 35 stores (\$8 million), dropping of select CE products including 25-36" TVs (\$26 million) and write-down of goodwill of installation business (\$40 million).

Closing of 35 stores, expected over next few months, will be in addition to another 70 or so that RadioShack typically shutters each year as it opens and/or relocates others, Senior Vp-CFO Michael Newman said. Those 35 that are closing fell below RadioShack's threshold for 20% return on invested capital (ROIC) and provided near-zero ROIC, he said. Newman declined comment on how many other RS stores didn't meet 20% or more ROIC requirement other than to say "it's not 5 and not 500." It operates 5,200 company-owned stores. RS declined comment on how many jobs would be cut as result of closing and moving of hq. Each store has about 6 sales associates and RadioShack employs 2,600 at Charles Tandy Center hq in downtown Ft. Worth.

In restructuring CE mix, RadioShack will cease carrying 27-36" TVs that were part of Thomson's RCA store-within-a-store format, as well as pagers, car stereo and security products. Components targeting commercial market will be trimmed from RadioShack.com Web site, COO David Edmondson said. RS first hinted at move to drop big-screen TVs from merchandise mix in April. At time, RadioShack carried 36" RCA HD-ready set and 32" analog 2-tuner model. "As we went into it [big-screen TVs] and as we come out of it we remain largely irrelevant in that market and those TVs take up an enormous amount of display and inventory space," Edmondson said.

As it prunes some items from lineup, RS will expand assortment of parts, batteries and accessories targeting \$25 billion consumer market, but will end efforts to market products to \$100 billion commercial sector, CEO Leonard Roberts said. Company began business-to-business operation in 2000 that focused on groups such as building maintenance organizations with products that included security cameras and fuses. It generated \$140 million in sales in 2000 and employed 65, largely in telemarketing positions. RadioShack also had sought to sell PBA to its vendors.

Company also will drop installation business for commercial market, but Amerilink Div., which chain bought in 1999 for \$76 million, will continue to pursue consumer sector, Roberts said. Expansion into commercial applications was expected growth of broadband market, but many of its broadband initiatives have dried up. RS was early backer of Northpoint's DSL business, which since has been liquidated and some assets of which were sold to AT&T. RS also sold Excite@Home cable modem service through 400 stores, but high-speed service since has sought bankruptcy protection and is trying to sell its assets. It marketed Starband satellite-based Internet access service, which has struggled to gain foothold in U.S. "It [broadband] is a niche market and a valuable asset in certain neighborhoods," but has yet to reach mass market, Edmondson said.

RadioShack declined comment on future of joint venture with Blockbuster. Chains have installed RS store-within-a-store format as part of test in 130 stores in 4 markets. Companies will meet in mid-Jan. to discuss future of project, Edmondson

said. Restructuring included \$3 million related to fixtures for store-within-a-store format, company said.

Sale of Tandy Center and Ft. Worth Outlet Square Mall to Tarrant County (Tex.) Commission is precursor to RadioShack's building new hq elsewhere in Ft. Worth. Terms of proposed sale, including price, weren't available. As part of sale agreement, RadioShack will lease space at Tandy Center until new hq opens in 2004, Newman said. As result of move, he said, RadioShack will save \$20 million in free cash flow over 20 years, \$2-\$3 million in capital expenses starting in 2005. RS has proposed buying Ripley Arnold housing project in Ft. Worth for \$20 million as location for new hq and is in final negotiations with city.

While RadioShack's restructuring is first to hit merchandise mix in several years, it has signed series of store-within-a-store agreements with Compaq, Microsoft, Sprint, Tandy, Thomson and Verizon in recent. At same time, it closed or sold many of its money-losing retail ventures including Computer City and Incredible Universe in late 1990s. It also cut 197 corporate jobs in Aug. including reducing number of vps to 62 from 73.

Consumer Electronics Personals

Jeffrey Yapp, formerly Hollywood Entertainment pres.-COO, joins Cablevision as group pres. of Retail Div., which includes The Wiz... Philips Semiconductors Senior Vp-Distribution **Mike Hamper** appointed to supervise global distribution... **Vernon Altman**, Bain & Co. consulting firm, joins Roxio board... **Kurt Praschak**, 15-year PR veteran at Matsushita America, leaves today on early-retirement offer, plans unannounced... **Colin Newnham**, Ultralife Batteries managing dir.-U.K., advances to European Operations vp-managing dir.; **Patrick Hanna** advances to corporate vp-business strategy vp from dir. of planning... **H.A. Wagner** appointed Agere Systems chmn., replacing **John Young**, who remains a dir.

Although **Amazon.com** results have appeared to be strong so far this holiday season, at least one analyst last week said she still wasn't sure about e-tailer's future. News report quoted Robertson Stephens analyst Lauren Levitan as saying: "We are encouraged by Amazon's trends thus far into the holiday season. That said, we are not convinced that the company's ability to achieve its 4th quarter guidance sufficiently answers our longer term questions surrounding Amazon's evolving business model, the company's profitability potential or justifies its current valuation." While she said Amazon's 4th quarter sales appeared to be on track to reach \$1.02 billion, she said chance for revenue improvement greater than 10% was doubtful because of e-tailer's service agreements and growing used product category.

Amazon.com opened its new Egghead.com Web site powered by Amazon's e-commerce platform. In announcing re-launch of Egghead.com site, Amazon said it was making "a significant number" of GameCube systems available to Egghead.com visitors via its online partnership with Toysrus.com. Amazon revealed earlier this month it had purchased Egghead.com's assets in bankruptcy court for \$6.1 million (TVD Dec 10 p14). In buying Egghead.com URL, Amazon began redirecting customers from former Egghead.com site. Amazon spokeswoman said company bought Egghead.com assets because of company's well-known brand name and potentially to add new customers.



TELEVISION DIGEST WITH **CONSUMER ELECTRONICS**

The Authoritative Service for Broadcasting, Consumer Electronics and Allied Fields

DECEMBER 31, 2001

VOL. 41, NO. 53

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Broadcast - Cable

DTV GUIDELINES REVISED: Public TV, facing 'commercialism' complaints, is working on plans for excess DTV spectrum. No impact on broadcast planned. (P. 1)

TV GROUPS HEALTHY: Tax returns show surpluses in most cases. MPAA, NCTA lead salary sweepstakes. NAB unaffected by network defections. (P. 2)

SMALL CABLE OPPOSES DEALS: ACA objects to EchoStar-DirecTV, Comcast-AT&T. Ability to compete after deals is questioned. (P. 4)

NATPE SEEKS RELEVANCE to TV stations, despite defection of major programmers. Task force to report in April. Station groups cutting back. (P. 4)

GOVT. OVERSIGHT URGED for AT&T-Comcast deal. Center for Digital Democracy questions future of multiple ISPs. Comcast says it's not an issue. (P. 5)

ECHOSTAR EXPANDING SPACEWAY, will invest \$1 billion in Internet-related satellite service. One target is easing opposition to DirecTV merger. (P. 5)

PTV DTV SPECTRUM GUIDELINES BEING REVISED: Faced with criticism of "creeping commercialism" in public broadcasting following FCC decision to allow PTV stations to solicit ads on their excess nonbroadcast digital capacity, Assn. of PTV Stations (APTS) is reviewing voluntary guidelines for PTV stations' use of their digital ancillary and supplementary services. APTS intends to revise guidelines to ensure that PTV stations use their "new freedom" responsibly, Pres. John Lawson told us. Guidelines would be strengthened with 2 objectives in mind, he said: (1) To assure that stations use their new funding streams to plow back revenue into developing noncommercial content. (2) To demonstrate to critics that PTV stations will use their freedom to solicit ads on nonbroadcast digital channels responsibly.

Under voluntary guidelines adopted in anticipation of FCC decision, PTV stations had promised that: (1) Providing ancillary or supplementary services wouldn't derivate PTV stations' free, over-air digital program service. (2) Ancillary or supplementary services wouldn't interfere with station's primary noncommercial educational broadcast service in terms of either quantity or quality. (3) Entities that had interest in PTV's ancillary or supplementary services such as advertisers or sponsors wouldn't influence content of licensee's primary noncommercial educational broadcast service. (4) Licensees would exercise regular oversight over their ancillary and supplementary services and file annual statement with FCC certifying they were using their digital channel primarily for noncommercial educational services and that ancillary and supplementary services weren't interfering with stations' primary noncommercial educational services.

