

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of:	:
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GAME SHOW NETWORK, LLC,	: MB Docket No.
Complainant,	: 12-122
	:
v.	: File No.
	: CSR-8529-P
CABLEVISION SYSTEMS CORP.,	:
Defendant,	:
	:
Program Carriage Complaint	:

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Wednesday,  
July 8, 2015

Volume II

Hearing Room A  
Room TW-A363  
445 12th Street, S.W.  
Washington, DC

The above-entitled matter came on for hearing, pursuant to notice, at 10:06 a.m.

BEFORE: THE HONORABLE RICHARD L. SIPPEL,  
Chief Administrative Law Judge

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## T-A-B-L-E O-F C-O-N-T-E-N-T-S

<u>WITNESSES</u>		<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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David Goldhill					
By Mr. Schmidt				414	
By Mr. Cohen		329			528

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>RECD</u>
<u>Cablevision</u>			

618	Note from Mr. Gillespie to Mr. Goldhill 4/29/10		331 332
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GSN

238	Document showing MRI data was used by GSN in documents with advertisements		346 346
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228	"It Takes a Church"		458 473
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Closed Sessions on pages 513-526 and 542-546

OTR: 10:08 a.m.  
Lunch: 12:02-1:31  
OTR: 5:23 p.m.

P-R-O-C-E-E-D-I-N-G-S

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10:08 a.m.

JUDGE SIPPEL: Mr. Schmidt, you get the honors. You got the lead in the story. Your Siberian lion was the winner.

(Laughter)

JUDGE SIPPEL: Congratulations.

MR. SCHMIDT: I did see on the other side, it's okay to discriminate as long as you're not similarly situated. Should we put Mr. Goldhill back on the stand, Your Honor?

JUDGE SIPPEL: We're ready to go.

MR. SCHMIDT: Okay.

JUDGE SIPPEL: Mr. Goldhill, you're still under oath.

THE WITNESS: Yes, sir.

JUDGE SIPPEL: Same rules as yesterday. We can take our jackets off if things get too unbearing. By the way, there may be a little bit of noise. I've been told that they're working on the air conditioning, but it may involve some noise.

MR. SCHMIDT: And if Your Honor doesn't mind, by the time I realized yesterday, it was awful, so --

JUDGE SIPPEL: Go right ahead. No, go right ahead, please. Don't stand on a -- okay. Let's go.

MR. SCHMIDT: Thank you.

JUDGE SIPPEL: We are still on cross, is that right --

MR. COHEN: Yes, Your Honor.

MR. SCHMIDT: Yes, Your Honor.

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1 JUDGE SIPPEL: -- Mr. Cohen?

2 MR. COHEN: Yes, sir.

3 JUDGE SIPPEL: You may proceed.

4 MR. SCHMIDT: Yes.

5 Whereupon,

6 DAVID GOLDHILL

7 Was recalled as a witness by Counsel for the Complainant and having  
8 been previously duly sworn, resumed the witness stand, was examined  
9 and testified as follows:

10 CROSS-EXAMINATION

11 BY MR. COHEN:

12 Q Good morning, Mr. Goldhill.

13 A Good morning.

14 Q You testified yesterday that there was one cable system  
15 other than -- one second.

16 MR. COHEN: Your Honor, do you now have your documents?

17 JUDGE SIPPEL: Well, I don't have my thoughts together,  
18 which is more important. That's okay. Take it easy.

19 MR. COHEN: Give me a --

20 JUDGE SIPPEL: Let's go.

21 MR. COHEN: Okay.

22 JUDGE SIPPEL: Let's go. Let's go.

23 BY MR. COHEN:

24 Q There was one other cable operator that had put you on  
25 the sports tier before Cablevision, correct?

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1 A Yes.

2 Q Okay. And that was not a small cable operator, was it?

3 A No.

4 Q It was Time Warner Cable, correct?

5 A Yes.

6 Q And in fact, when you joined the network Time Warner  
7 Cable had more than a million subscribers who were getting GSN on  
8 sports tier, right?

9 A Yes.

10 Q All right. Let me show you just so there's no ambiguity  
11 what we've marked as Exhibit 34 in evidence.

12 JUDGE SIPPEL: Can you give one to the interns?

13 MR. COHEN: Your Honor, I'll give it to them in a second.

14 JUDGE SIPPEL: Okay.

15 BY MR. COHEN:

16 Q Now, this is November 16th --

17 MR. SCHMIDT: Judge, I think I've got your ---- have your  
18 copy.

19 BY MR. COHEN:

20 Q -- November 16th, 2007. It's a little bit after you  
21 joined the network as the CEO, correct?

22 A Yes.

23 Q Okay. And would you turn please to page 4, 4 of 13 of  
24 Exhibit 34. And what this shows is that in the year before you  
25 joined GSN, Time Warner Cable had moved almost 2 million

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1 subscribers to sports tiers across the country, correct?

2 A I believe this shows we lost a million eight subscribers  
3 because of the move to a sports tier in those markets?

4 Q So there was a loss of a million eight?

5 A Yes, sir.

6 Q And there were discussions with Time Warner Cable at the  
7 time that you joined about trying to move some of those subscribers  
8 from the sports tier back to some kind of more expanded basic tier  
9 correct?

10 A Yes.

11 Q And eventually -- I think that's your testimony,  
12 eventually you got back on expanded basic, correct? You did get  
13 back on?

14 A Yes.

15 Q Okay. But that was in 2010, correct?

16 A I -- I don't --

17 Q Let me help you.

18 A I don't know. I will have to --

19 Q Let me show you --

20 A It was roughly that time. I can't -- I can't --

21 Q -- Cablevision Exhibit 618.

22 (Whereupon, the above-referred to document was  
23 marked as Cablevision Exhibit No. 618 for  
24 identification.)

25 BY MR. COHEN:

1 Q Now 618 is a note from Mr. Gillespie; he was then the  
2 head of Distribution, to you dated April 29th, 2010, right?

3 A Yes.

4 Q And it says, "A quick note to inform you today --  
5 effective today Time Warner has converted all of the sports tier  
6 distribution of GSN to digital basic carriage," right?

7 A Yes.

8 Q So between 2006 and 2010 in at least a million-plus  
9 subscribers, Time Warner Cable was carrying you on the sports tier  
10 that entire time, right?

11 A Yes.

12 Q Okay. So Cablevision was not the first one to put you on  
13 a sports tier?

14 A No.

15 Q Okay.

16 MR. COHEN: All right. Your Honor, I move 618 into  
17 evidence.

18 MR. SCHMIDT: No objection, Your Honor.

19 JUDGE SIPPEL: Received. Six eighteen is received now.

20 (Whereupon, the above-referred to document was  
21 received into evidence as Cablevision Exhibit No.  
22 618.)

23 JUDGE SIPPEL: And what about this other one?

24 MR. COHEN: That's in evidence, Your Honor.

25 JUDGE SIPPEL: Thank you.

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1 BY MR. COHEN:

2 Q Now, from time to time GSN actually sought to market  
3 itself based on its viewership, the interests of its viewership in  
4 sports, right?

5 A Would have proceeded in -- I don't know.

6 Q Well, I don't think so. So let me show you what we've  
7 marked as Exhibit 77, which is in evidence.

8 All right. Now Exhibit 77, sir, is an email again from  
9 Mr. Gillespie; we know who he is, right, to you, copied Mr.  
10 Zaccario, correct?

11 A Yes.

12 Q It says, "Attached is as short GSN intro deck in  
13 anticipation of Friday's meeting with the New York Giants." Did  
14 you attend a meeting with the New York Giants?

15 A I did.

16 Q Okay. And the purpose of the meeting with the New York  
17 Giants in 2009 -- the end of 2009 --

18 A Yes, that's my memory. Yes.

19 Q -- right -- was to try to do some kind of marketing  
20 partnership with the football team, right?

21 A Not quite. If -- if I can give you just a little more  
22 detail.

23 Q Yes.

24 A The -- the Giants had just moved into their new stadium.  
25 They had several hundred -- it may have been more than a thousand

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1 addressable video screens. They were talking to us and others  
2 about putting game content on those screens to keep the casual  
3 football fan interested in being at the game.

4 The -- the new stadium, like many new stadiums in the  
5 NFL, has as much room outside the bowl as inside the bowl, and the  
6 NFL at the time, I think probably before the smartpone, viewed  
7 keeping season ticket holders who weren't that interested in  
8 football interested. So in fact this was something I think they  
9 were discussing fairly broadly because of technological  
10 developments.

11 Obviously that's all gone in a different direction, but  
12 it was completely related to in-stadium programming that they were  
13 talking to us about.

14 Q Okay. Would you turn please to page 8 of 10 of Exhibit  
15 77, the one that's entitled, Shared Audience?

16 A Yes.

17 Q Do you see that, sir?

18 A Yes.

19 Q And it says, "GSN's adult 25 to 54 viewers are sports  
20 fanatics." True statement?

21 A It -- it's a true statement about the entire country.

22 Q Sir, did you make an intentional misrepresentation in  
23 this presentation?

24 A Absolutely not. It is a correct statement.

25 Q GSN adult 25 to 54 viewers are sports fanatics, correct?

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1 A Yes.

2 Q Okay. You can put that document aside.

3 MR. COHEN: Now I just want to make sure I understand  
4 where we were yesterday on this MRI testimony. I don't want to  
5 spend a lot of time going back over it. I have a question or two  
6 to make sure we're on a level playing field. Is that all right?

7 JUDGE SIPPEL: Of course.

8 Q Okay. Now I believe you testified yesterday -- and I do  
9 have the transcript from yesterday, but I don't think we're going  
10 to need it, that the point you were making about the MRI data that  
11 I was showing you is that you said you didn't show MRI data to  
12 advertisers, correct?

13 A No, not quite. What I said -- or at least what I -- what  
14 I meant to say is that it's not the data used by general rate  
15 advertisers. It's used by direct response advertisers. And since  
16 the sheets you showed me were for our affiliates doing their direct  
17 response sales, MRI data was more customarily used there.

18 Q Okay. So now let's go back. You have two general types  
19 of advertising, putting infomercials to one side, correct?

20 A Yes, sir.

21 Q General rate advertisers, who you say use Nielsen data,  
22 correct?

23 A Who buy on the basis of Nielsen data.

24 Q Right. And direct response advertising, which is not  
25 sold on the basis of demographic, correct?

1           A     Well, as -- as I tried to explain yesterday, it is sold  
2 on -- it -- it is sold on the basis of the type of demographics  
3 your network delivers, but you are not guaranteeing --

4           Q     Okay. Let's go back again. For general rate advertising  
5 you guarantee a certain number of audience members in a given  
6 demographic, correct?

7           A     Yes.

8           Q     So let's just say hypothetically the number is 50,000  
9 women 25 to 54, right?

10          A     Okay.

11          Q     And if you promise a general rate advertiser 50,000  
12 women, you have to deliver that, correct?

13          A     Yes.

14          Q     All right. And if you don't deliver it, you actually  
15 have to make some adjustments and give them some make-goods,  
16 correct?

17          A     Correct.

18          Q     They're called ADUs?

19          A     Yes, sir.

20          Q     Right. Okay. So it's a bad thing when you miss your  
21 numbers, right?

22          A     Yes, sir.

23          Q     For direct response advertisers you don't guarantee any  
24 specific number of viewers of any age, correct?

25          A     That's correct.

1 Q Right? And what you're now saying, just so we're clear,  
2 is that the MRI data was not used by general rate advertisers to  
3 buy demographically guaranteed advertising, but was used by direct  
4 response advertisers to buy advertising that had no demographic  
5 guarantee, correct?

6 A Not necessarily to buy, but to get a greater  
7 understanding of the audience on the network.

8 Q All right. And the direct response advertisers, as you  
9 just said a few minutes ago, frequently ask for MRI data, correct?

10 A Some do, some --

11 Q All right.

12 A I think it's more accurate to say some did, some didn't.  
13 This data has been -- is -- is no longer used very much in the  
14 industry.

15 Q Okay. But let's focus on 2010.

16 JUDGE SIPPEL: The direct response is not used?

17 THE WITNESS: Direct response is still a large part of  
18 advertising, Your Honor, but the data that we're talking about here  
19 is become less relevant as better data sources of what it was  
20 trying to address have become available.

21 JUDGE SIPPEL: Okay.

22 THE WITNESS: Nielsen itself addresses a lot of these  
23 issues now. And there are new services that provide much more  
24 accurate snapshots of your audience.

25 BY MR. COHEN:

1 Q So let's focus on 2010. In 2010 when you were ---- when  
2 the re-tiering decision was made by Cablevision, [REDACTED]  
3 your advertising was direct response advertising, not general rate  
4 advertising, correct?

5 A Yes, sir.

6 Q About [REDACTED] direct response?

7 A I don't remember the exact amount, but certainly  
8 something roughly within that range would be likely.

9 Q Okay. And those direct response advertisers didn't use  
10 Nielsen data to buy, correct?

11 A That I can't tell you.

12 Q Okay.

13 A But it --

14 Q No, try to stay with my question. You can't tell me --

15 A The distinction -- the distinction though that -- that I  
16 keep trying to make and that, with all respect, you're missing is  
17 between buying, which is a decision made by the advertiser and  
18 guaranteeing, which is something we do.

19 Our guarantees are made on the basis of Nielsen data and  
20 then we are held to those guarantees on the basis of Nielsen data.  
21 And advertiser can use whatever data they want in making their  
22 buying decision, but when they buy something, our guarantee is just  
23 there.

24 Q Right.

25 A And that's the distinction.

1 Q Yes, and I appreciate that.

2 A Yes.

3 Q But again to be clear, because this is for those of us  
4 who are not in this business, it's a little hard to follow, the  
5 guarantees are only with respect to the general rate advertising,  
6 correct?

7 A Yes, sir.

8 Q And for [REDACTED] the advertising that the network  
9 did -- which was direct response advertising in 2010, correct?

10 A Yes.

11 Q Right. There were no guarantees?

12 A Correct. That's what direct response is.

13 Q Okay. So I thought you testified yesterday that the  
14 cable companies asked for MRI data, but advertisers did not. That  
15 wasn't your testimony?

16 A No.

17 Q Okay. In fact some do and some don't. And in fact, you  
18 referenced in your direct testimony some documents that were used  
19 by advertisers. And I want to direct you, if I can, to -- one  
20 second. Just bear with me. It's a lot of paper. Paragraph 6,  
21 Paragraph 6 of your direct testimony.

22 A Excuse me. I no longer have --

23 Q Oh, that's in Mr. Schmidt's book. Did he take that back?  
24 Is that right there next to the Judge?

25 MR. BOROD: It's the first tab of your book.

1 THE WITNESS: Is it yours or mine?

2 MR. COHEN: Let me help. May I approach, Your Honor?

3 I'll help him out.

4 JUDGE SIPPEL: It may be yours.

5 THE WITNESS: Is it in here?

6 MR. COHEN: It's right in the front. It's in the front  
7 of our book, Your Honor.

8 JUDGE SIPPEL: Okay.

9 MR. COHEN: Here, Judge.

10 JUDGE SIPPEL: Oh, it's tab 1. I got it.

11 MR. COHEN: His testimony?

12 JUDGE SIPPEL: Yes. What paragraph?

13 MR. COHEN: Six.

14 BY MR. COHEN:

15 Q And in the middle of paragraph 6, you say, "We updated  
16 our marketing efforts to promote our female-oriented shows and  
17 focus heavily on demographics in our advertising sale efforts." Do  
18 you see that, sir?

19 A I do.

20 Q True statement, right?

21 A Yes, sir.

22 Q And then you reference this document, GSN Exhibit 238.  
23 And you say it's an advertising handout, right?

24 A Yes.

25 Q Okay. Let me show you that document, GSN Exhibit 238.

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1 A Thank you.

2 Q Now you're familiar with this document because it's  
3 referenced in your direct testimony, right?

4 A Yes.

5 Q Right. And would you turn to the third page, which down  
6 on the bottom has page numbers 168051, right?

7 A Yes.

8 Q Okay. And then you have in here a viewer profile, right?

9 A Yes.

10 Q Well, I better -- but first of all, this is a GSN-  
11 prepared document, is it not?

12 A It is.

13 Q All right. And actually if you turn to the last page, it  
14 gives the network contacts. Could you just turn to the last page?  
15 You see that?

16 A Yes.

17 Q And one of the first contacts is Mr. Zaccario. He is the  
18 head of advertising. He was in 2010, correct?

19 A Yes.

20 Q Okay. And Ms. Hopkins at the time of this document was  
21 the head of affiliate sales, right?

22 A Yes.

23 Q Now go back now to the third page. The viewers targeted,  
24 persons 25 to 54 and women 25 to 54, right?

25 A Yes.

1 Q Not just women, right?

2 A Correct.

3 Q And that was your target advertising audience, people and  
4 women 25 to 54, true?

5 A Yes.

6 Q Okay. Now go to the viewer profile. And here -- and  
7 this looks to be about a 2012 or 2013 document by the sources. You  
8 give a skew, 59/41 women, right?

9 A Yes.

10 Q And the source is MRI, right?

11 A All of this data looks like MRI.

12 Q Right. So here's information that you're preparing for  
13 prospective advertisers on the network --

14 A Yes.

15 Q -- that uses MRI data rather than Nielsen data, correct?

16 A Yes.

17 Q Okay. Now the 59/41, you'll agree with me based on the  
18 data, that at the earliest this document was created in about 2013?

19 A I don't see anything indicating when this document was  
20 created.

21 Q Well, look at --

22 A Maybe if I look at the shows on the air, I could do that.

23 Q Yes. Well, turn to the fourth page.

24 A Yes, and that's what I'm looking at now.

25 Q New programs for 2013, right? Does that tell you when

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1 this document was created?

2 A Yes. So it would have been probably '12 or '13.

3 Q Okay. And the MRI data then showed a 59/41 skew, right?

4 A Yes.

5 Q But what we saw yesterday from the handouts that you gave  
6 to distributors in 2010, your skew on MRI data then was 52/48,  
7 right?

8 A Yes.

9 Q We looked at one for Comcast, correct?

10 A I don't recall which ones we looked at, but I know at  
11 that time period the MRI data was 52/48.

12 Q Right. Okay. So in 2010 -- let me show just one of  
13 them, so we're on the same page.

14 MR. COHEN: Judge, do you need a copy of this cross book?  
15 I think you do. Yes, I'm going to give you this so you can follow  
16 along. And you don't seem to have that here. Oh, you know, Judge,  
17 it's on -- I'm sorry to approach. It's right on top.

18 JUDGE SIPPPEL: Right here, right?

19 MR. COHEN: Yes.

20 JUDGE SIPPPEL: Oh, the cross -- okay. Continue.

21 BY MR. COHEN:

22 Q Let's go to, for example, Exhibit 90. You see that's the  
23 Comcast Spotlight document?

24 A Ninety?

25 Q Ninety.

1 A Yes.

2 Q All right. January 2010. If you'd turn to page 11 of  
3 19. Based on the MRI data the skew of the network was 53/47,  
4 right?

5 A Yes.

6 Q Okay. Now turn to Exhibit 109, which was a presentation  
7 made to DISH in June of 2010.

8 MR. SCHMIDT: And, Your Honor, I am going to object. We  
9 did this yesterday. I don't think we should be doing the exact  
10 same exam again.

11 MR. COHEN: I have one more question, Your Honor, and  
12 I'll move on.

13 MR. SCHMIDT: I just ask that we be expeditious. I'll  
14 withdraw the objection if that's their representation.

15 BY MR. COHEN:

16 Q Turn to Exhibit 109.

17 A Yes.

18 Q Nine of fifteen.

19 A Yes.

20 Q And using this MRI data what you represented to the DISH  
21 Network is that your audience was 52/48, right?

22 A That's what this says.

23 Q And that was accurate MRI data, right?

24 A That was MRI data. As I tried to discuss yesterday,  
25 there's a meaningful difference that any advertiser would know

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1 between the methodology used and therefore its effect on gender  
2 split. So when MRI data showed us a 59 percent female, Nielsen  
3 showed us a 65 percent female. When MRI shows us a 52, Nielsen  
4 shows us at 58, 59.

5           You know, as I said yesterday; I'll say again, MRI data  
6 is used to establish a broad qualitative description of the  
7 audience, is used by advertisers who are sophisticated on a  
8 relative basis comparing one network to the next. I cannot believe  
9 there's a single advertiser who would look at MRI data and say, oh,  
10 this is a 50/50 network.

11           And I -- I -- I did try to explain that the methodology  
12 of MRI is not to weight by viewing. And so by not weighting by  
13 viewing they do something that no advertiser would buy on, because  
14 advertisers obviously buy on the basis of viewing, not on the basis  
15 of just a panel. MRI data is based on a panel.

16           Q     And you testified --

17           JUDGE SIPPEL: Wait a minute. Say that again, the last  
18 word you used?

19           THE WITNESS: MRI data is based not on your viewership,  
20 but on a panel of your viewers.

21           JUDGE SIPPEL: Panel?

22           THE WITNESS: Yes.

23           JUDGE SIPPEL: Panel.

24           THE WITNESS: If -- if -- if I may -- if I may give an  
25 example, Your Honor? Would that be helpful or --

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1 JUDGE SIPPEL: Well, that's up to Mr. Cohen.

2 THE WITNESS: All right.

3 BY MR. COHEN:

4 Q Yes, well maybe Mr. Schmidt will be able to help you out  
5 here.

6 I'm going to offer GSN Exhibit 238, Your Honor, which is  
7 not in evidence and withdraw our objection to this exhibit because  
8 I'm offering it solely for the purpose of showing that it was used  
9 for -- that MRI data was used by GSN in documents with advertisers.

10 (Whereupon, the above-referred to document was  
11 marked as GSN Exhibit No. 238 for identification.)

12 MR. SCHMIDT: Without agreeing with your statement, no  
13 objection.

14 JUDGE SIPPEL: What are you going to do with it?

15 MR. COHEN: I'm offering it, Your Honor.

16 MR. SCHMIDT: And we don't object.

17 JUDGE SIPPEL: Do I have it in front of me?

18 MR. COHEN: GSN 238, Your Honor.

19 JUDGE SIPPEL: Do I have it here?

20 MR. SCHMIDT: It's a couple exhibits back, Your Honor.

21 MR. COHEN: That's it, Your Honor.

22 JUDGE SIPPEL: Okay. Offered. No objection, except for  
23 the statement ---- the qualifying statement. Received.

24 (Whereupon, the above-referred to document was  
25 received into evidence as GSN Exhibit No. 238.)

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1 BY MR. COHEN:

2 Q Now let me go back to what you said about Nielsen data.  
3 You testified I think a number of times yesterday that the Nielsen  
4 skew was approximately 65 percent women, correct?

5 A What -- what I -- what I think I said is that the average  
6 over the time I've been there never declined below 63 percent.

7 Q Okay. And in fact what you said in your written  
8 testimony was that women account for 70 percent of GSN's  
9 viewership, correct?

10 A At times. I -- I don't believe I said -- I said -- what  
11 -- what I said is -- because I -- I -- I do know these numbers,  
12 that over my time there, the lowest I believe total day was 61.  
13 It's an averaged between 63 and 65 and pretty much never gets above  
14 70 or 71.

15 Q And that gender skew that you're describing, we'll just  
16 call it in the 60s. Can we do that for shorthand?

17 A That would be fine.

18 Q In the 60s, that's all women of all ages, correct?

19 A Yes.

20 Q Right? So your target audience that you talked about  
21 with respect to your programming was women 25 to 54, correct?

22 A For a prime time program.

23 Q For a prime time programming. And you're not testifying,  
24 are you, that the gender skew in your women's prime time  
25 programming was consistently in the 60s over your tenure?

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1           A     So that bounces up and down all the time. I'm not  
2     testifying to that.

3           Q     Right. Well, just try to stay with my question.

4           A     So, no, I'm -- I'm not testifying.

5           Q     Right. So when you testified -- and you did it many  
6     times yesterday, about the gender skew being 65 percent, in the 60s  
7     --

8           A     Yes.

9           Q     -- you were dealing with the whole day irrespective of  
10    age, correct?

11          A     Or -- or prime time irrespective of age.

12          Q     Or prime time irrespective of age?

13          A     Correct.

14          Q     But when you're selling advertising, what we talked about  
15    yesterday --

16          A     Right.

17          Q     -- to a 25 to 54-year-old women's demographic, you said  
18    that's your largest demographic of general rate advertising,  
19    correct?

20          A     Yes, sir.

21          Q     Right? All of those women who are 55 and older, they  
22    don't count, right?

23          A     Not if an advertiser is buying 25 to 54.

24          Q     Right. So if you're buying 25 to 54-year-old women's  
25    advertising, that's your key target for the upfronts, right?

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1           A     That's our key target for -- for general rate  
2 advertising.

3           Q     For general rate advertising. You can sell millions of  
4 women 55 and older and get no credit for it with advertisers,  
5 correct?

6           A     I'm not -- could you -- I'm not sure I understood the  
7 question.

8           Q     Sure. If you guarantee 50,000 women 25 to 54 --

9           A     Yes.

10          Q     -- in a general rate ad buy --

11          A     Right.

12          Q     -- right, in prime time, and you deliver 40,000 women 25  
13 to 54 and 400,000 women who are 60 --

14          A     Yes.

15          Q     -- you still owe the advertiser money, right?

16          A     Just like delivering men.

17          Q     Right. I'm not talking about men, am I? I'm just asking  
18 you a simple question. Let's deal with that.

19          A     I'm sorry. Yes, just like delivering anybody outside  
20 that target.

21          Q     Right.

22          A     That's what a guaranteed target means.

23          Q     Correct. So all of the testimony that you have in here  
24 about 25 to 54-year-old women, right, has nothing to do with women  
25 who are 55 and older, right?

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1 A I -- I'm sorry, I -- I -- that question is very --

2 Q I'll ask a better question.

3 A Thank you.

4 Q I'll ask a better question. Let's look at paragraph 9.

5 All right? Paragraph 9, you talk about The Newlywed Game and

6 Baggage, right, in the beginning? Paragraph 9 of your testimony.

7 Sorry to make you keep going back and forth.

8 A No, that's all right. Just give me a moment.

9 Q No problem.

10 A Yes.

11 Q Right? And you're talking here about testimony that you  
12 say is targeted at 25 to 54-year-old women, correct?

13 A Yes.

14 Q Okay. So The Newlywed Game and Baggage; we discussed  
15 those yesterday, those were on the air at the time of the re-  
16 tiering decision, correct?

17 A Yes.

18 Q Okay. And then you say Beat the Chefs. When did that  
19 come on the network, 2013, 2014?

20 A I don't recall the exact date.

21 Q All right.

22 A It could be '13 or '14.

23 Q And Skin Wars you talk about. That's 2013, 2014?

24 A '14.

25 Q Okay. And at the end of that paragraph you say, "Prior

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1 to the events at issue in this case, Nielsen reported that GSN was  
2 distributed to approximately 73 million subscribers. Women account  
3 for approximately 70 percent of GSN's viewership." Right?

4 A Correct.

5 Q And that statement, that last sentence of paragraph 9 has  
6 nothing to do with the 25 to 54-year-old demographic that you  
7 discuss in the rest of the paragraph, correct?

8 A No.

9 Q You had 70 percent women viewership among 25 to 54-year-  
10 old people?

11 A You asked me the question of had nothing to do with. The  
12 reason we target women 25 to 54 with all of our prime time  
13 programming is the network is so heavily female that it is the only  
14 rational way to build original programming is to compete for that  
15 audience.

16 In -- in fact that is the decision I made when I joined  
17 GSN, is we're a 70 percent female network. Why on earth are we  
18 trying to sell anything other than women? So all of the original  
19 programming efforts since I've been there, as I've testified, has  
20 been about increasing women 25 to 54 on the network. We've always  
21 been a female network, so it can't have nothing to do with it.  
22 What I wanted to be was female and younger.

23 Q Let me ask you a different question just so the record is  
24 clear. The last sentence in which you say that women account for  
25 70 percent of GSN's viewership, is that an accurate statement about

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1 25 to 54-year-old viewers? Are they split 70 percent women and 30  
2 percent men?

3 A That's changed and significantly increased over time  
4 since I was there.

5 Q Okay.

6 A If you're --

7 Q I'm sorry. Go ahead.

8 A No, that's changed and significantly increased over time.  
9 It is pretty close to where we are now.

10 Q Okay. Let's talk about 2010 and 2011. You know do you  
11 not, that at the time that Cablevision re-tiered you, for 25 to 54-  
12 year-old viewers your skew was nothing like 70 percent women and 30  
13 percent men?

14 A It was not 70/30.

15 Q Right. It was close to 50/50, was it not?

16 A Well --

17 Q Can you answer that yes or no, please?

18 A So it depends the period we're talking about. If we're  
19 talking specifically about the fourth quarter and first quarter --  
20 fourth quarter of '10, first quarter of '11, we were in a dispute  
21 with Nielsen about their methodology, which is well-documented.

22 When shows such as The Newlywed Game were showing as male  
23 shows -- and if you've ever been fortunate enough to see The  
24 Newlywed Game, you know that that's a methodology error.

25 They never admitted to the errors. But within six months

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1 of our complaints the normal skew reappeared. So you aren't  
2 talking about a period of time that -- it was a period where Poker  
3 was showing itself as a female show.

4 So you are talking about a rare period in time where the  
5 numbers changed meaningfully and we complained. We went to the CAB  
6 to file a joint complaint with other small networks. You may also  
7 be aware this was the time that a lot of the small networks were  
8 complaining that its small sample sizes, which the smaller networks  
9 are for demographics, Nielsen had had some statistical errors.

10 Nielsen never admitted these errors, but with us, and we  
11 understand other networks, somehow magically the numbers started to  
12 change the following year to the normal skew that we see for the  
13 rest of GSN's history.

14 Q Mr. Goldhill, try to stay with my questions. I didn't  
15 ask you for an entire explanation. I asked you a simple question,  
16 and I think the answer was in the first 30 seconds.

17 In the fourth quarter of 2010 when Cablevision  
18 communicated to you its tiering decision, and in the first quarter  
19 of 2011 when Cablevision in fact re-tiered you, what the Nielsen  
20 data showed -- and we're going to go through it, is that your  
21 male/female skew among prime time 25 to 54-year-old viewers was  
22 approximately [REDACTED] men and [REDACTED] women, yes or no?

23 A Yes.

24 Q Right. Exactly what the MRI data shows, correct, in  
25 terms of a skew?

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1           A     I -- I -- I think it was actually -- the MRI data was for  
2 a year earlier, was it not?

3           Q     Okay. But the same numbers.

4           A     Different period.

5           Q     Different period.

6           A     Different shows, I mean.

7           Q     Okay. And in fact you lost women viewers all through  
8 2010, did you not?

9           A     Yes.

10          Q     Would you please turn in your book to Exhibit 143,  
11 Cablevision Exhibit 143?

12                 JUDGE SIPPEL: While you're doing that, I just want to  
13 get a clarification here. You keep talking about this 63 to 70  
14 percent number that the advertisers understood was the real world.  
15 I'm not going parse it any different than that. Did Game Show  
16 people know about that?

17                 THE WITNESS: Meaning our internal folks?

18                 JUDGE SIPPEL: Did they know what the advertisers knew?  
19 If this common knowledge among advertisers that you really got --  
20 really your numbers are up 63 to 70, forget about the [REDACTED] split  
21 --

22                 THE WITNESS: Right.

23                 JUDGE SIPPEL: -- do relevant people in Cablevision know  
24 that also?

25                 THE WITNESS: So I -- I can't -- I can't speak to what --

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1 JUDGE SIPPEL: You can't speak --

2 THE WITNESS: -- to what the Cablevision know. What I  
3 could tell you is that certainly in the entire time I have been at  
4 GSN nobody has ever thought -- in conversations with me, of GSN  
5 game shows in general as anything other than female-oriented  
6 programming. We have many years of --

7 JUDGE SIPPEL: That's not answering my question though.

8 THE WITNESS: I'm sorry. Then I misunderstood.

9 JUDGE SIPPEL: No, well, you're not misunderstanding it.  
10 To your knowledge -- I don't care whether it was you that  
11 communicated the information or people who work with you who  
12 communicated the information, or if this is just a matter of common  
13 knowledge, your testimony was as to these advertisers who knew all  
14 along that you were 63 to 70.

15 Did you have information or something that told you that  
16 Cablevision must know this, too? They do know that. And that  
17 notwithstanding those numbers, they would put you up on the high  
18 tier?

19 THE WITNESS: So, Your Honor, I --

20 JUDGE SIPPEL: Do you understand my question?

21 THE WITNESS: I think I do. Maybe my answer will  
22 indicate whether I understand it, but I think you're asking me  
23 whether Cablevision would know this because it's common knowledge.

24 JUDGE SIPPEL: Well, do they know it --

25 THE WITNESS: Yes.

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1 JUDGE SIPPEL: -- or would they know it? Probably did  
2 they know it?

3 THE WITNESS: I -- I -- I can't -- I really can't speak  
4 to --

5 JUDGE SIPPEL: You can't answer that question?

6 THE WITNESS: I can't, Your Honor. I -- I didn't meet  
7 with Cablevision during this period. I don't know what they knew.

8 JUDGE SIPPEL: Okay. You don't know what they knew.  
9 Should they have known it?

10 THE WITNESS: Well, I met with all of their --

11 JUDGE SIPPEL: No, no, no. Should they have known it?

12 THE WITNESS: Of course, Your Honor. This -- common  
13 knowledge in the television industry is that ---

14 JUDGE SIPPEL: Okay. That's your answer.

15 THE WITNESS: Yes, Your Honor.

16 JUDGE SIPPEL: Okay.

17 BY MR. COHEN:

18 Q And again, in response to the Judge's question, when you  
19 say that it's common knowledge, you're including all of your  
20 viewers, correct? Not just women.

21 JUDGE SIPPEL: Advertisers. I was talking about  
22 advertisers.

23 THE WITNESS: Yes, so --

24 BY MR. COHEN:

25 Q Let me just finish my question.

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1 A Yes, sir.

2 Q You're not -- in that answer -- I'm sorry, Your Honor.  
3 I was just speaking to Mr. Goldhill.

4 (Laughter)

5 MR. COHEN: I'm going to rewind.

6 (Laughter)

7 MR. COHEN: I'm going to rewind the tape.

8 JUDGE SIPPEL: Old habits die hard.

9 MR. COHEN: Let me rewind the tape.

10 BY MR. COHEN:

11 Q The common knowledge that you're talking about is that  
12 game shows skew towards women --

13 A Yes.

14 Q -- generally rather than towards men, right?

15 A Yes.

16 Q And that observation has nothing to do with the age of  
17 your viewers, correct?

18 A Correct.

19 Q Right? And generally -- and we're going to look at the  
20 Nielsen data in a minute, most of your audience were women, the  
21 plurality of your audience consistently have been women 55 and  
22 older, correct?

23 A Yes, sir.

24 Q Right. And the second biggest part of your audience has  
25 been men 55 and older, correct?

1 A I'm not sure of the answer to that.

2 Q Okay. I'll show you some data from the relevant time  
3 period.

4 A I think it varies over time.

5 Q Okay. Let's look at Exhibit 143. Since this is the  
6 first time we're looking at one of these documents, let me just put  
7 this in context for you, or for the Court. This on the first page  
8 says Management Committee, right? Stay on the first page

9 A I haven't --

10 BY MR. COHEN:

11 Q -- just so we can identify the document.

12 A -- document page yet.

13 BY MR. COHEN:

14 Q It's the one right after the tab that says Management  
15 Committee.

16 A Oh, yes. Yes.

17 Q Volume 5. Do you see that --

18 A Yes.

19 Q -- sir?

20 A Yes.

21 Q Okay. And the Management Committee ---- I think you said  
22 this yesterday -- the Management Committee of Game Show is actually  
23 your board of directors, correct?

24 A Yes.

25 Q And the board of directors has some representatives from

1 Sony, right?

2 A Yes.

3 Q And it has some representatives from DIRECTV, correct, at  
4 this time?

5 A Yes.

6 Q And in 2010 in fact Mr. Chang was one of the DIRECTV  
7 representatives on your Management Committee, right?

8 A Yes.

9 Q Right. And what you do -- your practice has been since  
10 you took over the network is at the end of the year, the end of a  
11 calendar year, you review the operations of the network. And I'm  
12 going to leave the gaming business to one side as Mr. Schmidt did.  
13 But you review the operations of the network and you share some  
14 projections for the coming year with the Management Committee,  
15 correct?

16 A Yes.

17 Q Okay. And you recognize that this is your year-end --  
18 Exhibit 143 is your year-end 2010 presentation? You agree?

19 A I'm sorry. Yes.

20 Q Okay. Would you turn please to page 22 of 57 in this  
21 presentation? Right?

22 These are the meeting minutes which show that this ----  
23 actually the meeting took place on December 10th, 2010, right? I'm  
24 sorry, sir, 22 of 57.

25 A I think I'm there.

1 Q Right?

2 A Yes.

3 Q Okay. And it's signed by Mr. Feldman. He's your general  
4 counsel. He's in the courtroom, right?

5 A Correct.

6 Q Okay. Now --

7 JUDGE SIPPEL: What page are you on?

8 MR. COHEN: Well, what I just showed --

9 JUDGE SIPPEL: Twenty-five?

10 MR. COHEN: Let me take you to the next page, Your Honor.

11 JUDGE SIPPEL: I got the exhibit already.

12 MR. COHEN: Okay. Let's go to 29 of 57.

13 JUDGE SIPPEL: Okay. I'm with you. Okay.

14 BY MR. COHEN:

15 Q This is the page --

16 A That? Yes, sir.

17 Q All right. This is a deck, right? It's a slide deck,  
18 right?

19 A Yes.

20 Q And the heading of this deck is Substantial Progress Made  
21 Against 2010 Goals, correct?

22 A Yes.

23 Q Okay. And then you have some successes, right?

24 A Yes.

25 Q And then you list disappointments, right?

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1 says: [REDACTED] right?

2 A YES.

3 Q So your [REDACTED] in 2010, correct?

4 A Yes.

5 Q And they [REDACTED] in 2011, correct?

6 A Our -- among [REDACTED].

7 Q [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

10 Q Right. And at the time of the Cablevision re-tiering  
11 decision you were [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED],  
12 correct?

13 A At that time, yes, correct.

14 Q Okay. Now turn please to page 50 of 83 of this document.

15 Let me know when you're there. The heading is: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Do you see that?

18 A Yes.

19 Q Okay. Now let's go through this slowly because it's  
20 important and let's just make sure we get it right. It covers  
21 2009, 2010 and 2011, sort of what you knew as of December of 2011  
22 about the year, correct?

23 A Yes.

24 Q Okay. And these are the network's ratings -- well, this  
25 is actually delivered audience, right? The numbers?

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1 A Yes.

2 Q Okay. And we'll come back to that in a minute, but this  
3 is your viewership in prime time over this time period, correct?

4 A In these two demos, yes.

5 Q Yes. And the top demo, P25 to 54, that's people? That's  
6 men and women, right?

7 A Correct.

8 Q Okay. And then underneath it what you have are women 25  
9 to 54, right?

10 A That's right.

11 Q [REDACTED]

14 A Would you -- would you say it again, Jay?

15 Q [REDACTED]

18 A [REDACTED] Basically we gained  
19 back to the levels at the beginning of 2009.

20 Q Right.

21 A So --

22 Q Now let's go back to the beginning of 2009 then. You  
23 were delivering, right -- so again, you actually educated me during  
24 your deposition. Ratings are expressed as a percentage, correct,  
25 point something?

1 A Ratings are -- are absolute numbers of.

2 Q Right. And what's reflected here is the actual numbers  
3 of audience members that you deliver, correct?

4 A Correct.

5 Q So if we go back to the beginning of 2009, what this  
6 says is in prime time, I assume on average at any given time,  
7 [REDACTED] people -- in the whole country, [REDACTED] people age 25 to 54  
8 were watching Game Show, right?

9 A Yes.

10 Q And of those [REDACTED] were women, right?

11 A Correct.

12 Q At the beginning? So at the beginning of 2009, your 25  
13 to 54-year-old prime time audience was essentially [REDACTED]  
14 [REDACTED], right?

15 MR. SCHMIDT: Object to characterization.

16 JUDGE SIPPEL: Want to rephrase it?

17 MR. COHEN: I don't think there's -- I stand on the  
18 question, Your Honor.

19 JUDGE SIPPEL: It's hard to do.

20 MR. COHEN: I'm asking him if [REDACTED]  
21 [REDACTED]

22 THE WITNESS: It's -- it's -- it's [REDACTED]. It's [REDACTED]  
23 is what it is --

24 BY MR. COHEN:

25 Q [REDACTED]

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1 A -- is what it is, yes.

2 Q Okay.

3 JUDGE SIPPEL: All right. Now you're being tested for  
4 your math skills, so try and cooperate with him to the extent that  
5 you can, but I don't want you to get sidetracked because of these  
6 math tests.

7 (Laughter)

8 THE WITNESS: Thank you, Your Honor. I appreciate that.

9 BY MR. COHEN:

10 Q You do have an MBA from Harvard, do you not?

11 A I -- I don't actually.

12 Q Okay. You have a master's.

13 A I have a master's in history.

14 Q In history?

15 (Laughter)

16 BY MR. COHEN:

17 Q Okay. I don't think --

18 A Which is -- which is why I really enjoy going through  
19 this.

20 (Laughter)

21 JUDGE SIPPEL: Close enough. Close enough.

22 BY MR. COHEN:

23 Q Okay. Now at the fourth quarter of 2010, that's where  
24 this line is on your graph, right? You see a line here --

25 A Yes.

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1 Q -- at the end of 2010? And that's when you found out you  
2 were going to be re-tiered by Cablevision, correct?

3 A Well, that line is -- no, that line is just to show the  
4 end of the year.

5 Q The end of the year. I'm just saying in time. I'm not  
6 saying it reflects the Cablevision --

7 A Oh, yes. No, no.

8 Q In time.

9 A It's -- it's -- we found out in the fourth quarter.

10 Q Right.

11 A Obviously we wouldn't have these numbers until  
12 afterwards, but --

13 Q Right. And in the fourth quarter of 2010 when  
14 Cablevision was re-tiering you, you had [REDACTED] prime time viewers  
15 25 to 54, correct?

16 A Yes.

17 Q And of the [REDACTED] were women and [REDACTED] were men?

18 A That -- that's correct.

19 Q Okay. Essentially -- you'll give me this one?

20 A I will.

21 Q [REDACTED]

22 A Correct.

23 Q Okay. And somewhere in the first quarter, around March  
24 or April, we have another set of numbers. [REDACTED] right? You  
25 see that, sir?

1 A In March?

2 Q Yes.

3 A Yes.

4 Q Okay. So even in March of 2011, right after the re-  
5 tiering, you had [REDACTED] viewers prime time 25 to 54. [REDACTED]  
6 [REDACTED], right?

7 A Yes.

8 Q Okay. And you would agree with me that the numbers that  
9 we've just reviewed for your prime time viewers in 2009, 2010 and  
10 the beginning of 2011, don't reflect a female skew of [REDACTED] right?

11 A I would agree those numbers do not.

12 Q Okay. Now let me show you some actual Nielsen numbers.  
13 Would you look at Cablevision Exhibit 314? Okay.

14 And if you turn to the second page, page 2 of 31, of 314  
15 -- I'm going to wait for His Honor to get there. A lot of paper.  
16 Apologize. To you, too, Mr. Goldhill.

17 A Thank you, Jay.

18 Q All right. This is Game Show Network gender skew  
19 inquiry, right?

20 A Yes.

21 Q Right. And this is what you were testifying about  
22 before, that at some point you had a discussion with Nielsen about  
23 whether they were accurately reporting men and women on the  
24 network, correct?

25 A Yes.

1 Q Okay. And they came back to you with a presentation,  
2 right?

3 A Yes.

4 Q And turn please to page 5 of 31. Right?

5 A Yes.

6 Q And this is the same data that we were looking at in the  
7 Management Committee report in terms of the time period and the  
8 demographic for a longer period, 2007 to 2011, right?

9 A Yes.

10 Q Okay. And what it shows us -- to go back to the fourth  
11 quarter of 2010 because they've done the math, is that in the  
12 fourth quarter of '10, [REDACTED]  
[REDACTED], right?

14 A This is what they had reported, yes, sir.

15 Q Right. And in fact the last time you registered a  
16 women's skew in [REDACTED] [REDACTED], according to the Nielsen data that  
17 everybody uses to buy general rate advertising, was in the first  
18 quarter of 2008 for this demographic, correct?

19 A Yes, sir.

20 Q Okay. And now --

21 A Well -- well, I'm sorry. I -- I -- let me -- before I  
22 answer your question, do you mind if I look at this a little more  
23 carefully, Jay? I haven't --

24 Q Feel free.

25 JUDGE SIPPEL: Well, go ahead. You can ask me for

1 permission, not him.

2 THE WITNESS: Oh, I'm sorry.

3 JUDGE SIPPEL: I'm sorry, Mr. Goldhill. I mean him.

4 MR. COHEN: Not at all, Judge.

5 THE WITNESS: Jay, would you ask your question again,  
6 please?

7 BY MR. COHEN:

8 Q My question is is the last quarter that Nielsen reported  
9 to you, right, a gender skew for 25 to 54-year-old people that  
10 showed women as [REDACTED] or more was in the first quarter of  
11 2008?

12 A During prime time.

13 Q During prime time, right?

14 A Yes.

15 Q Okay. And it says at the bottom, sort of the take-away  
16 from the slide, [REDACTED]

[REDACTED] Right?

18 A Yes.

19 Q Okay. Now turn please to page 11 of 31. Now this is  
20 actually -- this chart --

21 MR. COHEN: Are you with me, Your Honor? I'm going to  
22 wait for the Judge because --

23 JUDGE SIPPEL: I'm sorry, where are --

24 MR. COHEN: No, no, no. I'm going to wait until you  
25 finish your notes.

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1 JUDGE SIPPEL: I'm fascinated with -- where are you now?

2 MR. COHEN: Eleven of thirty-one.

3 JUDGE SIPPEL: I'm still fascinated with five. Okay.

4 Eleven of thirty-one? Here we go.

5 BY MR. COHEN:

6 Q And I want to go through one quarter. So this is the  
7 entire make-up. What this data on these bar charts show ---- or  
8 bar graphs, is the entire makeup of your prime time audience over  
9 a period of four of five years, right?

10 A Yes.

11 Q By demographics?

12 A We are talking about 12 of --

13 Q Eleven of thirty-one, sir. I'm sorry.

14 Q I'm sorry.

15 Q My mistake.

16 A No, I --

17 Q I'll ask you about 12 in a minute.

18 A Forgive me.

19 Q Okay. You were ahead of me.

20 A Eleven of thirty-one. Yes.

21 Q Okay. So again, just so we understand this document,  
22 let's take one quarter. We'll take the fourth quarter of 2010.  
23 This says that you had a delivered audience, right, of [REDACTED]  
24 viewers. Glasses?