As for criticism by group of House Commerce Committee leaders, including Committee Chmn. Tauzin (R-La.), that FCC decision to allow public broadcasters to accept ads would "accelerate the trend towards creeping commercialism,"

Lawson said opposite was true. "We believe that public television stations' ability to use some of their nonbroadcast digital spectrum to produce revenue would serve as an antidote to creeping commercialism," he said, because in present analog environment stations were under pressure to run underwriting that brought in nonfederal revenue on prime-time programming, resulting in some stations' airing "enhanced" underwriting spots, Lawson said. "Allowing stations to tap some of the nonbroadcast streams will take some of this pressure off," he said. Public broadcasters got the impression that most Congress members understood that PTV stations had "right" to develop new funding streams, he said: "We will do everything to demonstrate to them that we intend to use the new freedom responsibly."

As many as 172 PTV stations are expected to begin broadcasting digital signal by end of 2002, according to APTS' latest revised projections. By FCC-mandated deadline of May 2003, 292 stations are expected to be digital ready, Lawson said — 82% of PTV stations — up from present 48. He said projections were based on estimates by stations themselves, taking into account anticipated state, local and federal funding. Stations had raised \$762 million as of Oct. at state and local levels compared with estimated total cost of \$1.7 billion for PTV's digital conversion. Current economic slowdown that has led state govts. to cut back on spending could hurt those projections, Lawson conceded. It also is possible that some stations in rural areas could go off air without federal assistance, he said. APTS did not have figures on PTV stations' seeking waiver of FCC digital conversion deadline. However, Commission had made it clear that it would not grant waiver lightly and that economic hardship might or might not be justification for waivers, he said.

Lawson said he had met FCC Chmn. Powell and Comr. Martin Dec. 19 to give them updates on PTV's digital transition and explain plans to use DTV for education, especially to provide broadcast service to rural America. He said \$25 million approved by Congress for PTV's digital transition costs for FY 2002 coupled with release of \$20 million in appropriated FY 2001 funds and Public Telecom Facilities Fund (PTFP) grants gave public broadcasters more than \$100 in federal funds for digital conversion for FY 2002.

As for dual carriage on cable, Lawson said that notwithstanding commercial broadcasters' decision not to press for dual carriage, public broadcasters were sticking to their demand for dual analog/digital cable carriage during transition. "But if we reach some threshold of carriage with MSOs, we would be more than willing to communicate to the FCC and Congress that government intervention is no longer necessary," he said. Negotiations with cable operators on voluntary carriage agreements similar to one signed with Time Warner haven't made much progress, Lawson said. In part, reason for lack of progress is local nature of PTV stations and their varying DTV program strategies, he said, and both industries were "complicated" and "it will take a lot of time to understand each other's business interests."

Lawson clarified that PTV carriage deal with DirecTV was limited to analog channels and said he hoped it would hold even if merger with EchoStar were approved. If merger takes place, there would be additional capacity, he said, and he hoped it would lead to carriage of local PTV stations in additional markets. Public broadcasters are negotiating carriage deal with EchoStar, he said.

TV GROUPS SHOW HEALTHY FINANCES: Showing little adverse impact from recession in most recent tax filings, big TV associations generally enjoyed sound surpluses — and at least 2 paid their top executives \$1 million or more — according to their latest tax returns. New leader in communications groups salary sweepstakes was Cellular Telecommunications & Internet Assn. (CTIA) Pres. Tom Wheeler, at just under \$1.3 million total compensation. MPAA Pres. Jack Valenti was close 2nd at \$1.16 million, followed by NCTA Pres. Robert Sachs at \$1.09 million and NAB Pres. Edward Fritts at \$908,552.

NAB had biggest surplus among associations at \$5.8 million, followed by NCTA at \$4.9 million, MPAA at \$4.4 million, CEA \$2.6 million. Most public broadcasters, who also file IRS Form 990s, had healthy surpluses, although PBS had \$21.9 million deficit. However, some are likely to have less stellar returns for 2001 tax year just concluding.

NAB's bottom line showed no adverse impact from defections of 3 major TV networks and their owned stations, with revenue for fiscal year ended March 31 of \$61.6 million, up from \$55 million for year ended March 31, 2000, according to annual tax return. Expenses for most recent year increased to \$49.2 million from \$40.7 million. Lion's share of revenue came from annual convention that, combined with other meetings such as Radio Show, brought in \$44.7 million — compared with only \$11 million from membership dues. As of March 31, Assn. had \$106.8 in outside investments. NAB paid \$10.3 million in salaries, with Fritts receiving \$839,992 in salary (up from \$746,192), plus \$68,560 in deferred compensation and "other allowances."

Boosted by more than \$14 million in revenue from programs, notably its national convention, NCTA ended 2000 tax year with surplus of nearly \$4.9 million (down from nearly \$6 million surplus previous year) on \$35.6 million revenue,

including \$19.9-million dues. Convention revenue was \$15.6 million previous year. Total salaries were just under \$10 million, and other biggest single expense was \$4.8 million for conferences and meetings. Sachs was paid \$1.08 million, plus \$10,043 in employee benefits.

Consumer Electronics Assn. had \$2.6 million surplus on revenue of \$40.8 million. Salaries totaled \$6.6 million and group spent \$1 million on conventions and meetings. Officers' salaries included \$460,000 plus \$45,751 benefits for Pres. Gary Shapiro, \$150,000 for secy. and lobbyist Gary Klein, and \$106,000 for Treas. Dan Deignan. Consumer Electronics Show contributed \$33.7 million of revenue and \$15.9 million of expenses. Group also spent \$5 million for professional fees.

MPAA ended 2000 tax year with \$4.4 million surplus on \$45.5 million revenue (\$38.4 million dues). Salaries totaled \$14.7 million, Worldwide Antipiracy Fund \$8.6 million, legal fees \$3.4 million, lobbying and political expenses \$4.4 million. Group also received \$3.8 million for its film rating services. Valenti received \$1.1 million, plus \$58,443 from Eye St. Corp. (which owns building housing MPAA) and \$18,851 benefits, vs. total of \$1,119,250 previous year; Exec. Vp William Baker \$414,868; Exec. Vp Simon Barsky \$316,064; Exec. Vp William Murray \$257,762; Senior Vp John Collins \$233,594; Senior Vp Bethlyn Hand \$214,088; Vp Greg Goeckner \$206,713; Senior Vp Brad Hunt \$205,578; Senior Vp Vans Stevenson \$200,900; and Exec. Vp Fritz Attaway \$193,511 plus \$25,801 from Eye St. Corp.

CPB had \$358 million revenue in most recent tax year (ended Sept. 2000) and \$344.7 million expenses. Govt. contributions and grants totaled \$313.7 million and direct public support \$25.6 million. Total salaries were nearly \$7.4 million and program services spending totaled \$326.2 million. Pres. Robert Coonrod received \$151,800 plus \$30,360 benefits; Senior Vp Kathleen Cox \$152,100 plus \$30,349; Exec. Vp Fred DeMarco \$148,495 plus \$28,113.

PBS ended most recent tax year, ended June 30, 2000, with \$21.9 million deficit on \$485.9 million revenue, including \$187 million in gifts and grants and \$130 million in membership fees. Salaries accounted for \$32 million of expenses, with programming and related costs nearing \$438 million. Pres. Pat Mitchell was paid \$104,091 for partial year and outgoing Pres. Ervin Duggan received \$128,383 salary plus \$542,841 transitional and retirement benefits, as well as nearly \$64,000 in other benefits and allowances. Exec. Vp Robert Ottenhoff received \$75,625 compensation plus \$292,297 transition benefits. Other salaries included \$245,000 to Exec. Vp Beth Wolfe; \$213,076 to Senior Vp James Guerra; \$202,275 to Senior Vp John Wilson; \$186,583 to Senior Vp Jinny Goldstein; \$182,015 to Senior Vp Eric Sass; \$175,178 to Exec. Vp John Hollar; \$174,375 to Gen. Counsel Greg Ferenbach; \$173,667 to Senior Vp Edward Caleca; \$168,347 to Senior Vp Cindy Johanson; and \$157,955 to Senior Vp Robert Altman.

NPR's \$133.7 million revenue for most recent tax year (ending Sept. 2000) exceeded expenses by \$13.6 million, including \$73.7 million direct public support, \$53.9 million program service revenue. Total salaries were nearly \$44 million, including \$222,169 plus \$82,818 benefits for Pres. Kevin Klose; \$153,585 plus \$45,425 for Exec. Vp Kenneth Stern; \$222,059 and \$217,138, respectively, for marketing officials John Gilmore and Kent Martin; and \$216,788 for host Robert Edwards.