25 A Okay. Thank you. Tell me again which quarter you're

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1 looking at?

2 Q 4Q '10. It's the third from the right.

3 A I've got it. Thank you. Your question again, please?

4 Q The [REDACTED] -- the total number of viewers you had in prime  
5 time, right -- the entire week in that quarter, right, on average?

6 A [REDACTED], yes, sir.

7 Q Right. Okay. [REDACTED] are  
8 women 55 and older, right?

9 A Yes.

10 Q That's [REDACTED] correct?

11 A Yes.

12 Q And would you agree with me, sir, that if we extended  
13 this beyond prime time to the whole daypart, since you have been at  
14 the network [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] for GSN  
15 programming --

16 A Yes.

17 Q -- [REDACTED]?

18 A Yes.

19 Q Okay. Now go back to 4Q '10. [REDACTED]

20 [REDACTED]. That's the red. Do you see that?

21 A Yes.

22 Q That's men 55 and above, right?

23 A Yes.

24 Q And what this says is your [REDACTED] of prime  
25 time viewers in this quarter were men 55 and older, right?

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1 A Yes.

2 Q And in fact if you look over this chart, that's not the  
3 only quarter over this period where men 55 and older are [REDACTED]  
4 [REDACTED], right?

5 A Correct.

6 Q [REDACTED]

7 A Yes.

8 Q Because your audience according to Nielsen [REDACTED],  
9 right?

10 A Yes.

11 Q Right. The third largest group are [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
12 That's the [REDACTED] right?

13 A Yes.

14 Q And the fourth largest group are the [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
15 That's the [REDACTED] They're right behind them, right?

16 A Yes.

17 Q Now you can turn to 12 of 31 as soon as the Judge gets a  
18 chance to turn.

19 JUDGE SIPPEL: What's your page?

20 MR. COHEN: Twelve. The next page, Your Honor. Just  
21 turn the page.

22 JUDGE SIPPEL: I got it.

23 BY MR. COHEN:

24 Q Okay. And what's presented here to you by Nielsen is a  
25 median age trend. This is the median age of your viewers during

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1 prime time, right?

2 A It is.

3 Q Okay. And it varies between -- and it's from say -- it  
4 [REDACTED] in the first quarter of 2008. That was your first  
5 quarter, right?

6 A I was -- third quarter '07 I think would be considered my  
7 first quarter.

8 Q Okay. So but the programming that was being shown in the  
9 first quarter of 2008, that didn't really reflect your vision,  
10 right?

11 A That -- that's correct.

12 Q That's all your predecessor's programming because there's  
13 a lag time in TV, right?

14 A Absolutely.

15 Q And during the time that your programming has been on the  
16 air, the programming that in prime time you target the 25 to 54-  
17 year-old people, the average age has been around [REDACTED] of  
18 your viewers, correct?

19 A Yes.

20 Q Okay.

21 MR. COHEN: Your Honor, I have a short line that I really  
22 do think we need to do in a confidential session. I've left it for  
23 the end. So if it's convenient to take a five-minute break.

24 I don't think it will take more than 15 minutes, maybe  
25 less, but I do want to go through some numbers that I think Mr.

1 Schmidt would think and I think GSN would think are confidential.

2 JUDGE SIPPEL: Well, does that make it close to the end  
3 of your cross?

4 MR. COHEN: That I believe -- let me double-check, is the  
5 last thing I have. Some of it is not confidential, but it's mixed  
6 in and it's one line.

7 JUDGE SIPPEL: Yes.

8 MR. COHEN: And then I would conclude.

9 JUDGE SIPPEL: So you think about 15 minutes that will  
10 take you?

11 MR. COHEN: Whatever you'd like, Your Honor. Fifteen  
12 would be great.

13 JUDGE SIPPEL: No, it's up to you.

14 MR. COHEN: Oh, fifteen minutes? Oh, to do it?

15 JUDGE SIPPEL: Yes, to do it. Is that what you were  
16 saying?

17 MR. COHEN: Sure. Yes, like 15,20 minutes. I can't  
18 guarantee with the witness, but I think 15 or 20 minutes.

19 MR. SCHMIDT: I'm fine with that. I ask that we just do  
20 it now though because I am going to ask for a few minutes once he's  
21 done just to be able to pull my notes together before redirect.

22 MR. COHEN: I'm happy to proceed now.

23 MR. SCHMIDT: Okay. Great.

24 MR. COHEN: I'm happy to proceed now.

25 MR. SCHMIDT: But no objection to going closed for that.

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1 JUDGE SIPPEL: Well, for the health and well-being of the  
2 group, we're going to take a break. I mean, yes, okay, we're going  
3 to break for 10 minutes.

4 MR. COHEN: Okay. And then we'll do closed session when  
5 we come back, Your Honor?

6 MR. COHEN: Well, for anybody who is here who is not on  
7 the protective order should leave the courtroom, or don't come  
8 back --

9 (Laughter)

10 JUDGE SIPPEL: -- for 15 minutes so I won't know who you  
11 are.

12 Okay. We're in recess.

13 (Whereupon, the above-entitled matter went off the record  
14 at 11:01 a.m. and resumed at 11:18 a.m.)

15 JUDGE SIPPEL: You are still under oath, Mr. Goldhill,  
16 sir.

17 CROSS EXAMINATION (CONT.)

18 BY MR. COHEN:

19 Q And Mr. Goldhill, could you turn to your witness  
20 statement, your direct testimony, Paragraph 31, and let me know  
21 when you're there?

22 A Yes.

23 Q And look at -- I want to focus you on the sentence at the  
24 bottom of the page that carries over to Page 12. "Based on our  
25 financial models, GSN anticipates that it will realize direct

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1 licensing and advertising losses amounting to approximately █  
█ during each year in which Cablevision continues to  
3 carry the network on the sports tier. The subscriber loss  
4 translates into an annual loss of █,  
5 and GSN estimates it is losing between █ in  
6 advertising revenue annually." Do you see that, sir?

7 A Yes.

8 Q There's no -- you reference in the beginning of the  
9 sentence a financial model, correct?

10 A Yes.

11 Q There's no written piece of paper which reflects that  
12 financial model, correct?

13 A I don't know.

14 Q Well, you're not aware of the piece of paper, are you?

15 A I'm not specifically aware.

16 Q Okay, but -- so --

17 JUDGE SIPPEL: How can you be unspecifically aware? I  
18 mean --

19 MR. GOLDHILL: Well, I know how we get those numbers.

20 JUDGE SIPPEL: They're on a piece of paper somewhere  
21 around.

22 MR. GOLDHILL: Well, yes, I mean -- and forgive me if I  
23 misunderstood the question. If you're saying, is there any place  
24 where that has been calculated and written down, or where we have  
25 estimated the value to the network of a subscriber, I'm certain

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1 those documents must exist. I don't specifically know when, and  
2 where, and what, but I've certainly seen those over the course of  
3 my --

4 BY MR. COHEN:

5 Q But the gist of the -- okay, I understand that, of  
6 course.

7 A Yes.

8 Q The gist of my question is, there's no model, a  
9 sophisticated financial model that reflects these numbers, right?

10 A Well, I'm not sure what you consider sophisticated. This  
11 is not a particularly complex calculation.

12 Q Okay.

13 A It doesn't need to be.

14 Q All right, and you say advertising losses of between [REDACTED]  
15 [REDACTED] per year, right?

16 A Yes.

17 Q The only document that you've ever shared with the  
18 Management Committee is that the losses would be down at the bottom  
19 of that range, correct?

20 A I need to see the document --

21 Q Sure.

22 A -- and the year of the document.

23 MR. COHEN: Absolutely, CV, Cablevision Exhibit 143 at 32  
24 of 57, CV 143, 32 of 57.

25 JUDGE SIPPEL: These are cross examination documents?

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1 MR. COHEN: Yes, Your Honor.

2 JUDGE SIPPEL: Why am I finding GSN in that CV?

3 MR. COHEN: CV is at the front. GSN is at the back.

4 JUDGE SIPPEL: That's a nice place to put them. GSN,  
5 okay, I have it now. And what's the number, CV what?

6 MR. COHEN: 143, 32 of 57.

7 JUDGE SIPPEL: I'm reading these numbers upside down, so  
8 give me a little slack here. 143, oh, I see.

9 MR. COHEN: Pro forma an impact...

10 JUDGE SIPPEL: Why did you say it was a Management  
11 Committee document?

12 MR. COHEN: Why did I say that, Your Honor?

13 JUDGE SIPPEL: Yes, I mean, it's a -- yes, I know it's a  
14 Management Committee document.

15 MR. COHEN: Oh, I'm sorry.

16 BY MR. COHEN:

17 Q Okay, so in this slide, in Cablevision Exhibit 143, it  
18 says, "pro forma impact of Cablevision dropping GSN from digital  
19 basic as of February 1, 2011." I'm sorry if you're not there.

20 A Did you say 32?

21 Q It's the number at the bottom, 32 of 57, not slide  
22 number. We branded them --

23 A No, I have it.

24 Q -- so we wouldn't have to do Bates numbers. Do you see  
25 that?

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1 A Yes, yes.

2 Q And it has a license fee number, right, which is simply  
3 the [REDACTED], right, times the number of subscribers you lost,  
4 right?

5 A Right.

6 Q And then there's an advertising estimate of a loss of [REDACTED]  
[REDACTED] per sub?

8 A Correct.

9 Q Right? Now, [REDACTED] per sub is not intended to reflect  
10 advertising sales at that time, that you lost simply, like, in the  
11 local New York market, right?

12 A I'm sorry, I don't understand the question.

13 Q Let me ask a better question. Does [REDACTED] per sub  
14 reflect an all-in number of what you calculated at the time as the  
15 amount of advertising that was generated by each subscriber?

16 A Oh, I'm sorry, I understand now. Thank you. Yes, it is  
17 for the first year of the decline what we would expect. This is  
18 the first year that --

19 Q Yes.

20 A -- we had been tiered. We had been tiered February. So  
21 this is the 2011 effect. I think I have said before that that  
22 would rise over time. The way Nielsen measures, for example, they  
23 don't capture distribution losses for six or seven months. So I'm  
24 fairly sure we've covered it before, but if not, this is the first  
25 year number. Our models at the time suggested what an affiliate

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1 was worth to us on a full-year basis, [REDACTED]. Now it would  
2 be closer to [REDACTED]

3 Q Okay, and when you say that it's gone up from [REDACTED]  
4 [REDACTED] on a full-year basis --

5 A Yes.

6 Q -- that's because the network has more subscribers and  
7 greater ratings than it did in 2010, right?

8 A Greater delivery and higher prices in the DR market.

9 Q Okay, so let me try to make that to be clear. Since the  
10 time that Cablevision retiered you, your advertising per subscriber  
11 has increased as a metric, correct?

12 A You are right. The [REDACTED] here though is a partial  
13 year number, so it doesn't reflect a full year. It reflects the  
14 fact that this was going to phase in over '11.

15 Q Yes, I'll be clear. I'm going back to you. You said in  
16 2011, your estimate was that for each subscriber you had, you could  
17 generate [REDACTED] in revenue, correct, advertising revenue?

18 A I'm talking about each marginal subscriber. We, in fact,  
19 did more than that, but each additional subscriber.

20 Q And today, each marginal subscriber is more valuable to  
21 Game Show Network, GSN, than it was in 2011, right?

22 A It is, several years later, yes.

23 Q Right, notwithstanding the fact that you're not in part  
24 of the New York DMA, the value of advertising per subscriber has  
25 gone up since the retiering, true?

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1 A Absolutely.

2 Q Okay, now, look at Cablevision 262. It's a few more tabs  
3 back in this book, 262, and these are the management meeting  
4 minutes -- management meeting presentation at the end of 2013,  
5 okay. Do you see that, sir?

6 A Which set?

7 Q 262.

8 A Okay.

9 Q Okay, and now this is a meeting, this deck was presented  
10 to the management committee on December 17, 2013, right?

11 A Yes.

12 Q Okay, and the same representative, Sony, DIRECTV, you,  
13 and one or two of your senior executives, right?

14 A Yes.

15 Q Okay, now turn please to Page 4 of 44.

16 A Yes, I'm there.

17 Q Okay, historical financials, 2007 to 2013. Do you see  
18 that, sir?

19 A I do.

20 MR. COHEN: Okay, and what this shows, and this document  
21 was prepared, Page 4 of 44, I'm going to wait for His Honor to get  
22 there.

23 JUDGE SIPPEL: Four of 44.

24 MR. COHEN: Four of 44, historical financials, 2007 to  
25 '13.

1 JUDGE SIPPEL: I'm getting there. Got you.

2 MR. COHEN: Okay?

3 BY MR. COHEN:

4 Q This slide was prepared under your supervision, right?

5 A Yes.

6 Q Okay, and what it shows is the revenue from 2007 through  
7 2013 grew. CAGR is a compound annual growth rate?

8 A Yes.

9 Q Right? It grew at a compound annual growth rate of [REDACTED]  
[REDACTED] over the period, right?

11 A Yes.

12 Q Okay, and the revenue has continued to grow since 2013,  
13 correct?

14 A You understand this is a chart from both businesses?

15 Q Yes.

16 A So this includes the game business, which was growing  
17 very fast, and the TV business, which was not.

18 Q Right, right.

19 A So if you're talking about both of our businesses, which  
20 we haven't up to this point in the hearing, this is, of course, an  
21 accurate chart.

22 Q All right, well, let me try to do it a different way. Is  
23 it true that in 2008, your TV revenues were higher than 2007?

24 A I would suspect they were, yes.

25 Q And 2009 was higher than 2008 for TV, correct?

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1 A I think pretty consistently we've had some growth in  
2 revenue.

3 Q Right, so is it a fact that in every year since you have  
4 been at the network, the revenue of the TV network has increased?

5 A Yes.

6 Q And it's continued to increase since the Cablevision  
7 retiering, correct?

8 A Yes.

9 Q Okay, and is it a fact that your -- OIBDA is operating  
10 income before depreciation and amortization?

11 A Yes.

12 Q Okay, can we just call it operating income?

13 A It's close to operating -- it's what we use as operating  
14 income. Let's use that.

15 Q Okay, operating income. It's your net profit, right?

16 A No, but it's our operating income.

17 Q Okay, it's your operating income, okay. I took one step  
18 too far. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



1 But we have more than doubled our investment in original  
2 programming and associated marketing, and that doubling -  
3 unfortunately, it's an investment in the colloquial. It's expense,  
4 from an accounting point of view, [REDACTED]

5 [REDACTED]  
6 MR. COHEN: Okay, look at Paragraph 32.

7 JUDGE SIPPEL: When did this -- when did you start this?

8 MR. GOLDHILL: We started to actually be able to spend  
9 money in late '13. We started talking about it through '12.

10 BY MR. COHEN:

11 Q Okay, and let me just be clear. You're not testifying,  
12 are you, that the reason why you decided to invest more money in  
13 original programming is because Cablevision retiered you?

14 A So I'm saying that one of the factors, to be clear, which  
15 I think is what you're asking me to do, one of the factors was the  
16 extreme vulnerability we felt among other affiliates, following the  
17 retiering and we did a number of things relating to the  
18 vulnerability. Ultimately, we decided to [REDACTED]

19 [REDACTED] in order to address it.

20 Q Right, I want to be clear. Are you testifying under oath  
21 that the principle reason why you -- the network increased its  
22 investment in original programming beginning in 2013 was because of  
23 the Cablevision retiering?

24 A So -- and all of my testimony, I believe, is under oath.

25 JUDGE SIPPEL: It is.

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1 MR. GOLDHILL: Thank you, Your Honor. What I have said  
2 is that started a series of responses by the network to the  
3 vulnerability that, frankly, we did not think we had, that the  
4 Cablevision retiering made clear to us. If you're asking me is it  
5 the sole reason? It is not the sole reason. As I said, we were  
6 starting to see success in original programming and said this might  
7 be a way, and it cost us a meaningful amount of money, to address  
8 that vulnerability on a long-term basis.

9 BY MR. COHEN:

10 Q Mr. Goldhill, I didn't ask you if it was the sole reason.  
11 I asked you a very specific question.

12 A Right.

13 Q Try to give me a specific answer. Are you contending  
14 that the principle reason that you made a larger investment in  
15 original programming was because Cablevision put you on a sports  
16 tier?

17 A So --

18 Q Can you answer that yes or no please?

19 A Well, unfortunately, I'm a CEO, so we don't make  
20 decisions --

21 (Simultaneous speaking)

22 MR. COHEN: Your Honor, may I get an instruction --

23 MR. GOLDHILL: That's not how the decision was made. I  
24 don't know what you want me to say.

25 JUDGE SIPPEL: Let me try this. The fact that you're a

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1 CEO does not mean that you can't answer a yes or no question if the  
2 yes or no question is fair. And all you're being asked, as Mr.  
3 Cohen has said it three times, he's asked you three times, is the  
4 primary reason for your going into original programming the  
5 retiering back in February of 2011?

6 MR. GOLDHILL: And the primary reason was the  
7 vulnerability of the network.

8 JUDGE SIPPEL: All right, then it wasn't the primary  
9 reason. If the primary reason was something else, then the answer  
10 could simply be, "No, that was not the primary reason."

11 MR. GOLDHILL: If -- I--

12 JUDGE SIPPEL: I'm not putting words in your mouth. I'm  
13 simply saying that's why I'm here.

14 MR. GOLDHILL: Well, Your Honor, if that's the way it's  
15 being defined, then I think you're right, I should say no. There  
16 were several reasons, and many of them relate to the implications,  
17 as opposed to the act.

18 MR. COHEN: And one of the reasons was that one --

19 JUDGE SIPPEL: I'm just trying to move things along.

20 MR. COHEN: Yes, Your Honor.

21 JUDGE SIPPEL: I'm sorry.

22 MR. COHEN: No, no, that was very helpful, Your Honor.  
23 I'm just trying -- I'm going to move this along as well.

24 BY MR. COHEN:

25 Q One of the reasons you made an investment in original

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1 programming was to try to expand the reach of the network, correct?

2 A Absolutely.

3 Q Okay, so let's just again define terms because there are  
4 a lot of terms here. Reach is the number of unique viewers, right?

5 A Yes.

6 Q Right, and so you might have ratings, Network A might  
7 have ratings that lower than GSN, but more people might sample the  
8 programming than sample GSN programming, correct?

9 A Yes.

10 Q Right, and one of the issues that GSN has had, and we see  
11 it in these management decks over and over again, is your view was  
12 that the reach of the network was a significant problem for GSN,  
13 right?

14 A Yes.

15 Q Because you could not expose new viewers to your  
16 programming?

17 A Yes.

18 Q And one of the drivers of the investment in original  
19 programming was to try to expand the reach of the network, to bring  
20 in new people --

21 A Yes.

22 Q -- to see the network, right?

23 A Yes.

24 Q And to try to get the network to skew younger, correct?

25 A Yes.

1 Q All right, that was your whole philosophy since you  
2 arrived at the network, right?

3 A Yes.

4 Q You had been a proponent of making greater investments in  
5 original programming that would improve the reach of the network  
6 since the day you arrived, true?

7 A Not increasing, no, but shifting. So when I arrived, to  
8 be precise, what I did was I shifted the money spent on original  
9 programming from things that I did not feel contributed to the  
10 network's sensible target. It's only later that I said, you know  
11 what, we need to meaningfully increase the actual amounts we're  
12 spending. It's two different periods.

13 Q Okay, but to try to improve the reach?

14 A Reach has always been an important -- reach expansion has  
15 always been an important goal.

16 Q Right, I mean, that's been an obstacle to the growth of  
17 the network, right?

18 A I believe so.

19 Q Okay, now, would you look please at Paragraph 32 of your  
20 testimony? The testimony is at the front. I'm sorry, and I am  
21 going to go back to that, if you want to stick a piece of paper  
22 there.

23 A I'll find it.

24 MR. COHEN: Okay, Paragraph 32. You say in the first  
25 sentence of Paragraph 32, "The reduction in revenues," and that

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1 refers to the reduction --

2 JUDGE SIPPEL: I'm going to wait -- hold on just a  
3 minute.

4 MR. COHEN: Yes, Your Honor, of course.

5 JUDGE SIPPEL: Since we're on this subject matter of the  
6 retiering, it was after the retiering, I mean, on a timeline, after  
7 the retiering, that GSN moved into this strategy of more - of  
8 original programming, all right. I mean, I know you did it before,  
9 but it was after the retiering that you moved into this other phase  
10 of it? Is that - am I saying it the right way?

11 MR. GOLDHILL: Sir, yes, it would be roughly two and  
12 change years after the retiering, which is why I answered the  
13 question the way I did, that we said to ourselves we need to  
14 meaningfully increase the amount of original programming. In my  
15 last answer, what I tried to make clear is the decision to shift  
16 our original programming for things that felt more general to  
17 things that were more targeted, I made when I came in, but we spent  
18 roughly the same amount of money or the same amount of share of our  
19 revenue.

20 JUDGE SIPPEL: Well, I'm trying to get a feel for exactly  
21 what the strategy was at the time of the retiering.

22 MR. GOLDHILL: At the time of the retiering, all of our  
23 original programming money was already being spent on shows to  
24 attract women 25 to 54. We were having mixed success, as has been  
25 pointed out, but that was the goal. The difference that I believe

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1 Counsel was bringing up is a couple of years after the retiering.  
2 We also decided to meaningfully --

3 JUDGE SIPPEL: All right, you've answered my question.

4 MR. GOLDHILL: Thank you, sir.

5 BY MR. COHEN:

6 Q Okay, all right, so turn please to Paragraph 32 of your  
7 testimony.

8 A 32.

9 Q 32, Page 12. Are you there, sir?

10 A Yes.

11 Q You say in the first sentence, "The reduction in revenues  
12 dramatically impacts our ability to effectively operate and build  
13 our television network, and to develop and acquire new programming,  
14 and to market our programming to grow our audience." Do you see  
15 that, sir?

16 A I do.

17 Q True statement?

18 A Yes.

19 Q Okay, now, the reduction in revenues that you're  
20 referring to in the first part of Paragraph 32 is the [REDACTED]  
21 that you refer to in Paragraph 31?

22 A The [REDACTED] per year.

23 Q Per year. And isn't it a fact that you have developed,  
24 acquired, and invested more in new programming since you lost that  
25 [REDACTED] revenue stream than before?

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1 A We have.

2 Q So it has not dramatically impacted your ability to  
3 invest in new programming, correct, because you've done it?

4 A Well, thank you. We've done less than we would have done  
5 otherwise. And in the competitive market we're in, where we're  
6 fighting for audience with other networks who do original  
7 programming and may have larger budgets to do original programming,  
8 target the same audience we target, losing what would be one major  
9 show a year is extraordinary for us. We're talking about per year.  
10 So we have four big shows a year. This is one out of what would be  
11 five. I disagree with the characterization that for a network our  
12 size that's not important. It's very important.

13 Q You actually made a decision in 2014 not to invest in  
14 four or five shows, but to invest in nine, correct?

15 A I distinguished, I think, between the sort of big ten  
16 pole shows we do, which are very expensive, and other shows we do  
17 which are significantly less expensive. When I talk about original  
18 programming, and you asked the question about expanding reach, we  
19 rely on some very big expensive shows that are heavily marketed to  
20 expand reach. The other originals serve more of our core audience.

21 Q Okay.

22 A And so, from our management perspective, there's a very  
23 big difference between spending [REDACTED] on launching  
24 a new show and spending [REDACTED] on a show that works with the  
25 target without needing that level of marketing or production.

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1 MR. COHEN: Would you turn back to Cablevision 262? That  
2 was the '13 marketing plan.

3 JUDGE SIPPEL: I just want to ask one question.

4 MR. COHEN: Of course, Your Honor.

5 JUDGE SIPPEL: If there had been no retiering, and you  
6 were operating GSN as you came in 2007, but you had not been  
7 retiered, would you be doing the same thing today with respect to  
8 this -- to get more reach for the original programming?

9 MR. GOLDHILL: So my --

10 JUDGE SIPPEL: Try to answer straight out.

11 MR. GOLDHILL: So the answer is no, Your Honor.

12 JUDGE SIPPEL: Thank you.

13 MR. GOLDHILL: My philosophy as a manager is not to see  
14 profits go down from year to year.

15 JUDGE SIPPEL: Say that again now.

16 MR. GOLDHILL: I would not otherwise have been willing to  
17 reduce the network's profitability --

18 JUDGE SIPPEL: Okay.

19 MR. GOLDHILL: -- to achieve this, so the answer is no.

20 BY MR. COHEN:

21 Q So it's your testimony that if you had not been retiered,  
22 and your reach had not been expanded, in your old philosophy you  
23 wouldn't have made an additional investment, right?

24 A No, it's not my --

25 Q Okay.

1           A     What I said was different. I said I would not have done  
2 it to the level at which we reduced our profitability.

3           Q     You're not going to quantify it, are you?

4           A     Of course I do. I do this every year. That's what a  
5 budget is.

6           Q     Okay, look at --

7           A     Quantification is the whole point of these documents.

8           Q     Look at Exhibit 262, 15 of 44, programming investment  
9 plan.

10          A     Yes.

11                 MR. COHEN: The bulk of 2013's second half ramp up -- I'm  
12 going to wait for His Honor.

13                 JUDGE SIPPEL: Where are we? I'm on 262.

14                 MR. COHEN: 15 of 44, Your Honor.

15                 JUDGE SIPPEL: Okay. One more, okay.

16                 MR. COHEN: Okay?

17                 BY MR. COHEN:

18                         The bulk of 2013's second half ramp up was in  
19 marketing spend as some launches moved to the first quarter of  
20 2014, right?

21          A     Yes.

22          Q     After the retiering, right?

23          A     Yes.

24          Q     And then you planned on launching nine original series in  
25 2014, versus five last year, and increasing marketing spend by ■

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1 [REDACTED]. Do you see that, sir?

2 A Yes.

3 Q That was all to improve your reach, right?

4 A No.

5 Q It wasn't to attract and retain distributors?

6 A Yes --

7 Q Didn't you testify yesterday in response to His Honor's  
8 questions that you asked you, and I thought he was surprised,  
9 didn't you say that cable companies don't care about your  
10 programming?

11 A So, I think they don't care --

12 Q Didn't you say that? I just want to be sure.

13 A I believe I said about what specific programs we had on.  
14 I'm pretty sure I said that, because I know that we also said that  
15 they do care about the quantity of their affiliate fees that we put  
16 in programming.

17 Q Okay.

18 A And they care specifically about original programming.  
19 I think what we testified to is they don't seem to care about  
20 individual titles or individual shows.

21 Q And this investment in original programming that you are  
22 talking about, when Mr. Schmidt showed you that Cox deck that was  
23 prepared at the time of the retiering, you were touting how much  
24 you were spending on original programming, right?

25 A We were actually touting how many value -- how many hours

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1 we were creating.

2 Q Right, and your pitch throughout your tenure at GSN, pre  
3 and post-retiering, has been to tell cable operators that you are  
4 bringing new and original programming to the network, right?

5 A Yes.

6 Q And that costs money, right?

7 A Of course.

8 Q And in fact, you raised your spend in 2014 by [REDACTED]  
9 right?

10 A Yes, sir.

11 Q Okay, and you were able to do that notwithstanding the  
12 retiering?

13 A Correct.

14 Q Okay, and in fact, you keep saying -- I think you said it  
15 a couple times, "We're a small cable company," right, "a small  
16 cable network?"

17 A Yes.

18 Q Okay, you have a lot of cash, don't you?

19 A We do have a lot of cash now.

20 Q You have [REDACTED] in unrestricted cash?

21 A We don't right now currently, but we have at some points,  
22 yes.

23 Q Okay, what's your current amount of unrestricted cash?

24 A It would be -- you know, I hate answering precise  
25 questions without the documents in front of me.

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1 MR. COHEN: I'm going to help you out. I'm going to help  
2 you out. That's a very fair point. Why don't you look at  
3 Cablevision Exhibit 263? 263, Your Honor.

4 JUDGE SIPPEL: Is that in the book?

5 MR. COHEN: It's in the book. Keep going backwards to  
6 the back, Cablevision 263.

7 JUDGE SIPPEL: Okay, I see where I'm going.

8 MR. GOLDHILL: This is the 13 one.

9 MR. COHEN: I don't have 14.

10 MR. GOLDHILL: There's a meaningful difference, but --

11 JUDGE SIPPEL: 263? I got -- do I have 263 here?

12 MR. COHEN: The tab before it, Your Honor, is 262.

13 JUDGE SIPPEL: That would make sense.

14 MR. COHEN: Well, no, it's not every one though,  
15 thankfully, for all of them.

16 JUDGE SIPPEL: I have 263.

17 BY MR. COHEN:

18 Q Okay, so 263 are the consolidated financial statements  
19 for 2013 and 2014 for GSN, right?

20 A Yes.

21 Q Okay, I'm going to represent to you that these were the  
22 last ones that were produced to us, so I can't ask you about the  
23 later ones.

24 A Right, right.

25 MR. COHEN: But --

1 JUDGE SIPPEL: I knew I'd seen a consolidated schedule,  
2 but this is only for Game Show.

3 MR. COHEN: Right.

4 JUDGE SIPPEL: I want to see Cablevision's.

5 MR. COHEN: Oh, we owe you that, Your Honor. You asked  
6 for it yesterday. I'll get it. We'll print it at a break.

7 JUDGE SIPPEL: Then it will be a credit and not a debit.

8 BY MR. COHEN:

9 Q Now, go to the balance sheet which is on Page 4 of 20.  
10 You're already there, right? Okay, and what this shows is that you  
11 had cash on hand at the end of 2012 of [REDACTED], right?

12 A Yes.

13 Q [REDACTED] the amount of the loss that year for  
14 Cablevision, right?

15 A Roughly, yes, sir.

16 Q Okay, and in 2013, you had [REDACTED] in cash on hand,  
17 right?

18 A Yes, sir.

19 Q And it went up from there, correct?

20 A I think it has. Forgive me, I'm not sure. [REDACTED]

[REDACTED] which is --

22 Q Okay, I'm going to get there. So one of the reasons that  
23 your restricted cash has gone down is that you spent upwards of  
24 [REDACTED], correct?

25 A Yes.

1 Q In cash?

2 A Yes.

3 Q Right, and you spent [REDACTED] [REDACTED] on a new line of  
4 business since the time of the retiring, right?

5 A Again, it's a completely separate business, so I'm not  
6 sure of the relevance, but we did make an acquisition in excess of  
7 [REDACTED] in our online games business.

8 Q Right, if we look at the last page of Exhibit 263,  
9 there's a subsequent events footnote. Do you see that?

10 A I haven't gotten there yet, but I think I know what --

11 MR. COHEN: I'm sure you do. And --

12 JUDGE SIPPEL: Where are you? I'm sorry.

13 MR. COHEN: The last page of Exhibit 263, Your Honor.

14 JUDGE SIPPEL: Okay.

15 BY MR. COHEN:

16 Q And what this shows is that on March 17, 2014, the  
17 company - that's the company you're the CEO of, right?

18 A Yes.

19 Q You're not the CEO of the network, you're the CEO of the  
20 company, right?

21 A I'm actually CEO of all of our companies, one of which is  
22 the television business, one of which is the subsidiary that owns  
23 the games business.

24 Q Right, and is there a company that sits on top of both,  
25 namely Game Show Network, LLC?

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1 A Yes.

2 Q And you're the CEO of that?

3 A I am.

4 Q Okay, you report to yourself.

5 A What's that?

6 Q You report to yourself.

7 A It's tougher than it looks.

8 Q Okay, and you -- what this says is that in 2014, there  
9 was [REDACTED] cash outlay to buy a business, right?

10 A Yes.

11 Q And an additional payout, which I assume some of those  
12 payments that have already been made, correct?

13 A Yes, sir.

14 Q So you spent how much so far on this business?

15 A I'm not sure.

16 Q [REDACTED]

17 A [REDACTED]

18 Q Okay, and you were, during this entire period, paying  
19 dividends to your owners each year, correct?

20 A We had been.

21 Q Right, so in 2011, and 2012, and 2013, '11, '12, and '13,  
22 after the retiering, GSN paid out [REDACTED] a year to DIRECTV and  
23 Sony in dividends, right?

24 A We did pay dividends.

25 Q Right.

1 A The numbers vary.

2 Q [REDACTED]

3 A [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 MR. COHEN: So --

11 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 JUDGE SIPPEL: [REDACTED]

21 MR. GOLDHILL: [REDACTED]

22 JUDGE SIPPEL: [REDACTED]

23 MR. GOLDHILL: [REDACTED]

[REDACTED]

[REDACTED]

1

█

█

█

█

█

7

BY MR. COHEN:

8

Q Right, that's true with respect to the decision to enter into new contracts, to buy office furniture, to --

10

A No, it's not.

11

Q Right?

12

A Not at our company, no.

13

Q Do you have -- do you have amounts above which you need to get permission for that?

15

A For certain items. The way our company works is we have a single annual budget, and I have complete discretion.

17

Q Within the budget?

18

A Correct.

19

MR. COHEN: Okay, go back to this 2013 management document, Exhibit 262, and I want you to look at 41 of 44.

21

JUDGE SIPPEL: I'm sorry, you've got to help me.

22

MR. COHEN: 262, 41 of 44, Your Honor. I apologize for all the flipping around.

24

JUDGE SIPPEL: No, that's okay. And that's 41?

25

MR. COHEN: Of 44, forecasted --

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1 JUDGE SIPPEL: I got to go back the other way.

2 MR. COHEN: Okay. 262 is a management committee  
3 presentation, Your Honor. You may be in 263.

4 JUDGE SIPPEL: You know, I am. 42 of 44?

5 MR. COHEN: 41 of 44, Your Honor.

6 JUDGE SIPPEL: I knew I was close. Hold on just a  
7 second. Am I right? Is this right or did I go the wrong  
8 direction? 262, is that correct?

9 MR. COHEN: 262, 41 of 44 down in the little, the right  
10 -

11 JUDGE SIPPEL: Oh, I see. Wait a minute. I got to get  
12 one more.

13 MR. COHEN: There are a lot of numbers stamped on those.

14 JUDGE SIPPEL: No, no, no, it's okay. 41 of 44?

15 MR. COHEN: Yes.

16 JUDGE SIPPEL: Okay, I got 38.

17 MR. COHEN: May I help you, Your Honor?

18 JUDGE SIPPEL: No, that's okay. 39, I got it, 40.

19 MR. COHEN: Right there on the right side. There we are.

20 JUDGE SIPPEL: Thank you.

21 BY MR. COHEN:

22 Q [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] right?

24 A Yes.

25 Q So in 2013 and '14, you knew you were going to do some



1

3

JUDGE SIPPEL: And that's not footnoted anywhere in your  
financials?

5

MR. GOLDHILL:

9

BY MR. COHEN:

10

Q Mr. Goldhill, I have to follow up.

14

MR. SCHMIDT: Objection, Your Honor. It's not fair to  
ask this witness about what we've produced.

16

JUDGE SIPPEL: He can ask him if he knows.

17

MR. GOLDHILL: There would be no such document.

18

BY MR. COHEN:

19

Q Is that understanding that you've testified to reflected  
in writing, whether you're produced it or not?

21

A Absolutely not.

22

JUDGE SIPPEL: You mean that he signed?

23

MR. COHEN: No, a document, a written document.

24

JUDGE SIPPEL: I understand what you're saying.

25

BY MR. COHEN:

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1

Q [REDACTED]

[REDACTED]

[REDACTED]

4

A [REDACTED]

[REDACTED]

6

JUDGE SIPPEL: [REDACTED]

[REDACTED]

8

MR. GOLDHILL: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14

JUDGE SIPPEL: Okay.

15

MR. GOLDHILL: [REDACTED]

[REDACTED]

17

BY MR. COHEN:

18

Q I guess I'm making a simpler point. When you decided to

19

ramp up your programming expense, right?

20

A Yes.

21

Q You didn't have to go to the bank and borrow the money,

22

right?

23

A What I had to do is go to the management committee and

24

say, [REDACTED]

[REDACTED]

[REDACTED]

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JUDGE SIPPEL: But you still didn't answer the question.  
You didn't have to go to the bank.

MR. GOLDHILL: We did not, of course not.

MR. COHEN: Turn to Paragraph 34 of your statement, sir.

JUDGE SIPPEL: Go back to the testimony again?

MR. COHEN: Yes, and this is the end of --

(Simultaneous speaking)

JUDGE SIPPEL: Paragraph 30?

MR. COHEN: In case everybody calls for celebration.  
Paragraph 34.

JUDGE SIPPEL: Okay, all right, 34. Let's see, yes.

BY MR. COHEN:

Q

A Yes, sir.

Q And then you talk about various cable -- and it's really  
distributors, it's not just cable, right?

A Cable satellite television, right.

Q Right, yes, that have mentioned these things in  
negotiations, right?

A Yes.

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1 Q You were not a party to those discussions, were you?

2 A Some of them, certainly.

3 Q [REDACTED]

4 A I meet with every affiliate every year, every major  
5 affiliate every year. [REDACTED]

6 [REDACTED]

7 Q [REDACTED]

8 A [REDACTED]

9 [REDACTED]

10 Q [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1

[REDACTED]

1

[REDACTED]

9

Q That's an umbrella organization for small cable

10

operators?

11

A Yes.

12

Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16

MR. COHEN: I have nothing further for the witness, Your

17

Honor. I pass him to Mr. Schmidt.

18

JUDGE SIPPEL: Does the Bureau have some questions?

19

MS. KANE: Your Honor, we do have questions, but we

20

talked to Mr. Schmidt during the break, and we think it probably

21

makes more sense for Ms. Schmidt to do redirect, and then if the

22

Bureau still has those questions pending, then it would make sense

23

for us to ask them at that time.

24

JUDGE SIPPEL: So you'll wait, okay.

25

MR. SCHMIDT: I think that's how we did it in --

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1 (Simultaneous speaking)

2 MR. COHEN: That's my recollection of the Wealth  
3 proceeding too, Your Honor, is that the Bureau usually went at the  
4 end.

5 MS. KANE: But we're happy to do it in whatever order  
6 Your Honor would prefer.

7 JUDGE SIPPEL: Well, no, it's up to you, I mean, really,  
8 if you feel more comfortable doing it that way.

9 MS. KANE: I think that probably would make a cleaner  
10 record, Your Honor.

11 JUDGE SIPPEL: Okay, so you're next on redirect.

12 MR. SCHMIDT: Yes, but as I said before, if I could just  
13 take five minutes to pull my notes together, I would appreciate  
14 that.

15 JUDGE SIPPEL: I told you we don't take five minute  
16 breaks.

17 MR. SCHMIDT: Okay, I'm not listening well, Your Honor.

18 JUDGE SIPPEL: What time is it?

19 MR. SCHMIDT: Noon. Lunch would be great if we could do  
20 lunch.

21 JUDGE SIPPEL: You want to do lunch?

22 MR. SCHMIDT: We could do lunch. We're not going to  
23 finish redirect before lunch.

24 JUDGE SIPPEL: Pardon?

25 MR. SCHMIDT: I don't think we're going to finish

1 redirect before lunch.

2 JUDGE SIPPEL: Does that make sense?

3 MR. COHEN: It makes perfect sense to me, Your Honor.

4 JUDGE SIPPEL: Are we going to be in open or closed  
5 session when we get back?

6 MR. SCHMIDT: I think I'll parallel Mr. Cohen where I'll  
7 have a short block that is closed session. The rest will be open.  
8 So my thought would be to do it exactly as Mr. Cohen did it, to  
9 begin in open session and then at the very end it will probably be  
10 15 minutes, in the definition that Mr. Cohen used, and that will be  
11 closed session.

12 JUDGE SIPPEL: Okay, all right, well, we'll pull the  
13 sentries off, and --

14 MR. COHEN: What time should we return, Your Honor?

15 JUDGE SIPPEL: I think 1:15. Is that okay? I can go  
16 1:30 if you want.

17 MR. COHEN: Either is fine, Your Honor.

18 MR. SCHMIDT: 1:30 would be a little bit better for me,  
19 Your Honor, just I've got to get some stuff together.

20 MR. COHEN: 1:30 is fine with us.

21 JUDGE SIPPEL: Is that okay with you? Let's do it at  
22 1:30. Oh, I have one more housekeeping thing. My social calendar  
23 is pretty heavy this week. I've got -- there's a law school alumni  
24 meeting tonight that I've got to go to, but I think it's -- if I  
25 get out of here by 6:00, I think I'm okay. I'll shoot for 6:00

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1 again.

2 MR. SCHMIDT: Okay, thank you, Your Honor.

3 JUDGE SIPPEL: I can't get anymore tickets for the rest  
4 of the week, so. We're in recess. By the way, the same  
5 instructions apply to you, sir. You're only -- no preparation  
6 unless it's on his testimony redirect.

7 MR. SCHMIDT: Yes.

8 JUDGE SIPPEL: You don't go back and - unless it's to do  
9 with cross.

10 MR. SCHMIDT: Thank you, sir.

11 JUDGE SIPPEL: We're off the record.

12 (Whereupon, the above-entitled proceeding went off the  
13 record at 12:02 p.m. and resumed at 1:31 p.m.)

14 JUDGE SIPPEL: We're on the record.

15 MR. SCHMIDT: Whenever Your Honor's ready.

16 JUDGE SIPPEL: Please be seated. Make yourself  
17 comfortable. You're still under oath, and we're now turning you  
18 back to your own counsel. Friendly faces, right?

19 WITNESS: They're all friendly faces to me, Your Honor.

20 JUDGE SIPPEL: See how easy it is? Okay, your witness.

21 MR. SCHMIDT: Thank you, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. SCHMIDT:

24 Q Let me just follow up on some of the questions in some of  
25 the different categories that Mr. Cohen asked you about. Let me

1 start with this idea that your network specializes in shows that  
2 include competition as part of their element. Is that a true  
3 statement that your network specializes in those types of shows?

4 A Yes.

5 Q Do your competitors have that kind of identical lineup?

6 A No.

7 Q So how is it that you can have differences between your  
8 types of shows but still compete with them?

9 A Well --

10 JUDGE SIPPEL: Go ahead. I'm not pointing. I'm just --

11 WITNESS: We're competing for audience. We're competing  
12 for customers. GSN, like all networks, attempts to differentiate  
13 itself in doing that. We have found that maintaining what we  
14 internally call our competitive DNA throughout all the shows we  
15 make is an effective way to differentiate the network from other  
16 networks trying for the same audience.

17 Q Does genre determine who you compete with?

18 A No.

19 Q Why is that?

20 A Well, it's for the reasons I mentioned. Our business is  
21 about trying to acquire a certain type of customer, not about  
22 producing a certain type of genre. This is not unusual to us, of  
23 course. Many cable television networks are associated with genres.  
24 I was at SyFy before GSN. SyFy didn't view itself as looking for  
25 the Sci-Fi customer. It looked for women 25 to 54 with a certain

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1 type of programming, and it was very proud of the fact that it was  
2 able to differentiate itself.

3           Again, I'm not even sure it's right to say this is true  
4 of television. Much of our business is based on Tide spending  
5 money to convince you it's not like all other detergents. It's  
6 really different. I think differentiation's just the nature of  
7 business.

8           Q     Do networks, in your experience, with different genres,  
9 compete for the same audience and the same advertisers?

10          A     There are only really a few audiences you can compete for  
11 on television.

12          Q     Let me ask you a specific question on that point. You  
13 mentioned in your direct testimony that you hired a bunch of new  
14 people into senior positions when you arrived at GSN. Do you  
15 remember that?

16          A     Yes.

17          Q     Did you make a point of hiring people who had a  
18 background in game shows?

19          A     No.

20          Q     What were you looking for and why?

21          A     When I joined the network -- I'm going to specifically  
22 talk about programming and marketing -- most of the people in  
23 programming and marketing were, in fact, experts in the traditional  
24 genre of game show. I replaced them with people who mostly came  
25 from women's entertainment networks or formats. If you look at the

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1 evolution of our programming and marketing efforts, what you'll  
2 find is the backgrounds not just of the heads of those departments,  
3 but almost everyone working in that, comes from a women's network,  
4 a network targeting women, reality television, the types of things  
5 which we're going to produce the programming to fit our strategy.

6 Q Why was that important to you?

7 A It was important to me because I felt, as I mentioned,  
8 that my predecessor's strategy missed the obvious thing about the  
9 network. From its beginning, it was heavily female-skewed, and its  
10 opportunity was not to run away from that, but to embrace it, while  
11 using original programming to get younger and more attractive to  
12 advertisers.

13 Q Can you give me an example of someone you hired in that  
14 regard and their background?

15 A The most important person we hired in anything like that  
16 is the head of programming. I hired Kelly Goode, who had worked at  
17 Lifetime and CBS, two networks. CBS may be, perhaps, not widely  
18 known in this courtroom but is the network best known for targeting  
19 women of the age group we want among the big broadcast groups.  
20 Lifetime, of course, was a female-oriented network. Kelly's  
21 replacement came from Bravo and Oxygen. But if you look throughout  
22 the organization, that's what you'll find in the backgrounds of the  
23 people we put in programming jobs.

24 Q Let me come back to this idea you touched on about  
25 differentiation. I'm going to use a document that you were shown

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1 on cross-examination. If you have Mr. Cohen's binder in front of  
2 you, the big old binder with all the tabs -- tabs and tabs and  
3 tabs. Look, if you would --

4 MR. SCHMIDT: It's going to be the very large one, Your  
5 Honor, the back-breaking one. I'm just going to keep talking about  
6 how big it is.

7 JUDGE SIPPEL: What's the number -- tab number?

8 MR. SCHMIDT: Tab No. 50, Cablevision Exhibit 50.

9 JUDGE SIPPEL: I have it.

10 BY MR. SCHMIDT:

11 Q Do you see that this is a presentation in January 2009  
12 that GSN gave to Comcast?

13 A I do.

14 Q Do you remember being shown this document yesterday?

15 A Uh -

16 Q Let me point you to specific language.

17 A I'm under oath, and I don't remember what I --

18 MR. SCHMIDT: Let's look at Page 2 of this document.

19 JUDGE SIPPEL: That's a good answer.

20 BY MR. SCHMIDT:

21 Q Do you see on Page 2, you state, GSN is the only TV  
22 network devoted exclusively to games?

23 A Yes.

24 Q Why do you try to set yourself apart from your  
25 competitors that way?

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1           A     Well, as I said, I don't think this is exclusive to us.  
2 I've made this presentation at other networks. You're always  
3 trying to differentiate yourself in any discussion with a customer,  
4 whether an affiliate, an advertiser or a viewer. Nobody says, hey,  
5 we're one of eight networks that shows the same thing. No one ever  
6 does that. You're trying to say we're the only something. GSN, I  
7 think, has always been very fortunate in that we have this clear  
8 identity with competition. It's allowed us to broaden  
9 significantly what our programming looks like, while still having  
10 something that I could say, I'm the only one of this. But if you  
11 look at this chart carefully --

12           Q     That's what I was going to turn to next. Look, if you  
13 would, at Page 3 of the document, where you have a chart that was  
14 shown to the judge during opening argument, and you have a box of  
15 general entertainment, you have a box of games, you have a box of  
16 women's entertainment. Are many of your competitors in the women's  
17 entertainment box?