WETA ended most recent tax year (ended June 30, 2000) with \$6.8 million surplus on \$69.2 million revenue, including \$35 million for program service, \$19 million membership dues and \$14.1 million from direct public support. Program service accounted for \$45.7 million of expenses and salaries \$13.6 million. Pres. Sharon Rockefeller received \$204,357, plus \$32,390 employee benefits; Exec. Vp Dalton Delan \$185,130 plus \$29,343; and Exec. Vp Joseph Widoff \$161,788 plus \$25,643.

Among other tax filings: (1) NATPE, already suffering from convention revenue dropoff, had \$2.9 million deficit in 2000 tax year on \$11.1 million revenue, including \$10.5 million from convention. Pres. Bruce Johansen received \$540,000, plus \$68,176 benefits. (2) National Assn. of Telecom Officers & Advisers broke virtually even for 2000 tax year, with \$942,365 revenue (up from \$828,641 previous year). Group paid \$295,200 to management company, \$102,355 to Exec. Dir. Libby Beaty. (3) In last year before it had to postpone its annual convention, RTNDA had \$296,083 surplus on \$3.7 million revenue, including \$2 million from convention. Pres. Barbara Cochran received \$213,591 plus \$6,000 benefits.

(4) Cable TV Public Affairs Assn. had \$130,152 surplus on \$639,181 revenue. Big expense was \$172,341 salaries. (5) Media Access Project reported \$379,919 surplus on \$893,191 revenue. Pres. Andrew Schwartzman was paid \$107,890, plus \$11,310 benefits. (6) American Ad Federation had nearly identical \$4.7 million revenue and expenses. Officers and directors had total salaries of \$230,846. (7) Promax/BPME had \$7.9 million revenue and \$7.6 million expenses. Total officers' and directors' compensation was \$916,100.

SMALL CABLE OPPOSES DEALS: Small cable companies led by American Cable Assn. (ACA) are lining up against EchoStar's takeover of Hughes Electronics-DirecTV and Comcast's union with AT&T because of fears about convergence and competition. EchoStar-Hughes deal would create DBS company with 17 million subscribers, while new Comcast company would have 22 million. ACA is concerned deals will have severe impact on programming prices and hurt their ability to be competitive. Total of 1,200 smaller independent cable operators with 12 million subscribers, 17% of cable subscribers, belong to ACA. "What we fear is policy-makers are going to take their eye off the ball because they are going to be focused on these high-profile media mergers and not the smaller markets," ACA Pres. Matthew Polka said.

ACA said local operators would be hurt if they were forced to compete with larger DBS entity that offered lower prices and more channels. Attorneys Gen. of several states have written letters and are discussing ways to block EchoStar-DirecTV deal. What's good for satellite companies may hurt local cable operators, said spokesman for Tyler, Tex.-based Buford Media Group: "They are competing at a price below the cost. How can they do that? Tell me what's going on." However, satellite officials said customers hadn't been hurt and competition had been good because cable operators had been forced to upgrade systems by installing digital networks to keep pace with DBS. "Customers are getting more channels, more diverse programming and more choices," satellite official said, and DBS companies are "forcing improvements on cable operators."

Some independent cable operators are forced to choose between upgrading their equipment or losing subscribers and "that's not right," said Midwest cable official. Small and sparse subscriber bases in rural areas make it difficult, at best, to recoup investment to upgrade systems, he said. Rural operators may get only 30 households per mile compared with 150 per mile in urban areas, source said, and programming costs also are rising. Cost of ESPN channel has nearly doubled in 5 years to nearly \$2 per subscriber, small cable official said, making it one of most expensive basic channels. Other major national channels are controlled by handful of companies, including AOL Time Warner, Disney, GE, News Corp. and Viacom and many of those such as Vivendi (EchoStar) have ties to pay-TV companies. Small cable operators said they might pay as much as 40% more for programming than major cable and satellite operators.

Many rural operators have sold out in last several years, according to Independent Brokerage (IB) of Denver, which finds buyers for cable companies. IB said number of cable operators trying to sell this year had doubled, although no exact figure was given. Ark. cable system lost 100 of its 1,200 subscribers in one month before owner decided to sell, IB spokesman said. "We've had more listings of rural cable systems than we've ever had," IB partner Cindy Lyle said: "They are losing subscribers monthly. They have come to a crossroads."

Emmis TV's WTHI-TV Terre Haute said it wouldn't renew contract (expiring Dec. 31) for Nielsen local ratings because, Emmis Research Vp Vanessa Oubre said: "We felt the price increases that Nielsen demanded were unjustified based on the service provided." Emmis's WFTX Cape Coral, Fla., "already uses other, non-Nielsen resources" in estimating number of viewers, Emmis said.

NATPE SEEKS RELEVANCY TO STATIONS: Times have changed dramatically in TV syndication world and as result, NATPE admits it's in the process of "reinventing itself" to become more relevant to needs of both its TV-station and syndication members with approach of Jan. 21-24 convention in Las Vegas. Assn. next month is placing heavier emphasis on advertisers and their agencies with back-to-back sessions. There also will be greater emphasis than in past on sports programming and regulatory issues — with all 4 FCC commissioners participating, along with 14 members of Congress.

Defections of major programmers from NATPE exhibit floor to Venetian Hotel in Las Vegas has been well documented, which NATPE calls "a purely economic decision" on their part. "The fact of the matter is, they are still coming to NATPE and they are still doing business here," said Nick Orfanopoulos, NATPE senior vp-conferences. Said Richard Askin, pres. of defector Tribune Entertainment: "I think the reality is, the entire business [is] looking to the NATPE organization to make some changes that are consistent with where the business is going and what it may be in future years."

To that end — and with expected attendance loss of about 40% (record 19,834 attended Jan. 2001 convention) — NATPE has formed 7-member task force to map its future. Headed by incoming NATPE Chmn. Tony Vinciquerra, who earlier this month moved from Hearst-Argyle to pres. of Fox TV Network, task force is scheduled to make its recommendations to NATPE board in April. There have been many suggestions that NATPE meet in spring (as more timely for both stations and syndicators) and combine with other broadcast organizations. After several years of holding its convention in conjunction with NATPE, ALTV won't meet in Jan. in Las Vegas, citing economy. New media and international TV executive members have been major NATPE growth areas in recent years, and that trend is continuing for 2002, Assn. said. Last Jan., there were 4,525 registered from outside U.S., 2,590 from new media.

Staple of many previous NATPE conventions had been get-togethers of Big 4 TV networks with affiliates, although CBS didn't host meeting last Jan. Only Fox plans to meet with affiliates this year. TV station groups (more than dozen) we have asked about NATPE said they would be represented — but with much smaller delegations and some for only one or 2 days. One very large station group said it was sending only one person, "but this is more a reflection of the dysfunction of NATPE rather than the economy." CEO of smaller group told us all his gen. mgrs. attended NATPE last Jan. but he was only one who would be in Las Vegas next month. Longtime small syndicator was especially harsh on NATPE: "There are a lot of foreign guys running around looking for cheap product." Of station executives who attend, he said, "they don't buy anything."

Using Internet to recruit minorities for broadcast stations and cable system is "a promising development," FCC said in text of its Dec. 12 EEO proceeding, which became public Dec. 26. But Commission said Web couldn't "be relied upon, by itself, to widely disseminate job vacancy information." TV companies must continue to use other recruitment methods, FCC said, but it's willing to revisit issue in future. Commission did decide, however, that there was no proof that it would be unduly burdensome for every broadcaster to place its EEO public file on its Web site, if it had one. Broadcasters had claimed some wouldn't have ability to post that much information easily, but FCC said they hadn't proved their case. It said it was willing to reconsider if broadcasters provided adequate proof of burden.

GOVT. OVERSIGHT URGED: Center for Digital Democracy (CDD) doesn't believe Comcast Pres. Brian Roberts when he says he's committed to allowing multiple ISPs aboard his company's cable plant. CDD Dir. Jeff Chester intends to ask Justice Dept. and FTC to make sure that AT&T Comcast, if merger is completed, lets independent ISPs compete with any similar services AT&T Comcast offers over its plant. Chester said he would ask for oversight similar to that imposed upon AOL-Time Warner deal, which stipulated that at least 3 independents be offered wherever its incumbents, AOL and Road Runner, are offered to customers. Chester said he saw number 3 independents as floor, not ceiling, and would prefer more ISPs be offered as choices to consumers. AOL-Time Warner has said multiple ISP model has helped, not hurt, its AOL and Road Runner services by drawing more customers overall to Internet product.

Comcast said recent demise of Excite@Home was example of why working with multiple ISPs was simply good business. Industry source also said there were key differences between AT&T Comcast and AOL-TW deals — namely, that AOL-TW owned nation's and world's largest ISP and hadn't negotiated agreements with any independent ISPs at time of its merger. However, AT&T CEO Michael Armstrong and Comcast's Roberts don't own dominant service providers of their own, and both said recently that they expected to sign negotiated agreements with independents in 2002. Comcast is conducting trials in Philadelphia area with both Juno and Earthlink. AT&T Broadband and Comcast together would have 387,100 miles of plant passing 38.5 million homes, according to *Warren Communications News Television & Cable Factbook*.

Both AT&T Broadband and Comcast until recently relied solely on @Home to provide backbone for their cable modem services, but @Home's bankruptcy forced both to build their own networks. While Comcast was able to work out deal with @Home to maintain service until @Home's network goes dark in late Feb., AT&T's 850,000 customers were left stranded without Internet service for up to one week. AT&T since has switched those customers to another network. In wake of @Home's bankruptcy, some consumer advocates pointed to AOL-TW's more open architecture as model in ensuring uninterrupted Internet service to customers.

Chester contended that without consent decree and FTC's watchful eye, AOL-TW wouldn't have engaged in "any kind of meaningful commercial contract" with Earthlink and other ISPs that now operated on its network. And despite Comcast's public statements that it supports multiple ISP model, company has been "one of the leaders in the cable industry opposing open access safeguards," Chester said: "We don't intend to allow them to get away with trying to fool the public into believing that they are committed to open access. That's going to be a principle battleground in this merger." Roberts essentially has said there will be no battle, that Comcast wants competing ISPs and is willing to negotiate with them, but doesn't believe in govt.-imposed solutions.

NCTA opposes what it calls "forced access" that would infringe on cable companies' First Amendment rights, and assn. notes that cable modems allow users to access any site on Internet. Cable companies have invested \$45 billion since Telecom Act to upgrade their plant for such broadband services and shouldn't be forced to allow others to reap benefits of their hard-won investment, assn says. Also, NCTA said cable didn't have "bottleneck" control over Internet access, that telephone

companies, electric utilities, wireless and satellite providers offered alternatives. AT&T and Comcast both are conducting technical trials to determine how to provide, bill, link, service and troubleshoot multiple ISPs on cable modem platform, NCTA said.

FCC currently is weighing how to define cable modem service — whether it's telecom service, cable service or other type. Question is important in determining what, if any, FCC regulations may apply. Cable companies believe it should be considered cable service, in part because industry enjoys regulated rates for pole attachments. Supreme Court also is weighing issue in *FCC v. Gulf Power*. Meanwhile, FTC has been overseeing AOL-TW's consent decree and various contracts it has formed with ISPs. Chester said "you need to have an anti-trust agency such as Justice or the FTC oversee these deals." Allowing AT&T Comcast to create deals on its own would make ISPs "supplicants" rather than competitors because of new company's huge market share, Chester said. Getting on network or being cut off from it has potential to make or break ISP, he said: "We will be able to show that Comcast will have significant control over 40% of America's digital destiny."

However, Chester acknowledged that getting conditions imposed on deal would be tough fight with Republican Administration in control. "This is going to be a bloody battle." Industry source said Chester and others who wanted to pick fight should wait to see what carriage deals AT&T Comcast negotiated without govt. intervention.

ECHOSTAR EXPANDING SPACEWAY: EchoStar is planning to invest \$1 billion to expand Hughes' Spaceway subsidiary. CEO Charles Ergen admitted decision to invest so much in high-speed Internet project was "extremely risky," but said "I'm passionate about trying to develop that technology." He promised to develop new generation of satellites to boost Spaceway and said deal would give company "the financial structure and subscriber base" needed to avoid "betting the entire company on the outcome" of project. He also said he planned to grow stake in PanAmSat, satellite operator of which Hughes owns 81%.

Ergen's plans for PanAmSat and Spaceway were surprise to analysts and industry officials who have been following company. One analyst said: "He is positioning himself to make a stronger case for regulatory approval because of the mounting opposition from rural forces. This could pay off in a big way." Many analysts had speculated Ergen would sell PanAmSat once he won regulatory approval of takeover of Hughes Electronics. They also believed he would cut back or sell off Spaceway, in which Hughes already had invested \$1.4 billion with little or no return. However, major EchoStar investment in Spaceway could make company more palatable to regulators because of potential that high-speed Internet service provides, industry analyst said. Providing broadband service to remote and rural areas is seen as one of linchpins in gaining regulatory approval for proposed EchoStar takeover of Hughes DBS. Many lawmakers and industry analysts believe satellites are best way to provide service where there are few fiber networks, sources told us.

PanAmSat has "a lower growth, predictable business that marries pretty well" with more DBS business, analyst said. Ergen also said some DirecTV Latin American businesses were core operations that wouldn't be sold unless competition with News Corp. became too expensive, industry reports said.

Personals

Changes at Game Show Network: **Curt Northrup** promoted to exec. dir.-development; **Kevin Belinkoff**, ex-Pearson TV, appointed exec. dir.-programming, new post... White House nominations to Bcstg. Board of Governors: **Kenneth Tomlinson** of National Sporting, for term expiring Aug. 13, 2004; **Steven Simmons** of Simmons Communications, expiring Aug. 13, 2003... White House nominated **Howard Schmidt** of Microsoft to vice chmn., President's Critical Infrastructure Protection Board... New Library of American Bcstg. board members: **James Greenwald**, Katz Media Group; **Marc Guild**, Interop; **James Morley**, retired Cox Radio; former FCC Comr. **Susan Ness**; **Russell Withers**, Withers Bcstg... Sirius Satellite Radio CEO **Joseph Clayton** named to boards of EIA and CEA... **Steven Cochran** promoted to CFO, Millennium Digital Media.

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Public broadcasters in N.Y.C. affected by Sept. 11 attacks would get \$8.25 million under conference report (H.-Rpt. 107-350) for Dept. of Defense (DoD) appropriations bill (HR-3338). Senate recently voted 94-2 to approve bill that included section proposing DoD and non-DoD supplementary disaster-related funds for various federal agencies and relief efforts. Proposed funds for public TV and radio stations would be used primarily to replace towers, transmitters and other broadcast infrastructure destroyed in World Trade Center collapse. Compensation up to \$8.25 million would be distributed via NTIA's Public Telecom Facilities Program, while exempting eligible stations from program's matching grant requirements. Funds are to be derived from emergency spending legislation (P.L. 107-38) signed earlier by President Bush. Report doesn't require broadcasters to find sites for replacement towers before receiving NTIA grants, issue raised last month by House Appropriations Committee member Burr (R-N.C.) and acknowledged by Chmn. Young (R-Fla.). Burr had questioned wisdom of giving money to stations that hadn't secured new sites, and Young concurred on House floor. They urged NTIA to refrain from distributing funds before new sites had been assured, but that wasn't included in report. In meantime, consortium of 11 N.Y. and N.J. TV stations has formed Metropolitan TV Assn. (TVD Dec 17 p4) to assist in locating new sites.

Public broadcasters applauded Congress for approving \$380 million in advance appropriation for CPB for FY 2004 in face of Bush Administration's stated decision to limit advance funding. Administration had said CPB should get appropriations like other programs that received federal assistance, so its 2004 funding request would be in FY 2004 budget. Saying that was challenge to CPB's traditional advance appropriation funding status, Pres. Robert Coonrod said public broadcasters were able to convince Budget and Appropriations committees that "the tool of advance appropriation is key to leveraging the federal dollars for nonfederal support, for providing adequate lead time for production of programming and for insulating public broadcasting from undue political influence." Funding for 2004 represents \$15 million increase over 2003 but \$15 million short of requested \$390 million. Senate also voted \$25 million for costs of public broadcasters' digital transition for 2002, increase of \$5 million over \$20 million for this year.

There has been "little movement" on proposals for public interest obligations for DTV broadcasters, Benton Foundation said in statement on 3rd anniversary of recommendations issued by Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC). Benton said, for example, it appeared that broadcast ownership diversity was getting worse as result of consolidations.



PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

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

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

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Cable's heavy hitters will be at this year's Consumer Electronics Show, including Comcast Pres. and expected CEO of new AT&T Comcast Brian Roberts; Time Warner Cable CEO Glenn Britt; Charter CEO Carl Vogel; Cox CEO James Robbins. More than 30 leaders from cable will be part of CableLabs contingent at show Jan. 8-11 in Las Vegas. All are members of CableLabs executive committee and intend to meet as group with CEOs of several major technology companies, CableLabs spokesman said. "It was just felt that these guys wanted to go and take a look at the floor... and then hold some meetings with some executives with some companies," he said. CEA Pres. Gary Shapiro said ties between consumer electronics and cable companies were becoming "more critical" with more than 80% of Americans getting their TV programming through cable.