18           A     Everyone in the women's entertainment box is someone, at  
19 that time, we regarded as a direct competitor.

20           Q     Why aren't you in that box with them?

21           A     For the reasons I mentioned. Our goal in any sort of  
22 presentation with a customer is to stand out, is to look like a  
23 different, greater, better value. Again, that's not us. I've made  
24 this presentation for other networks. You're never in the box with  
25 other networks. You're always different.

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1 Q Is that part of how you compete?

2 A It's how you compete in every business, and certainly in  
3 the cable -- I was at USA, which is in this giant general  
4 entertainment box. Having been at USA and made this presentation,  
5 when we made it, we were never in the giant box with other  
6 networks. We were something different, something special,  
7 something defined. I suspect every one of these companies presents  
8 itself that way.

9 Q One more question on this document. Look at the next  
10 page, if you would.

11 JUDGE SIPPEL: Is there any particular reason why you  
12 picked the color green to make yourself stand out? I'm still on  
13 Page 3 of this document.

14 WITNESS: Your Honor, may I ask for confidentiality  
15 before I answer that?

16 JUDGE SIPPEL: Are you serious?

17 WITNESS: I don't know, sir. We actually -- in all  
18 seriousness, GSN's branding at the time --

19 JUDGE SIPPEL: Are you serious? Do you want --

20 WITNESS: No, I'm sorry, sir. It was a silly joke. At  
21 the time, we had a series of different color palettes we used. I  
22 can't answer -- this was one of our series -- these greens and  
23 light greens was just one of our standard color palettes. We had  
24 several of them, which is why you see so many different colors in  
25 the various exhibits here.

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1 JUDGE SIPPEL: That's good enough.

2 WITNESS: Yes, there's nothing beyond that.

3 BY MR. SCHMIDT:

4 Q Look at the next page, if you would, Page 4 of Exhibit 50  
5 -- Cablevision Exhibit 50. If you look under the large text  
6 heading, the language says, game shows deliver the largest audience  
7 for broadcast networks and offer family-friendly programming with  
8 wide audience appeal. What, if anything, is -- or how, if in any  
9 way, does appealing to -- does talking about family-friendly  
10 programming link up with female viewership?

11 MR. COHEN: I'm just going to interpose a mild objection,  
12 Your Honor. I think we should do the redirect without leading.

13 MR. SCHMIDT: I don't think I did.

14 MR. COHEN: It wasn't the most egregiously leading  
15 question, but it's getting --

16 MR. SCHMIDT: It's not leading.

17 MR. COHEN: It is.

18 MR. SCHMIDT: Asking if there's a relationship isn't  
19 leading.

20 JUDGE SIPPEL: I agree with Mr. Schmidt here. I'll  
21 mildly overrule that one.

22 MR. SCHMIDT: As long as the word overrule is in there,  
23 we're not going to --

24 JUDGE SIPPEL: Okay, let's go.

25 BY MR. SCHMIDT:

1 Q Mr. Goldhill, is there any relationship between appealing  
2 -- between having outreach with respect to family-friendly program  
3 and targeting female viewers?

4 A Family-friendly is a bit of a term of art in the  
5 television business. What it refers to really is programs you can  
6 watch with your kids without either one of you being embarrassed.  
7 It really is moms and kids. When we say family-friendly here, what  
8 we're trying to establish is, unlike other networks that appeal to  
9 our target audience, we were very careful about standards as it  
10 relates to sex and violence and language on the air that would --  
11 that is considered non-family-friendly in our industry.

12 Q Let's talk about poker for a bit. You talked about poker  
13 being valuable. Can you explain to the judge the value that poker,  
14 while you carried it, provided to you, in terms of revenue?

15 A When I joined GSN, the poker shows accounted for roughly  
16 ██████████ of the profit of the network. I think I testified that  
17 -- I know I testified that moving to a younger female audience with  
18 the original programming meant stopping making shows such as poker  
19 over time, and reducing the amount of poker on our air and  
20 relegating it to our least-desirable time periods. I will admit  
21 that we didn't simply pull it from the air because we didn't feel  
22 we could afford to.

23 At that level of profitability, it would have been a  
24 meaningful financial sacrifice, not the ideal thing you want to do  
25 when you're starting as CEO. So we did see it as a transitional

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1 element. We were moving it from five days a week to two days a  
2 week, ultimately to one day a week by the time of the incidents  
3 here, significantly reducing the amount of hours shown, stopping  
4 making new programs except for those for which we were paid to  
5 make, and yes, relying somewhat on the continued profitability.  
6 The minute that ended, we played out our remaining obligations on  
7 poker.

8 Q Let's take a look at Cablevision Exhibit 151. This is  
9 that schedule that you were shown.

10 JUDGE SIPPEL: Were these profits part of that [REDACTED]  
11 [REDACTED] that you were examined on this morning by Mr. Cohen?

12 WITNESS: No, we accumulated that in later years. [REDACTED]

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 JUDGE SIPPEL: So they -

17 WITNESS: [REDACTED]

18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 WITNESS: Your Honor, when I joined the network, the  
22 profitability of the television business was [REDACTED]. [REDACTED]

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

1 BY MR. SCHMIDT:

2 Q If we look at Cablevision Exhibit 151 -- tell me when you  
3 have that in front of you, Mr. Goldhill. Do you recall being asked  
4 questions about this programming lineup --

5 A Yes, I do.

6 Q -- and where poker stood on it? Where does poker stand  
7 on this programming lineup?

8 A I mentioned, at this point, we had relegated it strictly  
9 to Saturday and Sunday nights.

10 Q Link that up, if you would, with your earlier testimony  
11 about putting it in a specific window that wasn't as important for  
12 you.

13 A Two things there. One is Saturday and Sunday nights were  
14 our weakest night. We put poker there because we felt we could  
15 fulfill our commitments to the advertisers who paid for it without  
16 interfering too much with what we were trying to accomplish with  
17 the rest of the network. The second is it freed up the entire  
18 prime time during the week for the new original shows we were  
19 making that were more firmly targeted at the network's target demo  
20 of women 25 to 54. So Newlywed, Baggage, 1 vs. 100 and Lingo, we  
21 expected to deliver fairly large women 25 to 54.

22 Q That's what I was going to ask you next. What were the  
23 windows where you were targeting the programming that was really  
24 aimed at women 25 to 54? Was it the 6:00 to 7:00 window and the  
25 9:00 to, looks like, I guess, 10:30 or 11:00 window?

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1           A     Because of the network's limited resources at the time,  
2 what we tried to do was to counter-program a bit. Unusually for a  
3 cable network, we ran our original programs between 6:00 and 8:00,  
4 a period that has a lot of women viewers, but is before the big  
5 prime time shows, known as access in other networks. We called  
6 this the jackpot period. Then because we're mostly seen as a  
7 single-feed network, one feed all over the country, we would mirror  
8 those original shows later in prime time, so they would appear at  
9 roughly the same time for West Coast audiences.

10          Q     Let me just try this as a yes or no question. Were the  
11 new programs you had that were most targeted for women 25 to 54,  
12 were they put into the time slots that you viewed as your most  
13 attractive time slots?

14          A     Yes.

15          Q     Was poker put into one of your most attractive time  
16 slots?

17          A     No.

18          Q     Let's talk about --

19                JUDGE SIPPEL: Let me just ask -- this is kind of a  
20 hypothetical, but it just came to me. Did you run the poker on  
21 those Sunday time slots because there was nothing else you had to  
22 offer that could ever compete with Downton Abbey or any other  
23 Masterpiece?

24                WITNESS: Well --

25                JUDGE SIPPEL: That's a tough hole -- that's a tough

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1 program.

2 WITNESS: Yes, so as you mentioned, Your Honor, Sunday is  
3 when a lot of the big networks run their best programming. So it  
4 had always been a very weak night for us, so we put poker on that  
5 night. Saturday night is weak for everybody on television, so we  
6 put poker on Saturday and Sunday for those reasons.

7 BY MR. SCHMIDT:

8 Q Just a follow-up on the judge's question -- I think it's  
9 a very good question -- was that a hypothetical question, or is  
10 that actually what guided your decision in scheduling poker?

11 A I'm sorry. Absolutely that's why we did it. That's why.

12 Q Let's look at another document.

13 JUDGE SIPPEL: That's a public station. That's not a  
14 competing commercial station.

15 WITNESS: If you're trying to get the same eyeballs we  
16 are, Your Honor --

17 JUDGE SIPPEL: You're competitors.

18 WITNESS: Yes, sir.

19 JUDGE SIPPEL: I'm educated. Thank you.

20 MR. SCHMIDT: May I approach with an exhibit, Your Honor?

21 JUDGE SIPPEL: Go ahead.

22 MR. SCHMIDT: GSN Exhibit 108. I'm going to ask you to  
23 take a look at this.

24 JUDGE SIPPEL: Don't forget Ms. Smith up here.

25 MS. SMITH: Thank you.

1 BY MR. SCHMIDT:

2 Q What type of document is this, sir?

3 A This looks like a marketing document that would be  
4 produced to potential advertising partners on our shows.

5 Q Let's take a look at the page that's numbered Page 2.  
6 It's actually the third page of the document, with the Bates No.  
7 137. It has a picture of a woman, and it says, viewer. Do you see  
8 that?

9 A I do.

10 Q At the bottom it says, we live to entertain and serve  
11 women 25 to 54. Is that your primary statement of your target  
12 audience?

13 A Yes.

14 Q Look with me, if you would, at the next page, numbered  
15 Page 3, another picture of a woman. It has a female skew of 65/35,  
16 female/male. Is that representative of your skew data, as you  
17 reported it regularly?

18 A Yes.

19 Q Below, you have a statistic about longer time spent  
20 viewing. What's the significance, if anything, of that?

21 A For an advertiser like this document would be prepared,  
22 it demonstrates how loyal your audience is and how engaged they are  
23 in your programming. Typical networks struggle with viewers coming  
24 and going very rapidly, often at the commercial break. So if your  
25 viewer is watching 23 minutes, it means the average viewer is

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1 seeing two commercial breaks. That's very unusual in television,  
2 and a real selling point of our network.

3 Q Explain why loyalty matters to a network.

4 A Loyalty matters for a couple reasons. In the advertising  
5 world, for the reason I mentioned, people who --

6 Q More exposure to ads?

7 A More exposure to the actual ads. The longer you stay --  
8 if you're a switching a show as soon as an advertising break comes,  
9 the advertiser probably didn't get a lot of value for you watching  
10 the show when they're buying the ad. So short, what are called  
11 engagements in our business, which is really that length of view,  
12 makes your advertising a little less valuable, all other things  
13 being equal. The second element, though, that matters to us --  
14 would not matter to advertisers as much -- is this makes you more  
15 valuable to your affiliates, to the distributors of our network.

16 Q The cable companies?

17 A The cable companies -- because it indicates that for the  
18 size of your audience, you have a greater percentage of loyal  
19 viewers. They offer large numbers of networks. So for the smaller  
20 networks, what we have found is often most important is not just  
21 the raw numbers of people who watch your network, but how much the  
22 people who do watch your network care about it. One of the  
23 advantages GSN has always had is our viewers have traditionally  
24 watched more GSN than the typical network. They're very loyal.  
25 They watch large amounts of us.

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1 Q Below that statistic about longer time spent viewing, you  
2 identify some specific channels. Why are you identifying those  
3 channels?

4 A To a couple extent, they're a competitive set, but this  
5 is even broader. This is actually just to demonstrate how uniquely  
6 loyal the GSN audience is. We don't typically compare ourselves to  
7 ESPN, but I think the average person would say, well, an ESPN  
8 audience member probably watches for hours. Finding out that a GSN  
9 audience member watches for longer would be an important piece of  
10 information, and a good sales tool.

11 Q Let's look at another document.

12 MR. SCHMIDT: May I approach, Your Honor?

13 JUDGE SIPPEL: Sure.

14 MR. SCHMIDT: This is GSN 107. I think these were both  
15 in evidence.

16 BY MR. SCHMIDT:

17 Q Is this an example of one of those Advertising Bureau  
18 documents that Mr. Cohen showed you earlier today?

19 A I'd love to answer that question, Paul, but I'm the only  
20 person in the room who doesn't have the document.

21 Q I thought I'd gotten my distribution system down pat, but  
22 apparently I'm still learning. I wonder what you guys would tell  
23 me to do.

24 A Oh, I'm sorry, what -- would you ask your question again?

25 Q Yes. Earlier today, were you shown a document like this,

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1 a Cable Bureau document for GSN?

2 A Yes.

3 Q This is one of those Cable Bureau documents?

4 A Yes.

5 Q Let's look at -- tell the judge again what the purpose of  
6 this document is.

7 A This document actually would be telling our sales force  
8 how the Cable Bureau, which has a directory of networks, would be  
9 describing our network, just so they were prepared to understand  
10 what third parties might actually read.

11 Q Look with me, if you would, at the page of this document  
12 that ends with the numbers 825. Go back to five, so it's actually  
13 the fourth page. Do you see where this lists your female/male  
14 skew?

15 A I do.

16 Q What is it listed as?

17 A 65/35.

18 Q Is that representative of your skew data?

19 A Over long periods of time, yes, sir.

20 Q What's the source for that data? Is it referenced there?

21 A I think -- let's see. I don't actually see a source  
22 here, sir. Most of it looks like this is MRI data here because  
23 these indexes are what MRI prepared, but I don't see a specific  
24 reference to the sources. But everything else on this paper looks  
25 like MRI, except for one. Well, all the television data looks like

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1 it comes from MRI.

2 MR. SCHMIDT: Mr. Cohen, do you recall --

3 JUDGE SIPPEL: Viewer lifestyle --

4 MR. SCHMIDT: -- the Cable Advertising Bureau document  
5 you showed him?

6 WITNESS: That's that -- that would be MRI, sir.

7 JUDGE SIPPEL: That says MRI.

8 WITNESS: Yes.

9 (Simultaneous speaking.)

10 MR. SCHMIDT: That's fine. Thank you.

11 JUDGE SIPPEL: What's the other source here, is Comscore  
12 Plan Metrics.

13 WITNESS: Comscore measures online, and I assume that's  
14 just for our online median age, which relates to our games  
15 business, not to the television data. Comscore does only online  
16 measurement, not television, but the rest of this would be MRI.  
17 The television stuff would be MRI.

18 MR. SCHMIDT: You don't have this -- you may not have  
19 this in front of you, but a document you were shown earlier today  
20 was GSN Exhibit 238. Mr. Cohen examined you on this, but if I may  
21 approach, Your Honor, I'll just give another copy of it to the  
22 witness.

23 JUDGE SIPPEL: This one here.

24 MR. COHEN: Is it this one?

25 JUDGE SIPPEL: Yes.

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1 MR. SCHMIDT: Does Your Honor have a copy?

2 JUDGE SIPPEL: Thank you.

3 MR. SCHMIDT: Does anyone else need another copy?

4 BY MR. SCHMIDT:

5 Q Do you remember being asked about this document?

6 A I do.

7 Q And the fact that it shows a 59/41 gender skew?

8 A Yes.

9 Q On the third page?

10 A I do remember.

11 Q If you look at the second page of this document, I want  
12 to just show you some language that you weren't shown during the  
13 cross-examination. Do you see where it says, Benefits to  
14 advertisers, about two thirds of the way down that page?

15 JUDGE SIPPEL: Which page is it?

16 MR. SCHMIDT: It's the second page of the document.

17 WITNESS: I do see that, yes.

18 BY MR. SCHMIDT:

19 Q GSN is a top-ten cable network for growth among women,  
20 plus 50 percent women 18 to 49, plus 48 percent women 25 to 54. Do  
21 you see that?

22 A I do.

23 Q Is that how you marketed yourself with advertisers?

24 A Yes.

25 Q It says below that, GSN is one of the most engaging

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1 networks on all of cable with women, top 15 cable network among  
2 average length of tune among women means that your multi-faceted  
3 partnership with us has a higher propensity to be recognized. Is  
4 that how you marketed yourself to advertisers?

5 A Yes.

6 Q Is that idea you're talking about, average length of  
7 tune, is that that loyalty point you were talking about earlier?

8 A Yes.

9 Q Has your female focus continued up until the present  
10 date?

11 A Yes.

12 Q Let me show you a document from closer in time to today.

13 MR. SCHMIDT: May I approach, Your Honor?

14 JUDGE SIPPEL: You may.

15 MR. SCHMIDT: This is GSN 236. Is this in evidence?

16 MR. COHEN: Yes, I believe so.

17 BY MR. SCHMIDT:

18 Q If you look at 236, can you tell us what this document  
19 is?

20 A This is the script to the presentation we make to  
21 advertisers that starts the up-front sales cycle.

22 Q This is when you sell a large portion of your  
23 advertising?

24 A Of our general-rate advertising, yes.

25 Q Look with me, if you would, at Page 8 of this document.

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1 Do you see where it says, Slide 38, growing audience is prime, and  
2 it has data on growth of GSN with women 18 to 49 --

3 A Yes.

4 Q -- and women 25 to 54?

5 A Yes.

6 Q What does that show about GSN's growth in those female  
7 demographic groups?

8 A What this shows is that, relative to our competitive set  
9 in prime time, our delivery of women demographics 25 to 54 and 18  
10 to 49 exceeded -- or it was at the very top of the group.

11 Q Does that include competitors like WE?

12 A It includes WE and certainly, the networks, I think, that  
13 are most associated with female audiences 25 to 54.

14 Q Do you view that as a reflection of the strategy you've  
15 adopted since you came to GSN of developing programming targeting  
16 women in those demographics?

17 A Yes.

18 Q I'd like to cover some of the partnership documents that  
19 Mr. Cohen asked you about in his examination. Take a look with me,  
20 if you would, at the binder that he gave you, CV 173.

21 JUDGE SIPPEL: The binder?

22 MR. SCHMIDT: It's Mr. Cohen's --

23 MR. COHEN: 173, you said?

24 MR. SCHMIDT: Yes, CV 173.

25 MR. COHEN: Thank you.

1 BY MR. SCHMIDT:

2 Q Tell me when you're there, Mr. Goldhill.

3 A I'm at the document.

4 Q Just as a general matter, I don't know if you had the  
5 opportunity to explain this, so let me be sure I ask you. What is  
6 the function of this document? Let me take a step back, actually,  
7 before I ask you that. If you look at, say, for example, Page 9 of  
8 this document, do you recall yesterday being asked a series of  
9 questions about programming mentioned in documents like this and  
10 the target being adult?

11 A I do.

12 Q Let me take a step back. What is the function of a  
13 document like this?

14 A This is a document that we would deliver to advertisers  
15 on the network, so existing customers, where we were hoping to get  
16 mostly existing customers, but we were hoping to get expanded  
17 advertising relationships. In other words, more than just buying  
18 commercial time, actually buying co-promotions or partnerships to  
19 the television shows.

20 Q In doing that, are you trying to explain your core  
21 mission, or are you trying to meet the needs they're trying to  
22 meet?

23 A We're trying to show how they match, of course.  
24 Advertisers, as I think I testified yesterday, are the ones who  
25 determine what they buy. Most of the advertisers we deal with buy

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1 women demos. Some, I mentioned, buy adult demos. In pitching to  
2 an advertiser, depending on that advertiser or the particular  
3 budget, we would say here's how well this works with a women demo.  
4 Here's how it works with an adult demo. But it would be the  
5 advertiser that determines what is the demo they're looking to buy.

6 Q I want to dig into that in terms of this specific  
7 document. Before I do, let me just be sure, for the record, I have  
8 this. I'm going to ask you to flip to a couple of other documents  
9 and quickly look at them. My question to you will be are these the  
10 same kind of partnership documents as Exhibit 173, with the same  
11 basic purpose? Is that true of Cablevision Exhibit 106, that says,  
12 GSN partnership opportunities?

13 A Yes, it is.

14 Q Is that true -- you know what, you might not have it in  
15 front of you anymore. Why don't I just pass it up to you? Is that  
16 true of the document -- may I pass up, Your Honor, a couple  
17 documents?

18 JUDGE SIPPEL: Yes, you may.

19 BY MR. SCHMIDT:

20 Q Is that true of Cablevision Exhibit 612 and 613, both of  
21 which are reflective in terms of this target audience?

22 A Yes.

23 MR. SCHMIDT: I'm not going to be asking any further  
24 questions about this set of forms, Your Honor.

25 JUDGE SIPPEL: When you say partnership, that would be a

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1 contemplated partnership between GSN and advertisers or an  
2 advertiser?

3 WITNESS: Yes, it's a relationship that goes beyond their  
4 just buying time. Most of our advertisers just buy advertising,  
5 but some of our advertisers will buy special spots in a show, the  
6 right for a certain segment to be named after them, the right to  
7 have their brands on the set somewhere. All those things are  
8 considered marketing partnerships.

9 JUDGE SIPPEL: Like the announcer will hold their coffee  
10 cup or something like that?

11 WITNESS: Exactly.

12 JUDGE SIPPEL: Do those partnership arrangements get  
13 reduced to writing, or this is just all just understood what it  
14 means?

15 WITNESS: That's an interesting question I am embarrassed  
16 to say I don't know the answer to, but typically, an advertising  
17 salesman will say to an existing customer -- for example, we did a  
18 partnership with eHarmony on one of our dating shows. There was an  
19 eHarmony question. To get the eHarmony question and to get the  
20 show sponsored by eHarmony, as opposed to just ads without that,  
21 they would agree to pay more money than just to buy the time and  
22 would agree to buy a certain amount of time.

23 MR. SCHMIDT: I think what the judge is asking is is that  
24 agreement in writing?

25 WITNESS: I'm embarrassed to say I don't know. I assume

1 they must be, but you're asking -- I don't see them, so can I just  
2 leave it with I assume there must be? I know the terms of the  
3 deals, but I don't know that I've actually seen one --

4 JUDGE SIPPEL: In your opinion, there should be one, as  
5 a businessman?

6 WITNESS: As a businessman, yes, I would suspect there  
7 is. Obviously, a lot of the advertising business is done on verbal  
8 commitments back and forth, but I would suspect that these things  
9 are documented. I just haven't seen them.

10 BY MR. SCHMIDT:

11 Q Let's dig into one of these partnership documents and go  
12 back with me to the first one that we looked at, Cablevision  
13 Exhibit 173.

14 A Okay.

15 Q I'd like to first direct you to Page 5 of this document.

16 A Page 5?

17 Q Yes.

18 A Okay.

19 Q You see it says, Viewer, and there's a picture of a woman  
20 there.

21 A Yes.

22 Q This looks just like one of the prior pages we saw. Is  
23 there any significance to the fact that you have a picture of a  
24 woman on the page that says, Viewer?

25 A You notice that most of the marketing documents we've

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1 seen in the last couple days have had, overwhelmingly, pictures of  
2 women, relative to men, and the significance, of course, is that  
3 the network delivers women.

4 Q You then state, we live to entertain and serve women 25  
5 to 54, persons 25 to 54. Why list both?

6 A The reason we list both is our advertisers -- we can  
7 serve advertisers who buy women demos and people demos. If an  
8 advertiser wants to buy a people demo on GSN, they understand  
9 they're getting mostly women, but the math works so that they can  
10 buy people. I know there was confusion about this, perhaps, at  
11 other times, but we're meeting their objectives. We're not out  
12 there saying we're selling people. We're talking to advertisers  
13 who either only buy people, or have a specific budget to buy  
14 people.

15 Q By definition, when you sell people, as you said -- when  
16 you sell all adults, is your ability to do that driven by -- just  
17 as a numerical matter -- by your delivery of women?