Consumer Electronics

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

STATE OF THE INDUSTRY

Sales to dealers, from CEA for week ending Dec. 14 and year to date:

	DEC. 8- DEC. 14	2000 WEEK	% CHANGE	DEC. 1- DEC. 7	50 WEEKS 2001	50 WEEK 2000	% CHANGE
TOTAL COLOR TV.	553,781	534,858	+ 3.5	668,737	25,633,348	29,322,950	- 12.6
DIRECT-VIEW**	533,976	513,695	+ 3.9	653,949	24,737,701	28,159,598	- 12.2
TV ONLY#....	469,880	437,860	+ 7.3	528,777	20,270,929	23,308,102	- 13.0
TV/VCR COMBO.	64,096	75,835	- 15.5	125,172*	4,466,772	4,851,496	- 7.9
PROJECTION TV	19,805	21,163	- 6.4	14,788	895,647	1,163,352	- 23.0
TOTAL VCR**...	253,948	345,980	- 26.6	372,913	19,028,275	27,475,517	- 30.7
HOME DECKS...	189,852	270,145	- 29.7	247,741	14,561,503	22,624,021	- 35.6
CAMCORDERS....	59,355	57,537	+ 3.2	103,823	5,175,168	5,663,954	- 8.6
DVD PLAYERS....	353,928*	169,333	+109.0	353,501*	12,238,574*	8,037,545	+ 52.3

Direct-view TV 5-week moving average#: 2001--524,850; 2000-602,605 (down 12.9%).

Projection TV 5-week moving average: 2001-21,474; 2000-29,434 (down 27.0%).

VCR deck 5-week moving average: 2001--311,473; 2000-517,102 (down 39.8%).

TV/VCR 5-week moving average: 2001--114,367; 2000-118,111 (down 3.2%).

Camcorder 5-week moving average: 2001--119,598; 2000-132,175 (down 9.5%).

DVD player 5-week moving average: 2001--442,101*; 2000-264,501 (up 67.1%).

* Record for period. **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.

CAMCORDER PRICES DROPPING ON TRANSITION TO DIGITAL: Transition from analog to digital camcorders is expected to reach fever pitch in 2002 as prices continue to decline and Sony readies micro-Mini DV model.

Post-Thanksgiving advertising blitz pushed promotional prices for VHS-C and 8mm analog camcorders to \$199, while entry-level digital models from Panasonic, Samsung and others hit \$380-\$399 range. While pricing in some cases was one-shot promotion — Wal-Mart was said to have bought heavily in RCA VHS-C piece to hit \$199 — retails are likely to become firmly established in 2002, especially with market share leader Sony expected to start digital line at \$499.

“Analog for us is almost completely gone and it’s resigned itself to the promotional arena,” Ultimate Electronics CEO David Workman said. His chain will whittle analog camcorder assortment to 3-6 SKUs by end of 2002 from current dozen models. “The delta in terms of the price gap is there so that there is no reason why consumers would really want to invest in the old format unless they were looking at the bottom end of the price tier.”

Indeed, through Nov., 3 million camcorders had been sold through retail, 33% of which were digital, NPD Intelect reported. At specialty CE chains, digital topped 50% of overall camcorder sales. Hi8mm accounted for 34% of unit sales through Nov., up from 14.2% year ago, followed by VHS-C, 27.3% (32.2%); Mini-DV, 17.3% (13.6%); Digital 8, 15.7% (11.4%); 8mm, 4.7% (27.2%); and full size, 1% (1.3%), NPD said. Huge analog shift to Hi8mm from 8mm was largely by Sony, which put greater emphasis on step-up format this year. Canon, which

also had championed 8mm, closed out much of its inventory to focus on digital. In full-size, Sears models represented majority of category, NPD analyst Tom Edwards said. As for pricing, average retail in Nov. for 8mm fell to \$189 from \$348 year ago and Hi8mm to \$350 from \$480, followed by VHS-C, \$337 (\$386); D-8, \$722 (\$865); Mini-DV, \$850 (\$1,105); full-size, \$443 (\$484).

"It's a nice business for us, but not a very profitable one," said Target Vp-Electronics Mds. Steve Eastman, whose chain carries 6 camcorders split evenly between analog and digital. "We're still questioning whether or not the category is long for us. We like the sales, we just don't like the bottom line results." Wild card as possible way to boost average selling price could be micro-Mini DV camcorder that Sony is expected to introduce in U.S. at CES in Jan. It's described by those that have seen it as pocket-size model. Sony officials couldn't be reached for comment and complete specs weren't available, but camcorder was said to have Memory Stick slot and be priced in \$999-\$1,299 range.

MATSUSHITA SUES REPLICATORS OVER DVD PATENTS: Charging infringement on key DVD patents. Panasonic parent Matsushita Electric Industrial sued Bertelsmann's Sonopress subsidiary and Cinram International, each among world's largest replicators of prerecorded media. Charges involve 5 U.S. patents for various aspects of DVD software technology, Matsushita spokesman told us. Company is seeking jury trial, injunction against further infringement, unspecified damages. Complaint was filed in U.S. Dist. Court, Wilmington, Del., late Dec. 20.

Matsushita sued Bertelsmann and Cinram "to prevent them from using its patents for DVD without a proper license," spokesman said. "Matsushita Electric believes it is important to protect its valuable intellectual property rights. We also believe it is not fair to companies that played by the rules and have taken licenses if we allow companies without licenses to use our patents."

Infringement suit entails 5 U.S. patents issued to Matsushita from Oct. 1997 to May 2001. They cover methods for manufacturing, recording and fabricating optical discs as well applications for menus and plural layers on discs. Relevant patent numbers are, in chronological order: 5,681,634; 5,790,487; 5,876,823; 5,881,032; 6,226,446 B1.

Comment wasn't available from Sonopress, based in Gutersloh, Germany, at our deadline last week, and Bertelsmann hq in N.Y.C. was closed for holidays until Jan. 2. Sonopress is part of Bertelsmann Avarto Group; Bertelsmann's BMG record labels are big replication customers, and Sonopress has contract to replicate Xbox discs for Microsoft in Europe. Toronto-based Cinram has facilities in Canada, U.S., Europe, Latin America. Last month, it said sales for 9 months through Sept. 30 increased 37% to \$557.5 million from \$406.6 million in 2000 period (Canadian dollars). Net earnings for period were \$4.3 million, down from \$6.8 million in 2000. Cinram comment on suit wasn't available.

Unclear at our deadline was whether N.Y. metro area CE retail chain The Wiz would be affected by parent company Cablevision's announcement that it would be eliminating 600 positions — about 4% of Bethpage, N.Y.-based company's full-time staff. Cablevision said job cuts would be "primarily in corporate, administrative and infrastructure functions across various business units of the company." It said cuts were part of restructuring for which it would take one-time charge of \$55 million in 4th quarter. Restructuring is to improve operational efficiency to position company "for continued growth in 2002 and beyond," company said, adding: "In addition to employee severance, the restructuring charge includes expenses associated with facility realignment and other related costs." Cablevision spokeswoman declined to say Fri. whether positions at Wiz would be eliminated or whether chain would be hit by restructuring in any other way: "We're not commenting beyond the [news] release at this point." Only divisions of company Cablevision specifically said were not expected to be affected were its consumer telecommunications customer relations and field service operations. Commenting on restructuring, Cablevision CEO James Dolan said: "It is always very difficult to reduce staff. However, it is also imperative that Cablevision position itself to achieve maximum operational results. Today's announcement is an outgrowth of a thorough strategic review of 2002 and beyond."

Bose accounted for 10.4% of Phoenix Gold's (PG) net sales of \$28 million in fiscal year, down from 10.7% year earlier when company had sales of \$27.6 million. Bose purchasing agreement with PG expired in March and companies are negotiating new pact, PG said in SEC filing. PG, whose purchase of AudioSource year ago gave it access to Sears and Costco, said net loss for year narrowed to \$162,275 from \$1 million. Inventories rose to \$7.9 million from \$5.7 million due in part to addition of AudioSource speakers and amplifiers. AudioSource also restored PG's ties to Best Buy, where it previously had lost business to Rockford Corp.