18 A It is. The more a show skews to women, the harder it is  
19 to successfully price a spot for an advertiser who buys people. At  
20 roughly a 60/40 women/men split, most of our ads can be bought by  
21 advertisers buying people. But that's at a 60/40 split. To remind  
22 you, there's no advertiser who buys advertising on our network who  
23 doesn't know the composition of that. This is a sophisticated  
24 customer, obviously. But it's all a matter of how we can  
25 efficiently price. Forgive me, without getting to the math, that

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1 may sound difficult to explain, but we're delivering an audience at  
2 65/70/75 percent women, very, very hard for anyone to  
3 cost-effectively buy people. At 60/61/62 percent women, sometimes  
4 the math works for the advertiser, but again, that's up to the  
5 advertiser.

6 Q Let's look at another page of this document that you were  
7 questioned about. Look with me at Page 9, if you would. Do you  
8 see it?

9 A Yes.

10 Q This is a slide regarding a show called Lingo. Do you  
11 see that?

12 A I do.

13 Q There's a target in the bottom right-hand corner,  
14 correct?

15 A Yes.

16 Q Do you see where it gives a female/male split up at the  
17 top?

18 A Yes.

19 Q That's a 60/40 female/male split?

20 A Yes.

21 Q Is that representative kind of as a floor of your  
22 female/male split for your shows?

23 A Certainly, in terms of targeting, we would never expect  
24 to go below that. We're not always right, but 60/40 would be the  
25 most gender-balanced original shows we try to create.

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1 Q Help me understand why you say on this slide you'd have  
2 a 60/40, female/male split, but then when you have the target down  
3 below, it's adults rather than women?

4 A Really, all that means is an advertiser who buys adults  
5 or people -- they're both used interchangeably -- would be able to  
6 economically buy a spot on a show that was only a 60/40 split. It  
7 really is a math question, and it's a question of the client's  
8 desire. If this is a client who says, I'm buying only adults, we  
9 have a very hard time pricing effectively for many of our shows.  
10 For some of our shows, like Lingo, where the female skew is only 60  
11 percent, there's a chance we might be able to make that work. But  
12 obviously, the advertiser knows even this show is 60/40 females.  
13 If you're buying adults, you're getting overwhelmingly females.

14 JUDGE SIPPEL: Are these figures like a 60 percent is --  
15 is that Nielsen?

16 MR. GOLDHILL: That would be our projections of what the  
17 Nielsen ratings would be for a new show we're creating.

18 JUDGE SIPPEL: So is that a guarantee?

19 MR. GOLDHILL: For the presentations made here, these  
20 numbers are not guaranteed. This is to get an advertising client  
21 interested in saying, Lingo, that might be a show I'm interest in  
22 being a sponsor of. What type of things can we talk about.

23 This is really the first pass.

24 JUDGE SIPPEL: Okay.

25 MR. GOLDHILL: At that discussion.

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1 JUDGE SIPPEL: You know, let me just run an analogy here  
2 if I can. It will probably be pretty weak.

3 But supposing you were looking and you were crabbing.  
4 And you wanted to put in your crabs ask it to sell, 60 percent of  
5 the crabs you're going to get were going to be blue shells.

6 And you throw a net out and you drag a net or you set  
7 your pots, however you do. And it ends up that you get 60 percent  
8 or 61 percent of blue crabs. And the rest are all whatever, crummy  
9 crabs.

10 Is that kind of what you're talking about here?

11 MR. GOLDHILL: Yes.

12 JUDGE SIPPEL: Something like that?

13 MR. GOLDHILL: Yes, sir. I think the way to think of it  
14 in numbers is if I only want blue crabs and you'll only sell me the  
15 bucket because there are no audiences that are 100 to zero. I'm  
16 always buying a bucket with some crabs I want and some crabs I  
17 don't want.

18 JUDGE SIPPEL: Yes.

19 MR. GOLDHILL: If I'm willing to pay \$10.00 for every  
20 blue crab. And it's 60 percent blue crabs, well, just say there  
21 are 100 crabs, right.

22 JUDGE SIPPEL: Yes.

23 MR. GOLDHILL: So, I'm willing to pay \$600.00 for your  
24 basket. I don't care about the other crabs.

25 So, that's your base. I need \$600.00 is what this one

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1 customer will pay you for that bucket. For your selling the  
2 bucket. You don't care what he does with the crummy crabs.

3 Other customers will say, I'm buying crabs. And you say  
4 well, you need to pay me at least \$6.00 a crab to match with the  
5 other guy paid me just for blue crabs.

6 And what our business is, and when I refer to whether we  
7 can price something or not, it's exactly that ratio. If the  
8 difference between what I'll pay for women and what I'll pay for  
9 adults who most are women is -- matches what the audience split is,  
10 I can sell you either one.

11 I don't need to sell you just based on the blue crabs.  
12 I can sell you the whole bucket of crabs because you're paying.

13 And if I'm paying \$6.00 a crab for 100 crabs, I pay the  
14 same for a guy paying \$10.00 a crab for blue crabs and zero for all  
15 the -- what did you call them, crappy crabs?

16 JUDGE SIPPEL: Crummy crabs.

17 MR. GOLDHILL: Excuse me, Your Honor. I know this is a  
18 family friendly courtroom. I apologize.

19 And that is the math --

20 JUDGE SIPPEL: Don't be so sure about that.

21 (Laughter)

22 MR. GOLDHILL: That is the math we do every day in  
23 advertising. Exactly that. So, everybody knows our basket is  
24 primarily blue crabs.

25 And the more the basket is blue crabs, the more an

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1 advertiser who wants just blue crabs is likely too win that  
2 advertisement. Because the guy buying all crabs at a much lower  
3 number because he doesn't know where the crabs are, pays a so much  
4 less per crab.

5 JUDGE SIPPEL: Yes, but you want to get for a buck -- for  
6 a basket, you want to get \$6.00 a crab on the average.

7 MR. GOLDHILL: Right.

8 JUDGE SIPPEL: So, if you have the blue crabs plus the  
9 crappy, and the guy is buying them all --

10 MR. GOLDHILL: Right.

11 JUDGE SIPPEL: Then he's going to pay less per crab  
12 because he's going to come out with -- okay.

13 MR. GOLDHILL: So, in that example, if an advertiser will  
14 pay you \$5.00 a crab, but \$10.00 a blue crab, you're better off  
15 saying, let me price this on the basis of blue crabs times ten.

16 Here's the basket.

17 JUDGE SIPPEL: Yes.

18 MR. GOLDHILL: Because I can't split the basket up for  
19 this.

20 JUDGE SIPPEL: That's right.

21 MR. GOLDHILL: So I'm just going to sell you blue crabs.  
22 Let's say -- let's use blue crabs as a metaphor for women. I think  
23 we are, and I'm not really sure what it means. But --

24 JUDGE SIPPEL: I didn't want to say that.

25 MR. GOLDHILL: Okay, I'm sorry, Your Honor. That was

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1 again --

2 JUDGE SIPPEL: No, it's okay.

3 MR. GOLDHILL: But that is exactly the math we do. So  
4 our advertising sale sits there and says to a customer, we're 65  
5 percent blue crab on this episode.

6 So the guy who is paying \$10.00 for blue crab will  
7 produce a higher price than those paying \$5.00 for all crabs. I'm  
8 better off selling the bucket to a guy who throws out 35 crabs than  
9 I am selling the bucket who says I'll take all the crabs, I don't  
10 care.

11 That's all the math we do in advertising sales. And it's  
12 the reason that when we are only 60/40 in our skew, some of the  
13 people who buy all the crabs buy all our shows.

14 When we're 65 or 70 to 35 or 30, there's almost no way to  
15 make the math work. The guy who will just buy the blue crabs and  
16 throw out the rest will almost always have the best price for our  
17 ads.

18 But remember, it's determined by the buyer. You've got  
19 a guy who only wants blue crabs and will throw out the rest. A guy  
20 who will be happy to buy all the crabs, both offering you a price.

21 And you're just saying, which one do I get more for my  
22 bucket? You don't care how he or she is choosing to price it. You  
23 just care about selling your bucket for the same.

24 We and every television network is in that same position.  
25 Women 25 to 54 are our blue crabs. And everybody else is our

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1 crummy crabs.

2 But, if you'll pay enough for the whole basket, --

3 JUDGE SIPPEL: Yes.

4 MR. GOLDHILL: Then you outbid the guy who's just buying  
5 blue crabs. Most of the time interestingly enough, it's the guy  
6 buying the blue crabs who is the better price.

7 MR. SCHMIDT: So, let me follow up on that. When you --  
8 sticking with page nine of this document on this Lingo program that  
9 has a 60/40 female split, or an anticipated 60/40 female split.  
10 When you say target adults 25 to 54, is that your target? Or the  
11 target of the advertiser you're reaching out to?

12 MR. GOLDHILL: Their target.

13 BY MR. SCHMIDT:

14 Q And to round out the questions the Judge was asking you,  
15 if you look ahead to a show like the Newlywed Game on 14, why is it  
16 the target adult for some shows and women for other shows?

17 A Because for some shows the anticipated audience is as  
18 balanced as 60/40. Obviously not balanced by anyone's definition.

19 But balanced enough that it's possible that someone who  
20 just buys the whole basket for a lower price will pay more. It's  
21 attractive enough for them.

22 The shows that we say specifically the advertiser targets  
23 like to be women of 25 to 54 are so skewed, 65 to 70 percent. That  
24 the guy just buying the whole basket will always lose to the guy  
25 buying women. So most of the advertising is going to be sold to

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1 people just by women.

2 I just, if I may, many of these presentations are to the  
3 same advertiser. So, really what it's saying is, for your shows  
4 where you want it just buy women, these are the better buys for  
5 you.

6 When you are less -- for your budgets that are labeled  
7 adult budgets, you can buy the show that's only 60/40 and the math  
8 will still work.

9 But keep in mind that these show, many of these go to the  
10 same client. As big advertising clients have buckets. They don't  
11 just buy one type of demo.

12 They have buckets are wanted by some women 25 to 54, some  
13 18 to 49. Some men here. Some adults here. This is just a  
14 bucket. It's likely to work best for relative to that show.

15 Q Does the fact that you tell an advertiser this is one  
16 show where the skew is a little lower so you can sell to adults.  
17 This one where the skew is higher, so it's really hard to sell to  
18 adults, you really should be focusing on women.

19 Does that change your overall target audience?

20 A No. And keep in mind, outside of these partnerships and  
21 poker, the network never says -- never may be strong. Almost never  
22 sells individual shows anyway.

23 We're selling what we call run of schedule. So you're  
24 selling -- almost all of our advertising is brought on a blend.

25 So, when I say to you I guarantee you 100,000 women 25 to

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1 54, on average on all the advertisements you buy, you're not buying  
2 a specific show, you're buying all throughout our prime time and  
3 maybe some in our daytime.

4 And we make those agreements up front. What makes these  
5 presentations unusual, it is to day the only opportunity our  
6 network gives to advertisers to buy something in a specific show.

7 Q Okay. Let me give a concrete example of that. I said I  
8 wasn't going to ask you about this. But I think I'll go ahead and  
9 do it.

10 It's Exhibit 613, Comcast. It's one of the two I handed  
11 up on the television, 613.

12 JUDGE SIPPEL: This says partnership integration  
13 opportunity.

14 MR. SCHMIDT: Yes. This is another one of these  
15 partnership agreement documents?

16 MR. GOLDHILL: Yes.

17 BY MR. SCHMIDT:

18 Q Okay. Look with me if you would at page ten of this  
19 document where it talks about the show 1 versus 100.

20 A Yes.

21 Q Do you see this -- you were asked about this yesterday.  
22 Do you see that it identifies the target as adults 25 to 54?

23 A Yes.

24 Q Is that your target or the entity you're looking to enter  
25 into a partnership with?

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1           A     It would be the advertiser.

2           MR. SCHMIDT:   Can I get 273?   If you look at Tab 2 of  
3 your direct binder, the one I gave you five weeks ago.   This may be  
4 the Judge's.

5           JUDGE SIPPEL:   Do you have the tab?   Is this it here?

6           MR. SCHMIDT:   I think -- is that yours, Your Honor?

7           JUDGE SIPPEL:   Oh, that's okay.   Direct examination, is  
8 that it?

9           MR. SCHMIDT:   Yes, I think.

10          JUDGE SIPPEL:   They're using it as L over here.

11          MR. SCHMIDT:   I've got an extra one.

12          JUDGE SIPPEL:   You've got an extra one?

13          MR. SCHMIDT:   Yes.   Thank you everyone.

14          JUDGE SIPPEL:   Yes, you get the kayak today.

15          (Laughter)

16          MR. SCHMIDT:   But only for a half an hour.

17                         If you look at the second page of this document, there's  
18 an email here.   This is Tab 2 of our binder.

19          MR. GOLDHILL:   Tab 2.

20          MR. SCHMIDT:   And if you look at the second page of this  
21 document, there's an email here from Tina Curran, half way -- it  
22 begins half way down the page.

23                         And then if you look at the third paragraph of that  
24 email, it begins 1 versus 100.   Do you see that down there?

25          MR. GOLDHILL:   Yes.

1 MR. SCHMIDT: Close to the bottom of the page?

2 MR. GOLDHILL: Yes.

3 BY MR. SCHMIDT:

4 Q Does she in this document identify with what you at GSN  
5 viewed as your target audience for 1 versus 100?

6 A Yes, sir.

7 Q What is she identifying?

8 A Women 25 to 54.

9 Q And that's a couple of lines up from the bottom, where it  
10 says women 25 to 54 for both shows?

11 A Yes.

12 JUDGE SIPPEL: Now, hold on just a second. Who are these  
13 different people? You got Tina and Tina. What is MediaStorm.biz?  
14 That sounds familiar.

15 What is that email address? For Tina Nardella?

16 MR. GOLDHILL: MediaStorm is a -- MediaStorm is an agency  
17 that would help us with our marketing campaign to launch a show.

18 JUDGE SIPPEL: Like an ad agency?

19 MR. GOLDHILL: An ad agency, yes sir. A creative agency  
20 and a more few names.

21 JUDGE SIPPEL: Okay. We're getting into Mad Men here,  
22 huh? And then Tina Curran, and who are all these people? These  
23 are all --

24 MR. GOLDHILL: These are employees of ours.

25 JUDGE SIPPEL: GSN people.

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1 MR. GOLDHILL: You know, what, sir? I know the first two  
2 are employees of ours. I suspect some of the others may be  
3 MediaStorm employees.

4 But Tina would be our executive in charge of --

5 JUDGE SIPPEL: Okay. Tina Curran?

6 MR. GOLDHILL: Promotion, yes. And Cassie was her number  
7 two in that department.

8 JUDGE SIPPEL: All right. That's probably right. Okay.  
9 Okay, thank you. Now, are those the GSN people?

10 MR. GOLDHILL: There are two Tinas here. Our Tina Curran  
11 is the Executive for us. Yes, sir.

12 JUDGE SIPPEL: Right. I see that. And what is the  
13 purpose of you showing him this document?

14 MR. SCHMIDT: So just to give the Judge the context for  
15 this document, flip to the second page if you would.

16 MR. GOLDHILL: Yes.

17 MR. SCHMIDT: And the email that starts this discussion  
18 with MediaStorm. Is this Tina Curran of GSN reaching out in  
19 September 2010 to Tina Nardella, saying Dear MediaStorm? Do you  
20 see that?

21 MR. GOLDHILL: Yes.

22 JUDGE SIPPEL: That's a -- so that's the lead and it goes  
23 up from there.

24 MR. GOLDHILL: Yes, Your Honor.

25 JUDGE SIPPEL: The direction is up, not down.

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1 MR. GOLDHILL: Yes. That's why emails are never quite as  
2 easy as they should be.

3 JUDGE SIPPEL: I know that's why I have trouble reading.  
4 But that's okay. All right. Go ahead.

5 MR. SCHMIDT: So, is this Tina Curran reaching out to  
6 MediaStorm regarding these programs?

7 MR. GOLDHILL: This is about the marketing campaign to  
8 launch two new shows.

9 MR. SCHMIDT: Okay. If you look in the third paragraph  
10 down on her email, is one of those shows this 1 versus 100 show  
11 we've been discussing?

12 MR. GOLDHILL: Yes.

13 MR. SCHMIDT: Now then Judge, the point of this document  
14 was simply if you look right at the bottom of this page, third line  
15 up from the bottom, does Ms. Curran identify your -- GSN's target  
16 audience for 1 versus 100?

17 MR. GOLDHILL: Yes.

18 MR. SCHMIDT: What is that?

19 MR. GOLDHILL: Women 25 to 54.

20 JUDGE SIPPEL: Let me see. Where do I see that on the  
21 first -- oh, I see it right here. Target, yes. Clear. For both  
22 shows.

23 Okay, I see. I see now, let me just think that through  
24 a little bit.

25 So, she's saying that we have a program targeting women

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1 25 to 54. And we want you to provide the advertising for it?

2 MR. GOLDHILL: The marketing support for actually  
3 introducing the program, launching the program.

4 JUDGE SIPPEL: Yes. So you're basically answering yes to  
5 my question.

6 MR. GOLDHILL: Yes, sir.

7 JUDGE SIPPEL: And does the ad agency understand that 25  
8 to 54 concept?

9 MR. GOLDHILL: Of course.

10 JUDGE SIPPEL: I mean, do they -- of course. Yes, of  
11 course you say. But what do they do with it then?

12 MR. GOLDHILL: So, for these shows, we would have a  
13 budget for marketing.

14 JUDGE SIPPEL: Right.

15 MR. GOLDHILL: So, here's how we're going to let people  
16 know these shows are on the air.

17 JUDGE SIPPEL: Right.

18 MR. GOLDHILL: That marketing, like the way people buy  
19 our network, would be targeted to deliver the audience we want.

20 JUDGE SIPPEL: Wait, okay, hold on just a second there.  
21 So, then the ad agency, Tina of the ad agency, MediaStorm, takes  
22 all this into consideration and they put together a package and  
23 come back and show it to you and ask if you like this?

24 MR. GOLDHILL: Yes, sir.

25 JUDGE SIPPEL: But so they -- but they know that you're

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1 looking for a 50 -- 25 to 54 women, so they know, maybe you won't  
2 -- you won't be satisfied with it, but they know enough to set up  
3 their pitch, their ad pitch that's going to go out to 25 to 54  
4 women?

5 MR. GOLDHILL: Yes.

6 JUDGE SIPPEL: Okay. And you can take it from there.  
7 Now, what I'd like to see is a comparison between this scenario  
8 including the buckets and WE tv and the Wedding whatever it was,  
9 the Wedding -- Wedding Eternal, whatever it's called.

10 MR. SCHMIDT: Wedding Central.

11 JUDGE SIPPEL: Wedding Central.

12 MR. SCHMIDT: Yes, we can't do that with Mr. Goldhill  
13 because we can't show him their documents. Although there are some  
14 documents -- there is a document I'm going to show that speaks to  
15 that in a couple of documents.

16 But, that will come in through our experts. And then  
17 through our cross examination of the WE and Wedding Central people.

18 I can't show -- this is an internal GSN document. They  
19 couldn't show it to their witnesses. We can't show their internal  
20 documents to our witnesses.

21 JUDGE SIPPEL: So the Chinese get to see it, but we don't  
22 get to see it? I mean, --

23 MR. COHEN: Well, I don't know how there would be any  
24 foundation, Your Honor. Mr. Goldhill doesn't have access.

25 JUDGE SIPPEL: Well, okay. If he doesn't -- that might

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1 be true.

2 MR. COHEN: So there's actually --

3 MR. SCHMIDT: I think -- I think -- I think -- maybe on  
4 trial --

5 (Simultaneous speaking)

6 COURT REPORTER: Excuse me. To get a clean record, could  
7 there only be one speaker at a time?

8 JUDGE SIPPEL: You're absolutely right. One at a time.

9 MR. COHEN: Well, I think that Mr. Schmidt and I will  
10 both agree by the end of the trial, there will be lots of side by  
11 side comparisons. But we have to sort of do it in building blocks.

12 MR. SCHMIDT: I think that's right, Your Honor.

13 JUDGE SIPPEL: I understand.

14 MR. SCHMIDT: Yes. I think that's right.

15 JUDGE SIPPEL: Okay. Well said.

16 MR. SCHMIDT: I think we should mark for the record the  
17 agreement between Mr. Cohen and me. A happy moment in the hearing.

18 MR. COHEN: Is that the first or the second?

19 MR. SCHMIDT: I don't know. But that's why I wanted to  
20 mark it.

21 Just to round out this line of questions. Does -- what  
22 we've been looking at, at Tab 2 of your binder, GSN Exhibit 273,  
23 reflect GSN's target audience in terms of women 25 to 54 for 1  
24 versus 100?

25 MR. GOLDHILL: Yes.

1 BY MR. SCHMIDT:

2 Q If you go back to this partnership document, Cablevision  
3 Exhibit 613 that we were just looking at a moment ago, why does  
4 that document say the target audience is adults 25 to 54?

5 A Because that would be the advertiser's objective.

6 Q Not yours?

7 A We were pushing it to. Correct.

8 Q Okay. Let me -- this point that your programming was  
9 marketed to this female demographic, was that pretty common for  
10 your programming?

11 A All of the programming produced while I'm at GSN was  
12 produced for women 25 to 54 as the target. With some secondary  
13 women 18 to 49.

14 Q Okay.

15 A But always for young women then.

16 Q Let me give you a couple of examples of that, including  
17 one that speaks to the Judge's question from just a minute ago.

18 The first is GSN Exhibit 43, which is in evidence. But  
19 which, if I may approach, I'll pass out, Your Honor.

20 JUDGE SIPPEL: Thank you. This is GSN 43?

21 MR. SCHMIDT: Yes, sir.

22 JUDGE SIPPEL: Oh, okay.

23 BY MR. SCHMIDT:

24 Q You see that this is an email from -- an email chain from  
25 November 2009.

1 A I do.

2 Q Involving GSN employees talking about a show called  
3 Carnie?

4 A Yes.

5 Q Is that a show that GSN ran?

6 A Yes.

7 Q If we look at -- who is Kelly Goode who we see starting  
8 this email chain in the bottom half of the page?

9 A Kelly Goode was the head of programming at GSN.

10 Q If I could focus your attention on the last paragraph.

11 MR. COHEN: Your Honor, could we have a foundation? The  
12 witness is not on the document or being -- I understand it's in  
13 evidence.

14 But usually there's some effort to link it to, you know,  
15 to the witness' knowledge.

16 MR. SCHMIDT: I thought I was lying that.

17 JUDGE SIPPEL: Go ahead.

18 MR. SCHMIDT: Well yes --

19 MR. COHEN: You've never established that he's ever seen  
20 the document before, before whatever.

21 JUDGE SIPPEL: Before answering -- before asking him a  
22 specific question on the document, ask him his connection to the  
23 document with that.

24 MR. SCHMIDT: Are you familiar with the show Carnie?

25 MR. GOLDHILL: Yes.

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1 MR. SCHMIDT: Are you familiar with the target audience  
2 for Carnie that you were trying to reach?

3 MR. GOLDHILL: Yes.

4 BY MR. SCHMIDT:

5 Q When she says in the last paragraph of the email, in the  
6 first sentence, why does the audience we want to reach care? And  
7 then four lines down, she says her issues are also the ones women  
8 25 to 54 care the most about.

9 Do you see that language that I applied?

10 A I do.

11 Q Okay. Is that consistent with your knowledge of what the  
12 target audience for a program like Carnie was?

13 A Yes.

14 JUDGE SIPPEL: Why weren't you included with the group  
15 that received the email?

16 MR. GOLDHILL: Your Honor, it looks like the programming  
17 department was trying to answer a question I had asked. And were  
18 discussing amongst themselves how to answer that question.