Retailer Movie Gallery acquired Video Update stores after latter's reorganization plan had been confirmed by U.S. Bankruptcy Court, Camden, N.J. Movie Gallery, based in Dothan, Ala., said addition of 320 Video Update locations would give it 1,410 outlets in 41 states and 5 Canadian provinces. Separately, chain is acquiring 48 VHQ Entertainment stores in Canada.

THIS WEEK'S YEN RATE

Yen values have been converted to dollars in this week's issue at ¥132 = \$1, except where noted.

XBOX SHIPMENTS STILL 'ON TRACK': Number of Xbox videogame consoles that had been shipped and sold through to date was unclear Fri. But Microsoft once again said it was "shipping more than 100,000 units per week to North American retailers through the end of year, putting the system on target for Microsoft's goal of delivering between 1 million and 1.5 million units for 2001."

Microsoft said fact that Xbox was "being manufactured in proximity to U.S. retailers" — in Guadalajara, Mexico, by Flextronics — was "accelerating the manufacturer-to-retailer cycle." Updated numbers on how many competing GameCube consoles had shipped in N. America to retailers and sold through were unavailable Fri. from Nintendo of America. As we reported last week, Xbox seemed to be ahead of GameCube in number of units shipped and sold through as of Dec. 18.

Meanwhile, Microsoft said Fri. that games portfolio for its Xbox console was "growing at record rate" and said platform was attracting "unprecedented developer support." Company said 38 Xbox software titles would be available by year-end. It also again took opportunity to slam GameCube, saying Xbox portfolio by year-end would be "nearly double the number developed" for Nintendo's system, which also started shipping in N. America last month.

Chief Xbox Officer Robbie Bach said: "We're ecstatic about the support we're seeing for Xbox. Since day one, game developers have been excited about how easy it is to bring their creative visions to life on Xbox. Now the gamers are the ones benefitting, with a great choice of great games in all the key categories." He said: "Our stated goal was to deliver 30 titles by the holiday season. We're happy to be able to exceed that goal."

Most-recently shipped Xbox games included *Azurik: Rise of Perathia* and *Nightcaster* from Microsoft Game Studios; *Max Payne* from Take-Two Interactive; *NHL 2002* from Electronic Arts; *Star Wars Obi-Wan* from LucasArts Entertainment. Microsoft said games would "keep on coming in 2002," and those scheduled to ship in Jan. include *Blood Wake* and *NBA Inside Drive 2002* from Microsoft and *Genma Onimusha* from Capcom. Company said Sega of America's *JSFRF — Jet Set Radio Future*, Activision's *Wreckless: The Yakuza Missions* and THQ's *WWF Raw* would follow in Feb. March titles are to include Eidos Interactive's *Blood Omen 2*, Sega's *Gunvalkyrie*, Electronic Arts' *James Bond 007 — Agent Under Fire*, Activision's *Tony Hawk's Pro Skater 3*.

Sharp plans to ramp up production of LCD TVs at factory in Mie, Japan, and add another line at plant in Yaita, Japan. Since introducing Aquos LCD TV series in Jan., Sharp said it had sold 200,000 units, with 13" model accounting for 55% of sales. In boosting production, Sharp plans to cut per-inch price of 20" and under LCD sets in half to \$40 by 2003. While Sharp has focused on sub-20" market at start, it's said to be readying 30" version with debut possible at CES. Sharp had planned to introduce 28W in 2nd half of this year.

Britain's B&W Loudspeakers added subwoofer and surround speakers to its Leisure Monitor 1 stereo models. New VM 1 for surround or center channels has slim design, vertical or horizontal orientation, \$250 price. Subwoofer, AS1 (\$250), has 6.5" driver, 75 w amp and switchable Music and Movie models, with bass response down to 27 Hz in latter.

MATSUSHITA REORGANIZATION: Matsushita denied it was weighing reorganizing 5 group companies into wholly owned units in share exchanges, but conceded it "was studying on an ongoing basis" alternatives for group operations.

Statement came after report in Japanese newspaper *Nihon Keizai Shimbun* that Matsushita was finalizing plans to buy 100-200 million of its own shares — 5-10% of total outstanding. Those would be used for share swap to turn 5 group companies, including unlisted Matsushita Graphic Communications Systems, into wholly owned units, newspaper reported. Five units have combined revenue of more than ¥13.5 trillion for current business year — 25% of Matsushita's \$54 billion in consolidated revenue forecast for year ending in March. Groupwide forecast is down 10% from last year.

Although scope of reorganization remained unclear, Matsushita said it wasn't considering taking full control of subsidiary JVC, which *Nihon Keizai* reported might become target of share swap later. Matsushita also confirmed it filed with Finance Ministry in Japan for bond offering, but said it hadn't decided on amount. Company reportedly is seeking to issue up to \$3.9 billion in corporate bonds, \$2.3 billion of which would be domestic straight bonds in early 2002 to raise funding for its early retirement program. More than 13,000 employees are said to have filed for early retirement in Japan along with an as-yet-undisclosed number of U.S. workers.

Mitsubishi Electric will trim its parent-only distribution costs 15% by end of fiscal year March 2004 as it tightens fiscal belt on deteriorating earnings. Annual distribution costs currently are \$397.3 million. It plans to adopt online system in next fiscal year that will provide clearer picture on inventory and shipments and exchange data with delivery firms using cellular phones. Mitsubishi also will reduce number of warehouses it uses to store CE products, relying instead on direct shipments from factory. It said it would reduce fixed costs \$238.3 million in current fiscal year and lower material procurement costs ¥2.3 billion by end of Sept. 2003.

SonicBlue plans to unveil 2 new products at CES — 20-GB hard drive-based Rio portable digital audio player and complete Go-Video home theater system. Company said features and specifications wouldn't be announced until show. SonicBlue said it also would show recently announced Rio Advanced Digital Audio Center home stereo component and ReplayTV 4000 digital video recorder for first time in public at CES.

Sony said Dec. 28 it was in talks with Fujitsu on possible cooperation in online arena, Reuters reported from Tokyo. Sony didn't elaborate on nature of talks and companies said no decision had been reached yet, report said. Among issues remaining unclear Fri. was whether talks related to Sony's PlayStation 2 plans for broadband service. Sony Computer Entertainment America spokeswoman hadn't returned call for comment by our Fri. deadline.

At CES, Sanyo will show SDMI-compliant portable digital recorder and player using Verance copy protection and watermarking technology. New SSP-PD77R records audio directly to Secure MultiMedia Card (SMMC) without needing connection to PC. Device, which uses Verance watermarking optimized for Texas Instruments' DSP, was introduced in Japan this month.

FUJITSU READIES 61W PDP: Fujitsu will introduce NEC-source 61W plasma display panel (PDP) at CES, while Runco is said to have temporarily cut price on its model \$3,000 to \$25,500. Fujitsu, which has built own 32W, 42W and 50W PDP under joint venture with Hitachi, shifted gears in buying NEC panel that enables it to extend line to larger size. NEC began production of 61W in July and also supplies Runco and Marantz in consumer and NEC America on commercial side. NEC created stir early in fall by dropping price on its 61W to \$19,999 from \$28,500. NEC also supplies 50W PDP for Thomson.

"Based on the cost of the components, what they [NEC America] did was a little strange," said Fujitsu Senior Vp Tedd Rozylowicz, who is pricing 61W at \$24,999, same as 60W being marketed by Zenith. "We've been able to perfect using glass from various different suppliers," he said, "and that makes it much easier for us to provide competitive products and the best available panels from a variety of sources, including our own." Fujitsu General America sources panels from affiliate in Japan, among others.

Fujitsu's Plasmavision SlimScreen 61W has 1365x768 resolution, 600 candelas, 700:1 contrast ratio, digital visual interface (DVI) connector. It requires separate set-top decoder box to receive high-definition programming and is shorn of built-in speakers. Fujitsu started shipping 50W (\$17,000) with 1024x768 resolution earlier this year. With introduction of sourced 61W, Fujitsu may not expand its own production beyond 50W, Rozylowicz said: "It may not make sense to do that... There are going to be some interesting supply issues in the next 12 months, which may keep the pricing from coming down as fast as a lot of people had expected."

Other manufacturers also are said to be weighing entering 60W-and-up PDP category including Panasonic, which earlier showed, but never shipped, 60W. Panasonic this fall focused on delivering 42W in large quantities, while releasing limited number of 50W models, retailers said. New 50W is expected to be available in larger quantities by late Feb., retailers said. "For us, we could take a limited showroom position with 61W, but I really want to see that thing get closer to \$20,000," said Ultimate Electronics CEO David Workman, whose chain sold 200 PDPs in Dec., including some Fujitsu models. "Otherwise, I feel like I am putting a lot of money into a product."

GameCube and Xbox titles fared even worse in videogame software results, reported by NPDFunworld, in Dec. 2-15 period than in Nov. PlayStation 2 (PS2) games once again led industry in first half of Dec., with 8 of top 20 titles for Sony's next-generation console, including top-selling *Grand Theft Auto 3* from Take-Two Interactive's Rockstar Games brand. In comparison, GameCube once again had only 2 spots — 2nd-place *Super Smash Bros. Melee* and 12th-place *Pikmin*, which replaced *Luigi's Mansion* and *Star Wars: Rogue Squadron II*. Latter were 2 GameCube titles that placed in top 20 in Nov. Meanwhile, only one Xbox title made top 20 this time — *Halo* at number 7. Four Xbox games made top 20 in Nov. Rounding out top 20 this time were one Game Boy Color title (9th-place *Pokemon Crystal*) and 4 each for Game Boy Advance (GBA) and PlayStation. Meanwhile, PS2 once again won all 5 top spots in Video Software Dealers Assn. (VSDA) list of top-renting titles for week ended Dec. 23. Once again in first place was *Grand Theft Auto 3*, which earned \$920,000 in week for total of \$7.09 million since Oct. 3.

SBCA Chmn. Stanley Kozlowski resigned last week after majority of association's board voted to back EchoStar's proposed acquisition of Hughes Electronics and DirecTV. Kozlowski was said to have asked board to get legal opinion before endorsing proposed deal. SBCA board in past had avoided taking position on private business transactions. EchoStar has proposed buying Hughes for \$26 billion and CEO Charles Ergen told *Wall St. Journal* in Wed. edition that he intended to invest \$1 billion in company's proposed Spaceway satellite-based Internet access service. Kozlowski is sales & mktg. vp of National Rural Telecom Coop (NRTC), which sells DirecTV programming in rural markets and would be strongly affected by proposed combination. NRTC, along with member Pegasus Communications, also has antitrust suit pending against DirecTV. DirecTV Chmn.-CEO Eddy Hartenstein will replace Kozlowski as SBCA chmn. SBCA Pres. Andrew Wright said EchoStar-DirecTV combination would be "better positioned" to compete against cable and would help "further the rollout of local-into-local into additional markets." Wright said Kozlowski would "certainly be missed" and SBCA "looks forward to continuing to work with Stan in other capacities in the years ahead."

N.Y. metro area CE retail chain The Wiz and Little Steven of Bruce Springsteen's E Street Band announced release of compilation CD showcasing top 20 bands selected from their Cavestomp! Garage Rock Band Search. CD — *The Best of Little Steven's Cavestomp! Garage Rock Band Search: Vol. I* — went on sale last week at 43 Wiz stores for \$8.98. Wiz said proceeds from sale of CD would be donated to Robin Hood Relief Fund for victims of Sept. 11 terrorist attacks. Garage rock bands entered contest — first announced last summer — by submitting entry form and original song recording (TVD Aug 6 p19). Panel of celebrity judges, including Little Steven, selected 20 bands to appear on CD from 655 entries. Grand prize winner was The Priests from Rochester, N.Y.

Top-renting DVD for week ended Dec. 23 was New Line's *Rush Hour 2* for 2nd consecutive week, Video Software Dealers Assn. (VSDA) said. Title earned \$3.26 million for week for total of \$7.75 million to date. Entering chart for first time was Buena Vista's *Scary Movie 2* in 2nd place, which earned \$2.93 million for week for total of \$2.96 million to date. Rounding out top 10 were Paramount's *The Score* (\$2.58 million for week; \$5.48 million to date); Universal's *Jurassic Park III* (\$2.29 million, \$6.25 million); Buena Vista's *Pearl Harbor* (\$2.03 million, \$9.63 million); Fox's *Moulin Rouge* (\$1.68 million, \$1.70 million); Buena Vista's *The Princess Diaries* (\$1.49 million, \$1.51 million); Universal's *The Grinch* (\$900,000, \$8.10 million); Warner's *Swordfish* (\$790,000, \$13.74 million); Columbia TriStar's *America's Sweethearts* (\$720,000, \$8.82 million).

Right Start (RS) has closed 15 Zany Brainy (ZB) outlets since completing acquisition of 187-store chain in Sept. Closed stores generated \$2 million net revenue in period ending Nov. 3 on operating loss of \$1.6 million. RS, which operates another 70 stores under own brand and recently proposed buying F.A.O. Schwarz, lost \$2.7 million in 3rd quarter despite 10.9% gain in revenue to \$10.9 million on 5.8% decline in same-store sales. F.A.O. Schwarz acquisition, which includes 21 of chain's 40 stores, is expected to close by Jan. 6. RS also restored ZB's online business, operation that shut down earlier this year after chain parted ways with financial backer Online Retail Partners.

VIDEOGAMES SPUR CE SALES: Consumer electronics, benefitting from booms in videogames and low-priced DVD players, posted positive sales gains in holiday selling season, said retailers we polled.

U.S. recession coupled with lingering affects of Sept. 11 cast pall over holiday selling, with overall retail sales expected to be flat with year ago. Worst holiday performance in recent years was flat in 1990 and, more recently, 2.7% rise in 1996. Overall U.S. retail sales Dec. 1-22 fell 4.5% from year ago, Instinet Research said. But CE sales increased in low-to-mid single-digit range, retailers said. Wal-Mart also said it expected to report sales increases at high end of forecast 4-6% rise, while rival Kmart said sales Nov. 22-Dec. 26 were at low end of its plan for growth of zero to 2%.

Introductions of Microsoft's Xbox and Nintendo's GameCube helped buoy CE sales despite generally tight inventory supply. Tie ratios — amount of software sold with videogame consoles — were especially strong, with Target reporting 25% increase and Electronics Boutique 5:1 ratio with GameCube, 3.5:1 with Xbox. "The GameCube continues to be sold out and we're not being allocated enough to fill demand," EB Mdsgr. Vp Peter Roithmayr said, noting that Xbox, while in short supply, "has been flowing on a much more regular basis."

PlayStation 2 had upper hand on its rivals due largely to 18-month head start in U.S. and performed "exceptionally well," and Sony's game platform was "the clear winner" in dollars because there was ample inventory, said Steve Eastman, divisional mdse. mgr. for electronics at Target. "I'm not sure yet who would have won had there been ample supply for all 3 formats," he said.

DVD players, which tipped retail scales at \$67-\$69 in post-Thanksgiving Day ad blitz, continued to maintain beach-head at sub-\$100 price. But while Wal-Mart and Kmart anchored low end of market, rival Target withheld some fire. It promoted \$88 Oritron player at least twice during holidays, but circular in week before Christmas had low end at \$97.88. "We stayed away from" low-end DVD players and "we don't think it hurt us," Eastman said. At Amazon.com, top 2 selling items in 24-hour run-up to Christmas were Panasonic DVD players and 7 of top 20 CE items e-tailer sold were DVD products, spokesman said. "DVD players were really big for us during the holiday season, especially the low-priced ones," spokesman said.

TV sales also were strong in high-definition-ready models, which benefitted from financing offers such as Best Buy's promotion that advertised no-interest financing through Jan. 2003 on all purchases of \$399 or more, industry sources said. Plasma display panels (PDP) and LCD TVs also sold well through CE specialty chains, despite maintaining prices in \$2,000-\$3,000 range, retailers said. "We registered multiple sales" of LCD TVs to same customer because "they were seen as a great alternative to CRTs," said Harvey Electronics CEO Franklin Karp, whose chain carries 20" Panasonic (\$3,000) and 15" Sharp (\$1,800) LCD TVs as well as PDPs from Fujitsu and Marantz. Harvey didn't provide deep discounts to move product in Nov.-Dec. and battled tight inventory in 20" LCD TVs, he said, but it's preparing for traditional Jan. sale.

While video was strong seller, audio was laggard, largely because of high prices for next-generation products such as DVD-Audio and Super Audio CD (SACD) players and lack of new technology available to drive sales in mass markets. Audio components continued to fade, with cassette decks rapidly being

replaced by DVD and/or CD players/recorders, retailers said. Karaoke, which has sought home at retail for more than decade, registered strong sales, development that dealers attributed to consumers' increasingly seeking home-based entertainment.

"Audio has taken a back set to a certain degree, but that started as the economy changed," Karp said. "Last year a guy bought a \$20,000 plasma and he still bought a \$15,000 home theater to go with it. This year he still bought a \$15,000 plasma, but maybe he purchased a \$3,000 audio system."