19 You'll notice that Ms. Brazino begins with I asked here  
20 a couple of questions and they need to response.

21 JUDGE SIPPEL: Yes. So, it's a good thing she doesn't  
22 refer to you in a non-family way.

23 MR. SCHMIDT: We kept those out of the production, Your  
24 Honor.

25 (Laughter)

1 MR. SCHMIDT: You were wondering where they were.

2 Let's look at another Exhibit in that vein. And this is  
3 the one I was going to mention that speaks to the Judge's question.

4 Are you familiar with a show called "It Takes a Church"?

5 MR. GOLDHILL: Yes.

6 BY MR. SCHMIDT:

7 Q Are you familiar with the audience you were trying to  
8 reach for the show "It Takes a Church"?

9 A Yes.

10 Q Are you familiar with who you were trying to complete  
11 with having a show like that?

12 A Yes.

13 MR. SCHMIDT: Let's take a look, this is not in evidence.  
14 GSN Exhibit 228.

15 (Whereupon, the above-referred to document was marked as  
16 GSN Exhibit 228 for identification.)

17 BY MR. SCHMIDT:

18 Q And while I'm passing this out, I'll ask you the  
19 question. This is a document discussing the on air and media  
20 strategy for "It Takes a Church".

21 I'm just looking at the heading, is this a document  
22 discussing the on air and media strategy for "It Takes a Church"?

23 A Yes.

24 Q Okay. Let's look at -- do you see that there's about  
25 half way down the first page, it says audience analysis?

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1 A Yes.

2 Q And what is the target audience?

3 A Women 25 to 54.

4 Q Is that consistent with your knowledge of who you were  
5 trying to target with this show?

6 A Yes.

7 Q You see a couple -- the second bullet down, it says  
8 analysis of similar audience composition.

9 A Yes.

10 Q If you flip to the second page, to the point of the  
11 Judge's question maybe five or ten minutes ago, do you see on the  
12 second page, there's a reference to a show "Mary Mary" on WE and  
13 "Braxton Family Values" on WE.

14 MR. COHEN: Your Honor, I object. This is the functional  
15 equivalent of direct examination. The witness is never asked  
16 whether he sees this -- he's seen this document in the ordinary  
17 course.

18 So what we have is Mr. Schmidt just directing the witness  
19 to various bullets. There's no indication on this document that he  
20 received in the ordinary course.

21 JUDGE SIPPEL: I'll sustain the objection. Go ahead and  
22 make your foundation and --

23 MR. SCHMIDT: Sure. Are you familiar with the shows that  
24 were similar --

25 JUDGE SIPPEL: Is he familiar with the document?

1 MR. SCHMIDT: I'll ask that question, Your Honor. Are  
2 you familiar with this document?

3 MR. GOLDHILL: Yes.

4 MR. SCHMIDT: Okay. Are you familiar with the shows?

5 MR. COHEN: Your Honor, may I have a question of void  
6 dire?

7 MR. SCHMIDT: There's no basis for void dire in the  
8 middle of an examination on foundation, Your Honor.

9 JUDGE SIPPEL: He wants to void dire the document. I'll  
10 let you ask a few questions.

11 VOID DIRE

12 BY MR. COHEN:

13 Q Did you see this document in 2013 in the ordinary course  
14 of business?

15 A We have --

16 Q Yes or no, please.

17 A Oh, I'm sorry, yes we -- yes.

18 Q You did?

19 A Yes.

20 Q You ordinarily got copies of every --

21 JUDGE SIPPEL: He's answered the question.

22 MR. COHEN: Okay. You may now proceed Mr. Schmidt.

23 MR. SCHMIDT: Thank you, Mr. Cohen. Now let's go back to  
24 this document.

25 JUDGE SIPPEL: What are you thanking him for?

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1 MR. SCHMIDT: Because he established my foundation for  
2 me. Let's go back --

3 JUDGE SIPPEL: I thought that was a very reasonable and  
4 well done voir dire.

5 (Laughter)

6 MR. SCHMIDT: I hope they're all like that.

7 Let's look at the second page of this document that you  
8 saw in the ordinary course of business in 2013/2014. Do you see  
9 where there's a reference to the show Mary Mary on WE and Braxton  
10 Family Values on WE?

11 MR. GOLDHILL: Yes.

12 BY MR. SCHMIDT:

13 Q Why is it when you're talking about your show to the  
14 point of the question the Judge asked about five minutes ago, when  
15 you're talking about your show "It Takes a Church", are you  
16 referencing these shows on WE tv?

17 A When we put together a marketing strategy for a new show  
18 we launch and when we decide to create the show and launch the  
19 show, we look at what we think are comparable shows and the types  
20 of audiences they deliver.

21 Both as a way of trying to understand what the right  
22 expectations are for our show. As well as where there might be  
23 opportunities to actually promote the show by advertising for the  
24 purpose of media action.

25 Q Does this reflect trying to target some more audiences?

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1 A Yes, of course. Yes.

2 Q Including with similarly themed programming?

3 A Yes.

4 MR. SCHMIDT: I'll move this into evidence, Your Honor.

5 MR. COHEN: Object, Your Honor. So, we have -- this is  
6 another one of these retiering documents.

7 The document is about the launch of a show, of a media  
8 program. And it says on the second page, from August 13 to  
9 November 13.

10 November 13 is almost three years after the retiering  
11 decision was made by GSN. So, I don't know what the relevance is  
12 by Cablevision.

13 I don't know what the relevance is in the decision that  
14 we made. Mr. Schmidt said there were two acts of discrimination in  
15 his opening.

16 The first act of discrimination was retiering. And the  
17 second act was the Wedding Central trade.

18 This is three years after that.

19 JUDGE SIPPEL: Wedding Central -- what?

20 MR. COHEN: The Wedding Central trade that he alleged  
21 between Direct TV and Wedding Central in return for Cablevision  
22 carriage of GSN.

23 This is why we made our omnibus motion. It makes no  
24 difference, we believe, under the law, whether or not they had  
25 targeted women's programming in 2013 when our decision was made in

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1 2010.

2 I don't dispute that the document says what it says. The  
3 question is, it couldn't have been something that was even remotely  
4 in the minds of Cablevision.

5 It Takes a Church did not exist at the time of the  
6 retiering decision.

7 MR. SCHMIDT: Your Honor, this is the point they argued  
8 and lost yesterday. We've had documents that Mr. Cohen opened on  
9 and that he examined.

10 I'm looking at a program lineup from March 2011. Another  
11 program lineup from September 2011.

12 That was almost a year after -- certainly a year after  
13 they started looking at tiering. Almost a year after they told us  
14 they were going to tier.

15 So, they have acknowledged in their examination that  
16 post-hearing documents are relevant. Not to mention all the  
17 financial documents.

18 And yet that they want a different rule for financial  
19 documents then they do for programming documents. Even though we  
20 heard a lot of questioning this morning about how programming and  
21 financial documents link up.

22 Our claim is the tiering remained unreasonable over time.  
23 That makes a document like this relevant.

24 They have conceded that by repeatedly asking questions  
25 about our programming, about our dealings after the tiering

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1 decision. Particularly on harm. But not just linked to harm.

2 There's no reason a program lineup that talks about poker  
3 in 2011 or what happened with the Department of Justice after the  
4 tiering. Or any number of other events, is relevant under Mr.  
5 Cohen's theory.

6 But, it's been a major focus of his case. It is relevant  
7 under our theory. And that's why I asked him about it.

8 MR. COHEN: May I respond, Your Honor?

9 JUDGE SIPPEL: Yes, please.

10 MR. COHEN: We're talking about totally different things.  
11 The harm is whether they were unreasonably restrained in competing.

12 The point of the examination, the cross examination, was  
13 to demonstrate that GSN is thriving. And therefore, Your Honor  
14 could not make a decision with respect to whether or not they were  
15 unreasonably restrained from competing.

16 A one week or two weeks after the tiering decision is  
17 where the programming line up is substantially the same as it was  
18 at the time of the tiering decision. And all of those shows that  
19 I showed him were on before and after.

20 Is completely different then talking about a show that  
21 was launched somewhere, if the launch -- we can't tell of course  
22 because the document's not dated. But since it says on the second  
23 page that the launch campaign is August 13 to November 2013, we  
24 know it, you know, it's at the end of 2013.

25 Or do you know what the creation date of this document

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1 was from your metadata? Is it 2014?

2 MR. SCHMIDT: I'm not sure.

3 MR. COHEN: Okay. So --

4 JUDGE SIPPEL: But, what -- where do you see those dates  
5 of August --

6 MR. COHEN: Second page are television shared networks in  
7 red.

8 JUDGE SIPPEL: In red?

9 MR. COHEN: It's not in red. It's not in red. It just  
10 says shared networks in red.

11 JUDGE SIPPEL: Oh, I see. All right.

12 MR. COHEN: August 13 to November 13. So, Your Honor --

13 JUDGE SIPPEL: Wait a minute, let me find it.

14 MR. COHEN: I'm sorry.

15 JUDGE SIPPEL: Let me find it.

16 MR. COHEN: About two-thirds of the way down that page.

17 JUDGE SIPPEL: Below Braxton Family Values?

18 MR. COHEN: Yes. Keep going.

19 JUDGE SIPPEL: Television?

20 MR. COHEN: Yes.

21 JUDGE SIPPEL: W2554?

22 MR. COHEN: Keep going.

23 JUDGE SIPPEL: Based on Mary, program recommendations.

24 MR. COHEN: Up two -- up two bullets, Your Honor.

25 JUDGE SIPPEL: WE tv, top ten cable networks viewed.

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1 What, what, what?

2 MR. COHEN: Your Honor, do you see where it says  
3 television, two-thirds of the way down?

4 JUDGE SIPPEL: Tele -- yes, I do see that.

5 MR. COHEN: Okay. Go down one -- to the first bullet,  
6 all the way to the right of the first bullet.

7 JUDGE SIPPEL: Based on what now to -- okay, August  
8 13/November 13.

9 MR. COHEN: Right.

10 JUDGE SIPPEL: Oh, that's 2013.

11 MR. COHEN: Yes, Your Honor.

12 JUDGE SIPPEL: It's not the 13th of August.

13 MR. COHEN: No. So, Your Honor, our argument throughout  
14 has been, to prove a discrimination case, you have to show that the  
15 discrimination exists on the date that you file the case. At the  
16 latest.

17 Right. And they filed their carriage complaint in the  
18 fall of 2011. What happened two years later in this case cannot  
19 prove discrimination in the carriage decision back in 2010 and the  
20 beginning of 2011.

21 So, what if they change their programming entirely?

22 JUDGE SIPPEL: Well, it may not be -- wait a minute. It  
23 might -- whether it proves it or not, is not the issue. The issue  
24 -- the question is, is it relevant? Is some of it relevant?

25 MR. COHEN: Yes. And so, Your Honor, we filed an in

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1 limine motion with Your Honor.

2 JUDGE SIPPEL: Yes.

3 MR. COHEN: We cited cases.

4 JUDGE SIPPEL: Yes.

5 MR. COHEN: We talk about the fact that evidence should  
6 be excluded --

7 JUDGE SIPPEL: Yes.

8 MR. COHEN: Of post filing discrimination. That's the  
9 argument we've been pressing.

10 I think Mr. Schmidt correctly said during the opening,  
11 we'd have one of these out. I don't think you denied it. I think  
12 you reserved our objection prior to the opening.

13 JUDGE SIPPEL: Oh, yes.

14 MR. COHEN: So, now we're actually having the argument  
15 that Mr. Schmidt forecasted. Which is, we said when we had the  
16 argument about a specific document, Your Honor will --

17 JUDGE SIPPEL: Now the rubber hits the road, right.

18 MR. SCHMIDT: I think we're actually past that point in  
19 two ways. It's just not true to say that there are only  
20 post-hearing documents that go to harm. That is false.

21 That is just not true. And I need look no further than  
22 Mr. Cohen's opening, where he has a third-party post-hearing  
23 document with a footer saying it was printed from the internet in  
24 2015, he is using to say, we are not similarly situated.

25 This is not an evenly applied argument.

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1 MR. COHEN: Your Honor, it's not in evidence.

2 MR. SCHMIDT: Don't interrupt, please. I'm in my  
3 argument. Don't interrupt.

4 If you look at their programming lineup that they use  
5 from September 2011, almost a year after they told us about their  
6 tiering decision, they're using that to say we're not similarly  
7 situated.

8 We've already had a number of documents come into  
9 evidence on precisely this point. Your Honor will remember, there  
10 was a document earlier this morning where Mr. Cohen said, is that  
11 evidence? I think we object. And then he said no, we didn't  
12 object.

13 That's because that was a post-hearing document that they  
14 agreed on. These documents have come in the case.

15 This issue from our point of view has been resolved by  
16 Your Honor letting these documents into the case. And if we're  
17 going to do this every time there's another one.

18 I think Your Honor can make a judgement, I don't think  
19 it's as relevant as you think it is Mr. Schmidt. Or Your Honor can  
20 say, I agree with you. It is relevant.

21 It's not the core of our case. But it's relevant. But  
22 that's not a grounds for keeping it out.

23 And frankly that -- the barn door's already open on that  
24 through their documents and through our documents.

25 MR. COHEN: Your Honor --

1 JUDGE SIPPEL: Well you gave me two options. Which one  
2 do you want?

3 MR. SCHMIDT: It should come in, Your Honor.

4 JUDGE SIPPEL: And? You're saying it's not relevant?

5 MR. COHEN: It's not relevant.

6 MR. SCHMIDT: What he should be saying is, none of it's  
7 relevant. Which is going to make Ms. Hopkins cross examination  
8 very, very short.

9 MR. COHEN: Your Honor, please. I mean, we're fencing  
10 here now.

11 JUDGE SIPPEL: I hear you.

12 MR. COHEN: Okay. We'll deal with it when we deal with  
13 it. There's a clear difference between --

14 JUDGE SIPPEL: Well, we're going to deal with this  
15 document.

16 MR. COHEN: Right. What I'm saying again.

17 JUDGE SIPPEL: Yes.

18 MR. COHEN: All right, of all I used the 2011 document to  
19 refresh Mr. Goldhill's recollection as to when poker went off the  
20 air. That's the only question I asked about that document.

21 The document that he showed you, I'd be happy to submit.  
22 He's objected to it. It's not in evidence yet.

23 We'll talk about it. And I'll establish through  
24 examination that that document is substantially the same as it was  
25 in 2010. That's the point.

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1           It's illustrative. I will focus my questioning on 2010.  
2 This is an effort to confuse the court. This programming did not  
3 exist at the time we made the retiering decision.

4           Maybe we would have had a different decision. I don't  
5 think we would have. But maybe we would have had a different  
6 decision if all of these programs were put on the air in 2010 that  
7 were put on in 2012, 2013, 2014.

8           We can't answer that question. All we can do is say, was  
9 this network similarly situated when we made the decision? And  
10 nothing about what was put on the air in 2013 or 2014 can inform  
11 that decision.

12           MR. SCHMIDT: We can answer that question, Your Honor.  
13 We can absolutely answer that question.

14           We know right now sitting here that we have continued to  
15 say to them, first through trying to negotiate with them. Second  
16 through this lawsuit.

17           That we deserve broad carriage. And we know what their  
18 answer is. Their answer is to this day, no you don't.

19           If they would have read our complaint. If they would  
20 have listened to what we said in the depositions. If they would  
21 have read our testimony and said, you know what, you're right.

22           I hope as rational business actor they would have put us  
23 back where we belonged. It absolutely is relevant to that.

24           And we know what their response has been to this  
25 programming. It's a response that's out of step with the

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1 marketplace in terms of how the marketplace carries us.

2 But, that --

3 JUDGE SIPPEL: Well, you're arguing conclusions now.

4 MR. SCHMIDT: But, I'm arguing relevance in terms of the  
5 violation they committed wasn't fixed on -- they tiered us on  
6 February 1, 2011. It wasn't fixed on February 2, 2011.

7 They didn't say when they got those complaints, you know  
8 what, you're right. We're putting you back.

9 It's not fixed to this date. They're continuing to  
10 engage in the same violation from our point of view of Section 616.  
11 It's not our core evidence.

12 But, what happened since is relevant to that.

13 JUDGE SIPPEL: This is going absolutely nowhere. I'm  
14 going to take a 15 minute break and I'm going to come back and  
15 rule. Okay?

16 MR. SCHMIDT: Thank you, Your Honor.

17 JUDGE SIPPEL: Okay. But, is that good with you?

18 MR. COHEN: Of course, Your Honor.

19 JUDGE SIPPEL: Okay. We're in recess for 15 minutes.  
20 What time is it? Well, be back at 3:00. We're off.

21 (Whereupon, the above-entitled matter went off the  
22 record at 2:44 p.m. and resumed at 3:00 p.m.)

23 JUDGE SIPPEL: We're back on the record. Mr. Goldhill,  
24 I'm glad you haven't left us yet. This is my ruling and this is  
25 with respect to GSN Exhibit 228 but it's really going to be broader

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1 than that.

2 I mean, I've looked at this. There's been a lot of  
3 consideration given to it and the objection as to the admissibility  
4 of post-hearing documents on relevancy grounds is overruled. Those  
5 documents are relevant.

6 Weight is a very significant standard that can only be  
7 applied at the end of all the evidence. We still haven't even  
8 heard from Cablevision's side on this.

9 Who knows what these documents - what relevance they will  
10 take on after all is said and done and, in addition, Mr. Cohen, you  
11 did raise something like, for example, the nine new companies that  
12 you were talking -- and examining the witness on, which was a  
13 perfectly legitimate examination. That kind of creeps over too.

14 It's a very difficult standard to just draw a line on  
15 date certain or on or about date. We have to let it all in to the  
16 extent that it's relevant.

17 I don't mean to say all documents are coming in but there  
18 has to be a showing of relevance and in any event that's my ruling,  
19 and with the effort that both counsels made to eliminate more  
20 problems with document objections on -- you know, at the twelfth  
21 hour, it was a valiant effort.

22 But like every valiant effort there is -- you know,  
23 there's good and bad -- what do they call it? In any event, one of  
24 the results is that it's really -- my ruling on the in limine  
25 motion into a cocked hat and to go through that motion in light of

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1 all the agreements that were reached in limine would be -- I think  
2 it would just be a useless effort.

3 So we're going to just have to bite the bullet and take  
4 these one at a time. But, you know, you have the general -- you  
5 now know what the general ground rule is and I'm just hoping that  
6 -- I suspect -- I'm counting on everybody not to delay things  
7 beyond -- you know, beyond just, you know, making the normal  
8 objection, normal argument and normal ruling.

9 (Whereupon, the above-referred to document was received  
10 into evidence as GSN Exhibit 228.)

11 MR. COHEN: Your Honor, I think that if that's your  
12 Honor's ruling, as long as I have an agreement from GSN that our  
13 failure to raise it document after document is not a waiver of our  
14 position, which your Honor has ruled on, then we will sit down  
15 tonight and we will try to go through a lot of these documents  
16 where our objections are of a piece so we can speed things along,  
17 if that's acceptable to you and to the Court.

18 MR. SCHMIDT: I think that makes sense, and from my point  
19 of view -- and we can talk about this -- I think with the guidance  
20 Your Honor just gave us there was some other objections you had.  
21 There was some objections we had. I think we can actually --

22 MR. COHEN: We can work them all out.

23 MR. SCHMIDT: -- every one of them out.

24 JUDGE SIPPEL: Okay. Then I'm not going to say anything  
25 more about it until I hear from you all. So we're back on -- we're

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1 back on task, as they say, and you have another question, Mr.  
2 Schmidt.

3 MR. SCHMIDT: Yes, sir.

4 BY MR. SCHMIDT:

5 Q Finishing up with Exhibit 228, if you have that there in  
6 front of you, is the approach taken in this document targeting  
7 women 25 to 54 who are also watching comparable shows on networks  
8 like WE tv? Is that consistent with what you were doing back in  
9 2010 and 2009?

10 A Yes.

11 Q Let's look at GSN 268, please.

12 MR. SCHMIDT: May I approach, your Honor?

13 JUDGE SIPPEL: Yes, you may. Thank you.

14 BY MR. SCHMIDT:

15 Q This will be my last question on these partnership  
16 documents. Is this another one of these partnership documents  
17 we've been discussing, Mr. Goldhill?

18 A Yes.

19 Q Who is the proposed partner in this document?

20 A It's addressed to Avon.

21 Q The cosmetics company?

22 A Yes.

23 Q I guess, as they call themselves, the company for women.

24 JUDGE SIPPEL: Well, I think it would have a serious  
25 parol evidence rule on a partnership theory. But generically

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1 they're being called a partnership.

2 MR. SCHMIDT: Yes. Generically, they're being called a  
3 partnership. Now your Honor is hearkening me back to the bar.

4 JUDGE SIPPEL: Never leave the bar.

5 BY MR. SCHMIDT:

6 Q Let's look at page - let's look at Page 4 of this  
7 document with the number 246 at the bottom.

8 JUDGE SIPPEL: 244, 5, 246.

9 BY MR. SCHMIDT:

10 A Yes.

11 Q Do you identify women 25 to 54 as your primary audience  
12 here?

13 A Yes.

14 Q And just to move things quickly, do you see Pages 5 - GSN  
15 viewers are price sensitive beauty experts and then there's  
16 information given on women 18 to 34, women 18 to 49?

17 A Yes.

18 Q Does that continue through Page 248 at the bottom, 249,  
19 250, 251?

20 A Yes.

21 Q Is this an example of -- actually one more question on  
22 this. Look ahead, if you would, at Page 255 towards this  
23 partnership concepts.

24 A Yes.

25 Q Do you see where it says GSN recognizes women of all ages

1 who celebrate their beauty?

2 A Yes.

3 Q Is this partnership document consistent with your efforts  
4 to target female viewers, particularly in certain age demographics?

5 A Yes.

6 Q You told us earlier why sometimes you list adults and I  
7 think you do it in this document - that sometimes you list women in  
8 terms of the partners you're targeting. Do you remember that?

9 A Yes.

10 Q Why is it you never list men?

11 A Well, we never deliver enough men for anyone to ply them  
12 in any reasonable economic way on our network.

13 Q You were asked some questions -- let's switch topics now.  
14 You were asked some questions about some Nielsen numbers and if you  
15 have your big binder in front of you I'm going to direct your  
16 attention, if I may, to Cablevision Exhibit 193.

17 JUDGE SIPPEL: Is that the management committee?

18 MR. SCHMIDT: That's exactly what that is, your Honor.

19 BY MR. SCHMIDT:

20 Q And let me start, if I may, with Page 42 of that  
21 document. We have your 2011 strategic priorities scorecard. I  
22 just don't recall if Mr. Cohen asked you about this but I want to  
23 ask you a question about this.

24 A I'm sorry. Page?

25 Q Page 42. You'll see at the bottom they say page number

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1 out of 83.

2 A Your Page 42.

3 Q Yes, Page 42 out of 83, exactly. Do you see that 2011  
4 strategic priorities scorecard?

5 A Yes.

6 Q Under results on the right hand side of the page, do you  
7 see the reference to ratings declining 12 percent women 25 to 54?

8 A Yes.

9 Q Why were you focused on those results?

10 A Well, this is a presentation to our board of directors so  
11 they would know that that's the target demo that our new  
12 programming -- that our programming was aimed at. For them, that  
13 would be a ratings decline.