Home office products category also benefitted from steep discounts and rebate programs. Best Buy advertised Toshiba notebook PC at \$899 after \$150 retailer mail-in rebate along with \$50 from manufacturer. PC also carried free Internet access for year using Microsoft's MSN service. Palm revived discontinued m100 to hit \$99 price point and lead promotional wars in handheld PCs. "The whole [handheld PC] category was boosted by the retail price point, but we needed a unit increase to make up for the dollars," Eastman said. "We seemed to get both so that while there was degradation in the price we had good lift on the unit side."

In e-commerce, Yahoo said sales volume at its shopping sites between Thanksgiving and Christmas increased more than 86% from year ago and its shoppers spent \$10.3 billion online in 4th quarter. Although final numbers hadn't been compiled, Jupiter forecast that online holiday shopping in U.S. grew 11% from year ago to \$11.9 billion. Shoppers also turned to online for last-min. gifts. Average selling price for CE at Amazon jumped to \$218.26 in week of Dec. 17 from \$158.25 in week of Dec. 10, UBS Piper Jaffrey analyst Safa Rashtchy said. Goodguys.com, bolstered by strong sales of DVD players, digital cameras and digital audio players, posted 150% gain over last year, when it started service. Goodguys.com CEO Walt Mulvey said 75% of sales were new customers, with rest coming from existing users. Goodguys.com leverages off advertising of Good Guys 79-store chain, which has 20% stake in online business. "I guess the message here really is this industry [e-commerce] has reached I think a new level of maturity," Mulvey said. "So it will be interesting to see where the industry goes this year to separate itself from the pack."

Tremor Entertainment said its merger with New Systems was "declared effective by the State of California." Burbank, Cal.-based videogame developer Tremor said company now was trading under its new symbol — TROR. Tremor CEO Steven Oshinsky said: "With the process of becoming a public company complete, we can now focus our full attention on the next phase of our growth plans... We are now actively seeking a secondary [round of] financing to fund the creation of additional properties for Xbox and other platforms." Oshinsky said "highly successful launch of Xbox" by Microsoft "has made it clear that demand for experienced developers is a strong and growing trend. We intend to capitalize on that trend. In addition to developing our own intellectual properties, we also seek to grow the company via the acquisition of talented artists and programmers from the fragmented development community. We expect an upsurge in interest from the major publishers seeking to acquire new and exciting games and we are preparing for that." Tremor, founded in 1998, has developed games for Dreamcast and PlayStation 2 and its core creative team developed games including *Starcraft*, *Warcraft* and *Diablo* for Blizzard Entertainment. Company is under contract with Microsoft to create original title for Xbox to ship for holiday 2002 season.

'CLICKS-&-BRICKS' REMAIN STRONG: As Goodguys.com exits what its CEO, Walt Mulvey, told us was an even more successful holiday season "than we anticipated," he offered us his take on online battle between "clicks-and-bricks" retailers and "pure plays." He said he believed retailers with offline and online presence would continue to fare well in 2002 while retailers with only online presence would continue to disappear.

Mulvey said pure plays were important at start because they "created the [e-commerce] industry." But he said: "The pure plays are just dropping off the face of the earth" — trend he didn't expect would end any time soon: "It's essentially become an online catalog industry. People have adapted. The experience level is much higher than it has been in recent years and I think it's been a real push for the bricks-and-mortar side of it. I think the bricks-and-mortar online retailers have now experienced the efficiencies of another channel of commerce for them and they'll now recognize how important that channel is...it's no longer an industry of pure online players competing with bricks-and-mortar. I think it's become an industry where bricks-and-mortar dominate and in doing so, bricks-and-mortar dot-com sites are competing with one another rather than bricks-and-mortar sites competing with pure play sites."

But Mulvey admitted there was one company that — to some degree, anyway — had proved to be exception. "Amazon is a one and only [pure play competitor]," he said. He said Amazon was likely to remain the only pure-play e-tailer that could really compete against clicks-and-bricks merchants — "and the jury's still out on Amazon. They've got to start making money one of these days." Although at least some analysts have called Amazon results this holiday season strong, e-tailer still hasn't turned profit. Amazon in recent months has announced growing list of online relationships with brick-and-mortar retailers, including Borders, Circuit City, Target, Toys "R" Us. Various analysts have expressed belief that Amazon needs some kind of brick-and-mortar presence to succeed, but Amazon consistently has denied that it was forging alliances with established names in brick-and-mortar world because of such need. When asked whether he believed Amazon was signing alliances with brick-and-mortar retailers for that reason, Mulvey said: "You bet."

Mulvey told us his company sales gained 150% this holiday season over year ago and 75% of sales this season have been placed by new customers to Web site. He said his company was able to achieve those improved results without benefit of any significant advances at Web site or any Goodguys.com-specific advertising. "I'd say we just leverage off [the] newspaper advertising and TV advertising for The Good Guys, even though we're a separate company."

As for Christmas on-time order fulfillment, Goodguys.com had no problem this season, Mulvey said, telling us he couldn't say what exact on-time delivery percentage was: "I don't know [offhand but] it was a very high percentage." He also said company still was using only its one fulfillment center, in Portland, Ore. While Goodguys.com delivers products nationwide, Mulvey said customer base still was "primarily West Coast."

While online and offline competitors have called videogame category one of b

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Mulvey said Goodguys.com currently didn't carry that category and "I don't think" there were plans to add it in near future: "That's really not our market." Best-selling items for Goodguys.com this season have been digital cameras, MP3 players and — not surprisingly — DVD players, he said.

Meanwhile, Amazon said it sold more than 37.9 million items in this its 7th holiday season from Nov. 9-Dec. 21 via all 5 of its sites: Amazon.com, Amazon.co.uk, Amazon.fr, Amazon.de, Amazon.co.jp. Seattle-based company said its international business was increasing, with more than 10 million items ordered from non-U.S. sites. Best-selling category was Harry Potter, Amazon said, with 450,000 books and related products associated with young magician sold this season. Amazon also said it sold 150,000 copies of *Shrek* on DVD and VHS and 100,000 copies of Robbie Williams CD *Swing When You're Winning* at Amazon.co.uk and Amazon.de alone. Other best-selling items included LeapPad, which Amazon called "this year's most popular toy," followed by GameCube, PlayStation 2 and Xbox game systems. Company also said more than 36,000 items were sold via Last-Minute Shipping option offered Dec. 21-noon Dec. 22 for arrival in time for Christmas. Amazon said "nearly half of those orders were shipped to nonbilling address locations and over 60% were gift-wrapped." Among last-minute shoppers, most popular products included Circuit City purchases with in-store pickup option, gift certificates, magazine subscriptions.

Amazon said it "again shipped well in excess of 99% of holiday orders on time to meet holiday deadlines — including those placed by noon PST on Dec. 22." Although on-time fulfillment was major problem e-tailers struggled with in 1999 holiday season, issue wasn't major one in 2000 and appears once again to have not been one this time around. Toysrus.com, which was plagued by on-time delivery complaints in 1999 (TVD Jan 3/00 p16), teamed up with Amazon before 2000 holiday season (TVD Aug 14/00 p15).

Consumer Electronics Personals

Sirius Satellite Radio CEO Joseph Clayton appointed to CEA and EIA boards... Good Guys Pres.-CEO Kenneth Weller named chmn., succeeding Ronald Unkefer, who retires and resigns as a dir. but remains company's largest shareholder... Wayne Park shifts to Zenith global vp for digital TV, replacing Ken Lee, who assumes Park's post as senior vp-sales & mktg... Steve Bruton, Sammina-SCI printed circuit board fabrication exec. vp-gen. mgr., promoted to pres.-gen. mgr.; Hai Pillai, electronic manufacturing services exec. vp-gen. mgr., named pres.-gen. mgr... Sergio Batista, ex-Onkyo and onetime Sony, joins Russound as dir. of mkt. and product planning... Sam Zamora, formerly MB Quart, joins startup Audio Specialties as OEM and international sales mgr.

BestBuy.com said it was first online retailer to sell Alienware PCs. Alienware said its PCs were "optimized for gaming" and were designed for consumers whose favorite PC videogames were not playing correctly in their current computers. BestBuy.com Computers/Photo Imaging Gen. Mgr. Arnel de Jesus said: "With the addition of Alienware, we can meet the demanding needs of the advanced PC user and strengthen our position in the PC market." Alienware Senior Vp Frank Azor called BestBuy.com "perfect fit." BestBuy.com is selling Alienware's Area-51 models 2.0 and 1.6 GHz in "conspiracy blue," "saucer silver," "space black." Joysticks, monitors and speakers are sold separately for Alienware systems.