14 Q Is that your -- is that your benchmark?

15 A Yes.

16 Q Women 25 to 54?

17 A Yes.

18 Q Let's look at the page I do recall Mr. Cohen spending a  
19 little bit of time with you on - Page 50 of this document. Do you  
20 remember the chart on the ratings in this age group over time?

21 A Yes.

22 JUDGE SIPPEL: Is this 50 of 83?

23 MR. SCHMIDT: Yes, sir - 50 of 83.

24 BY MR. SCHMIDT:

25 Q Do you see where it shows your ratings steadily

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1 increasing up until 2010?

2 A Yes.

3 Q Was that consistent with your goal of increasing  
4 viewership among women 25 to 54?

5 A Yes.

6 Q What happened in 2010?

7 A Well, the network's ratings specifically in that younger  
8 demographic groups changed meaningfully over a short period of  
9 time. You can see just from a raw basis we had a very large  
10 decrease in the number of women we were delivering.

11 Q Did you have any cause to question those ratings?

12 A We not only did have cause for question, we spent a very  
13 large amount of time not only complaining directly to Nielsen but  
14 coordinating with the CAB and, we had hoped, other networks who had  
15 similar complaints.

16 JUDGE SIPPEL: Wait a minute. Coordinating with the CAB?

17 THE WITNESS: I'm sorry, your Honor. The CAB is the  
18 Cable Advertising Bureau that represents cable companies and their  
19 advertisers. It's a trade organization, your Honor.

20 JUDGE SIPPEL: All right. Let me make a note of that.

21 CAB equals Cable --

22 THE WITNESS: Advertising. I believe it's Bureau. I'm  
23 getting confirmation it's Bureau.

24 JUDGE SIPPEL: Okay.

25 THE WITNESS: We met with them several times to encourage

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1 them to take action and a number of independent networks look at  
2 this as well. The reason that we questioned our ratings is because  
3 the programming changes in this period should have produced the  
4 opposite effect of what it did.

5 We put on the air the Newlywed Game and Baggage, 1 versus  
6 100, which had been a heavily female audience in its earlier  
7 incarnation, Lingo, which had been heavily female in its earlier  
8 incarnation and we reduced the one male programming we had on the  
9 air, which was Poker, to our least rated nights and we started  
10 getting very strange ratings numbers.

11 So on some nights the Newlywed Game but only in the 25 to  
12 54 would show 70 percent men -- 75 percent men. I wrote our head  
13 of research that maybe we should sell the show to ESPN and they  
14 could put it on the air.

15 Anyone who's seen the Newlywed Game would know that that  
16 is inconceivable. We saw things like Poker becoming female -- more  
17 female. Poker went from 70/30 to 60 --

18 BY MR. SCHMIDT:

19 Q May I ask you a question about that?

20 A Yes.

21 Q Is Poker the one exception, just since you mentioned it

22 -

23 A Poker is the only show --

24 Q -- in your inability to deliver men?

25 A Yeah. Well, Poker is the only show on the air since I

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1 was there that wasn't intended to deliver women, as I mentioned  
2 before, like most programmers were not always successful,  
3 unfortunately.

4 But the target has always been women and younger women  
5 and all of the original programming with the exception of the Poker  
6 programming I held over from the previous regime.

7 Q The word we used before was benchmark. Tell me what you  
8 mean in saying that women 25 to 54, when you're reporting to your  
9 board and you're saying you need to look at the ratings in that  
10 group, why -- what does that mean that that's your benchmark?

11 A We judge the success of the money we spend on programming  
12 in terms of how much women 24 -- how many women to 24 that  
13 programming delivers. It's the benchmark we use to determine  
14 whether a show is successful for us or not.

15 Q Did you end up talking to Nielsen about your concerns  
16 about the ratings they were giving for you?

17 A Extensively.

18 Q Okay. Let's look at Exhibit 314 - Cablevision 314 that  
19 you were shown earlier today.

20 JUDGE SIPPEL: 314. Is it in here? Is it in the book?

21 MR. SCHMIDT: It's in the big book, your Honor, right -  
22 I think it's third from the last one, your Honor.

23 JUDGE SIPPEL: Okay. I see it.

24 BY MR. SCHMIDT:

25 Q What's the relationship between this document and your

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1 A Nielsen.

2 Q What came of this meeting where you sat down to talk with  
3 Nielsen about questions you had about data showing [REDACTED]

4 [REDACTED]  
5 A Well, the meeting was frustrating to us because Nielsen  
6 basically repeated the data they had reported and said this is the  
7 data, therefore it's the data and it all adds mathematically.

8 The point we were making is the methodology by which the  
9 data was created must have been flawed because it was producing  
10 results that were so different from the network's history, so  
11 different from what we all know on television -- that [REDACTED]

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 Nielsen, you may know, has an essential monopoly in data  
16 or had at this time, and as I think is fairly typical of them they  
17 admitted no fault but, fortunately, after this meeting the numbers  
18 began to change back to the normal direction.

19 So we don't have any confirmation that they changed their  
20 methodology but by the end of '11 -- 2011, I should say -- we were  
21 back to what our historical skews had been. Whether it's the  
22 result of this meeting or not, you know, I can't say. But,  
23 clearly, something changed.

24 Q Now, let's talk about your --

25 JUDGE SIPPEL: Well, let me just ask you something about

1 that.

2 THE WITNESS: Of course, your Honor.

3 JUDGE SIPPEL: Wasn't -- wouldn't -- this would be very  
4 important to Nielsen, I would think, because Nielsen is selling its  
5 -- what do they call it -- polling or whatever it is -- statistical  
6 analyses on the basis of reputation, I mean, and those do pretty  
7 good.

8 THE WITNESS: Yes.

9 JUDGE SIPPEL: And if an outfit like GSN started raising  
10 questions in the community about the crummy results you were  
11 getting that would be pretty bad for Nielsen. It could become very  
12 bad. So they had an interest in this in making this come out. Not  
13 only making it come out right but perhaps making it come out  
14 favorable the way you want it to come out.

15 That is, you wanted to go back to the way it was and they  
16 got -- they got the message. You don't have to agree with me but  
17 I'm just positing that proposition.

18 THE WITNESS: Your Honor, at this time a number of other  
19 smaller networks were having similar issues.

20 JUDGE SIPPEL: Okay.

21 THE WITNESS: And the question was whether Nielsen's  
22 methodology and sampling size, without getting too technical about  
23 it, was large enough to give consistently correct numbers for  
24 slices of smaller networks.

25 JUDGE SIPPEL: Mmm-hmm.

1 THE WITNESS: So if you're looking at a network like ours  
2 that would aim to deliver [REDACTED] women 25 to 54, Nielsen at the  
3 time, I believe, had several thousands of meters in the country.

4 That's a very small sampling base. It's a very good  
5 sampling base on which to measure how many people watched TV last  
6 night -- how many people watched CBS last night.

7 When you get down to how many women they actually don't  
8 do 25 to 54. There's a lot of different variations in there -  
9 cohorts in there. There was a lot of question not just of  
10 ourselves.

11 So one of the reasons we had this conversation, your  
12 Honor, was to add our voice to a series of voices that were saying  
13 something strange is happening with the data or a suspicion is if  
14 they were responsive it wasn't just responsive to us.

15 JUDGE SIPPEL: That's it. Thank you.

16 BY MR. SCHMIDT:

17 Q Do you remember a series -- thank you, your Honor -- do  
18 you remember a series of questions earlier this morning about the  
19 ratings, specifically in the fourth quarter of 2010?

20 A Yes.

21 Q That was the time that Cablevision told you about their  
22 tiering decision in November 2010. Do you remember that?

23 A I do.

24 Q Did you have firsthand discussions with representatives  
25 of Cablevision as a result of that announcement by Cablevision?

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1 A I'm sorry.

2 Q Did you have firsthand discussions with representatives  
3 of Cablevision about trying to maintain your position on expanded  
4 basic on their what are penetrated tiers as a result of them  
5 telling you they were going to tier you?

6 A Yes.

7 Q Did you receive reports of such discussions from your  
8 colleagues about discussions they had had with Cablevision  
9 representatives?

10 A Regarding the --

11 Q The tiering decision.

12 A Correct, yes.

13 Q Okay. In any of those discussions did -- was any word  
14 communicated to you about a concern about your ratings with female  
15 viewers in the fourth quarter of 2010 or at any point in 2010?

16 MR. COHEN: I'm going to object, your Honor, to the  
17 extent that it calls for hearsay. He can testify about anything  
18 that Cablevision told him directly. That's an admission. But if  
19 he heard it from his colleagues it's hearsay. If those folks want  
20 to come and testify we'll talk to them about it.

21 JUDGE SIPPEL: What about if he heard it from Nielsen?

22 MR. COHEN: No, no. This is - I think the question,  
23 unless I'm wrong, Mr. Schmidt, was whether he heard from  
24 Cablevision or his colleagues. You asked both.

25 BY MR. SCHMIDT:

1 Q Did you ever acquire --

2 MR. SCHMIDT: I'll rephrase the question, your Honor.

3 BY MR. SCHMIDT:

4 Q Focusing on this --

5 JUDGE SIPPEL: I'm going to sustain that first objection.

6 So go ahead.

7 MR. COHEN: I've withdrawn it but -

8 JUDGE SIPPEL: Yes.

9 BY MR. SCHMIDT:

10 Q Focusing on this time period, the end of 2010 when the  
11 tiering decision was made and the data Mr. Cohen showed you about  
12 ratings in that time period, do you have any information at all  
13 that Cablevision raised any concerns with GSN before announcing the  
14 tiering or after announcing the tiering that ratings among women 25  
15 to 54 were a concern?

16 A No.

17 Q Do you have any information at any time that Cablevision  
18 raised a concern that ratings generally with women were a concern  
19 with respect to GSN?

20 A With women, no.

21 Q Okay. Did you have even the fourth quarter 2010 ratings  
22 data at the time that the tiering decision was announced in  
23 November 2010?

24 A Not all of it. We got the -- we get it daily but,  
25 obviously, quarterly would be compiled at the end of the quarter.

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1 Q Yeah, that's my question. You were shown specific fourth  
2 quarter 2010 tiering data. Was that --

3 A No, we would not have that as --

4 Q I'm sorry. I asked my question badly. You were shown  
5 fourth quarter 2010 ratings data. Did that data even exist in  
6 November 2010 when the tiering decision was announced?

7 A No.

8 Q Did any affiliate that you're aware of mention a concern  
9 with your ratings among female viewers in 2010?

10 A Not that I'm aware of.

11 JUDGE SIPPEL: Now, when you say affiliate what does that  
12 cover?

13 MR. SCHMIDT: That covers any cable company, any  
14 satellite company, any MVPD.

15 JUDGE SIPPEL: AT&T, Comcast, et cetera?

16 MR. SCHMIDT: Yes, your Honor. Thank you for clarifying  
17 that.

18 BY MR. SCHMIDT:

19 Q Did any of them raise, as the judge asked, as I defined  
20 it, did any of them raise a concern about your performance among  
21 female viewers in 2010?

22 A Not that I'm aware of.

23 Q You were asked some questions about the age of your  
24 viewers. Do you remember those questions?

25 A Yes.

1 Q Is it unique to your network that you had a larger number  
2 of older viewers who fell outside your target range?

3 A No.

4 Q What do you mean by that?

5 A Well, I think most networks have large numbers of viewers  
6 that fall outside their range. The big broadcast networks, for  
7 example, historically sold 18 to 49 demos for both men and women as  
8 well as adults. Their median ages have been in the mid-50s for as  
9 long as I can remember. So that's not unusual.

10 Q Okay. Does having older viewers outside that 25 to 54  
11 band help?

12 A For us, yes.

13 Q How so?

14 A Well, part of the argument we make with our affiliates as  
15 to the value of GSN is that we have a core of very loyal viewers,  
16 many of whom are older and we've been very careful since I got to  
17 GSN to do our original programming to attract a younger audience  
18 without alienating the older audience.

19 That's the audience that complains when we get pulled off  
20 because they watch so much GSN. They've been a crucial part of our  
21 defense or value proposition to affiliates for as long as I can  
22 remember. So we've been very active in trying to keep their  
23 loyalty while at the same time making the network younger.

24 Q Okay. Is what matters to you, regardless of how many  
25 older viewers you have or how many younger viewers you have, your

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1 ability to deliver women in your target range to your advertisers?

2 A For the advertising business the target range is a  
3 crucial element.

4 Q And have you been able to deliver women in that range in  
5 order to be able to compete with your competitors?

6 A We have, yes.

7 Q Going back to this fourth quarter 2010 data -- the  
8 Nielsen data -- is that representative of your Nielsen data in  
9 terms of female viewers from 2008 forward?

10 A It was -- that period was an outlier period for us.

11 Q And that's what led to your discussion with Nielsen and  
12 then their numbers starting to change?

13 A It certainly led to our discussion with Nielsen, yes.

14 Q Did their numbers start to change after that?

15 MR. COHEN: Objection, your Honor. Asked and answered.

16 JUDGE SIPPEL: I'll sustain that.

17 BY MR. SCHMIDT:

18 Q Okay. I asked you a question about whether Cablevision  
19 ever raised a concern with you that you knew about, about your  
20 numbers. Do you recall that question?

21 A Yes.

22 Q In fact, do you recall having something called barter  
23 deals with WE tv right around this time period?

24 A Yes.

25 Q What is a barter deal?

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1           A     A barter deal is when networks trade time with each  
2 other. So I let you advertise your shows on my air in return for  
3 your advertising shows -- I advertise my shows on your air. The  
4 networks literally let you promote someone else's show on your own  
5 air in exchange for your being allowed to do the same.

6           Q     And did you engage in barter deals with WE tv on exactly  
7 that basis during this time period that Mr. Cohen was asking you  
8 about the ratings?

9           A     We have from time to time done barter deals with WE. As  
10 for the exact date --

11           MR. COHEN: Mr. Schmidt, I'm just going to say in the  
12 interest of time Ms. Hopkins has direct testimony about this.  
13 You're going to prolong my examination if you're going to go into  
14 this. It's your choice.

15           MR. SCHMIDT: Okay.

16           BY MR. SCHMIDT:

17           Q     I think I just need to show you this document, if I may.

18           MR. SCHMIDT: This is Exhibit 105, your Honor, and I'll  
19 keep it short hoping that you will as well, Mr. Cohen.

20           BY MR. SCHMIDT:

21           Q     Does this document reflect discussions about a barter  
22 deal with WE tv in January of 2011, close to the very time period  
23 we were talking about regarding the ratings?

24           MR. COHEN: Again, I'm going to object. Lack of  
25 foundation. Your Honor, Mr. Hopkins is going to come -- we thought

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1 today -- but tomorrow. He's not on these documents.

2 She has given written direct testimony on the subject.  
3 We're all trying to get Mr. Goldhill off the stand today and I'm  
4 going to stop talking in a second because I'm not helping now.

5 And we're just opening up another topic that I'm going to  
6 have to fix on recross with, frankly, the wrong witness. Ms.  
7 Hopkins is listed as the custodian and sponsoring witness for this  
8 document as --

9 MR. SCHMIDT: I don't think Mr. Cohen gets to choose who  
10 our witnesses are on individual topics and this is directly  
11 responsive to a point he was making that at the very time they're  
12 saying they were somehow impacted by ratings their channels were  
13 willing to do deals with us -- barter deals.

14 That's relevant, and my only question to him is does this  
15 refresh your recollection as to when this was occurring.

16 JUDGE SIPPEL: Let me see if I -- well, first, is Dale  
17 Hopkins is going to be a witness for you. Isn't that correct?

18 MR. SCHMIDT: That's correct, your Honor.

19 JUDGE SIPPEL: And John Zaccario is going to be a witness  
20 for you?

21 MR. SCHMIDT: That's correct. That's why I'm just asking  
22 him if this refreshes his recollection.

23 JUDGE SIPPEL: I hear you. I hear you. Did you ask him  
24 if he's ever seen this document before?

25 BY MR. SCHMIDT:

1 Q Have you seen this document before?

2 A I haven't. I'm familiar with the transaction.

3 Q Does it refresh your recollection as to whether --

4 JUDGE SIPPEL: I'm going to overrule the objection.

5 MR. SCHMIDT: I'm sorry, your Honor.

6 JUDGE SIPPEL: I'm going to overrule the objection and I  
7 don't want this to turn into a thing where, you know, this is kind  
8 of like threats being made that I'm going to cross examine somebody  
9 to death if you make me do this. I'm not worried about that. I  
10 got to -- I got to leave at 6 o'clock tonight.

11 MR. COHEN: Your Honor, if we may, the witness said he  
12 needs to leave today. He can't come back tomorrow. Mr. Schmidt  
13 and I discussed it. We're going to do the best that we can.

14 MR. SCHMIDT: Which I'm trying to do.

15 MR. COHEN: Okay. Let's -- I'm not -- so it wasn't meant  
16 as a threat, your Honor.

17 JUDGE SIPPEL: Go ahead.

18 BY MR. SCHMIDT:

19 Q Does this refresh your recollection?

20 JUDGE SIPPEL: I retract that statement. I mean, I'm out  
21 of this. Let's keep going with the witness.

22 BY MR. SCHMIDT:

23 Q Does this refresh your recollection that during this very  
24 time period that Mr. Cohen was inquiring about lower ratings you  
25 were doing a barter deal with WE tv?

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1 A Yes.

2 Q Let's quickly walk through some of the questions about  
3 MRI data that you got and I'm going to try to do this as quickly as  
4 humanly possible. There were a series of documents where you were  
5 asked about gender skew MRI data and I want to take a look at those  
6 very quickly. First is Exhibit 109 - Cablevision 109 at Page 9.

7 JUDGE SIPPEL: Big book again?

8 MR. SCHMIDT: Yeah. I'm not sure, your Honor. If your  
9 Honor finds the first one I'm going to flip through a couple of  
10 those. I think if you look at this just one you'll get the point  
11 I'm making.

12 BY MR. SCHMIDT:

13 Q So to Exhibit 109.

14 JUDGE SIPPEL: CV 109?

15 MR. SCHMIDT: CV 109, yes sir. Page 9 of --

16 JUDGE SIPPEL: Oh, I see, I got the document. And this  
17 is the DISH presentation?

18 MR. SCHMIDT: Yes, your Honor.

19 JUDGE SIPPEL: And what page do you want?

20 MR. SCHMIDT: Page 9 of 15.

21 JUDGE SIPPEL: Okay. I'm just one page past, pages get  
22 stuck together. I've got 9 of 15.

23 MR. SCHMIDT: Okay.

24 BY MR. SCHMIDT:

25 Q Do you remember being asked about this MRI data from

1 2009?

2 A Yes.

3 Q Showing a smaller gender skew than you were talking about  
4 earlier?

5 A Yes.

6 Q Okay. Do you recall being asked similar questions about  
7 Cablevision 95?

8 A Yes.

9 Q Cablevision 81, a document with, again, with DISH?

10 A Yes.

11 Q Cablevision 90, a document with Comcast Spotlight?

12 A Yes.

13 Q Okay. And the one that I'll ask you to look at and the  
14 judge to look at, the last in the series, Cablevision 96 at 13 with  
15 New York Interconnect?

16 A Yes.

17 Q What is the purpose of these -- of these documents?

18 A These documents were to support our distributors' own  
19 advertising sales efforts on our channel.

20 Q And so if we look at this one, for example, Exhibit 96,  
21 who is New York Interconnect?

22 A It's a group of the New York distributors who sell in  
23 common the spots that they have and I believe it includes  
24 Cablevision as one of the leading members of Interconnect.

25 JUDGE SIPPEL: I've got it as a -- my notes say an ad

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1 sales team with Cablevision.

2 THE WITNESS: Yes, sir. So --

3 JUDGE SIPPEL: So from Cablevision?

4 THE WITNESS: Including Cablevision. So we give  
5 Cablevision our gold networks -- some amount of the inventory in  
6 our network. They sell that directly to advertisers. The  
7 Interconnect represented them and I believe a couple of the New  
8 York distributors in those sales.

9 BY MR. SCHMIDT:

10 Q To your understanding are these the people at Cablevision  
11 that make carriage decisions?

12 A Are they -- I'm sorry?

13 Q Are they the people at Cablevision who make carriage  
14 decisions about whether to carry your network?

15 A Not to my understanding.

16 Q Let's look at Page 13 of the document. Again, we see  
17 this data from 2009 showing 48 and 52. Do you have an  
18 understanding as to whether MRI uses a different method than  
19 Nielsen to measure male/female split?

20 A Yes.

21 Q And what is your understanding of that?

22 A So Nielsen numbers measure viewership. MRI numbers are  
23 an effort to get at what's called qualitative data -- what your  
24 viewers are like.

25 And the way it does it is it looks at anybody who viewed

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1 your network in a one-week period and tries to get information  
2 about income, what they buy.

3           It's basically a survey based on -- it's called a panel  
4 study, a survey of anyone who may have watched your network during  
5 the week. Just to make clear why I thought it was uncomfortable as  
6 a representation, for a network like ours where the male audience  
7 watches very little and the female audience watches a lot, it skews  
8 it because if a woman watches our network five hours a day and a  
9 man watches our network for five minutes, Nielsen would show the  
10 viewership as 99 percent female and 1 percent male. The male is  
11 barely watching at all.

12           If an advertiser buys a spot chances are he's reaching  
13 only women. MRI would actually show that as a 50/50 split because  
14 all they're looking at is anybody who watched even for a minute  
15 over a week is then included in their survey.

16           So at the time it was quite valuable for understanding  
17 things other than the viewership and raw numbers. It was used by  
18 almost everyone for that purpose. But it creates a number of  
19 statistical biases that, again, very sophisticated people are  
20 looking at this so we all understand those.

21           But I don't think anyone thought because MRI said we were  
22 50/50 that we're at 50/50. It reflects that methodological problem  
23 I just mentioned.

24           Q     Which one is it you used with advertisers?

25           A     So to guarantee to sell advertising and to guarantee

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1 advertising, so we say here are the women 25 to 54 you're going to  
2 buy, you have to use Nielsen. There is truly a monopoly - we call  
3 it the currency in the business. It's the only thing anyone uses.

4 Q Do you have a view as to which gives a better  
5 presentation of your gender split, Nielsen or MRI?

6 A Well, Nielsen is weighted. So it's specifically trying  
7 to get the gender split right. That is not a priority for MRI. So  
8 I'm not sure it's fair to compare on that basis. You know, in the  
9 business it's Nielsen that determines the big things on which  
10 advertising is sold.

11 Q Okay. Why do you include MRI data then in these  
12 affiliate sales documents?

13 A So our affiliates at the time -- I can't speak for today  
14 -- but our affiliates at the time exclusively sold direct response  
15 advertising and I don't know if they use this data because I don't  
16 know how many of our affiliates sold us as opposed to a package of  
17 networks.

18 But customarily in the direct response business, unlike  
19 in the guaranteed rate business, it's all but qualitative stuff  
20 you're looking to talk about. Again, you are selling to a  
21 sophisticated buyer who has the Nielsen data. But since you're not  
22 selling on the basis of audience guarantees that data is not the  
23 only thing you might look at.

24 And so the idea was this data gives a broader sense of  
25 who your viewers are. Perhaps to over -- to add too much

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1 information but since then this type of data has been greatly  
2 downgraded as we now have the ability to find out who you are by  
3 actually going to your set top boxes. So this is disappearing as  
4 something that matters in our industry.

5 Q Okay. Let me go back to this point about what you were  
6 telling Cablevision about yourself during this time period. Do you  
7 recall getting information to Derek Chang or having information  
8 given to Derek Chang for his discussions with Cablevision?

9 A Yes.

10 Q Let me give you, if I may, GSN Exhibit 97.

11 MR. SCHMIDT: Thank you, your Honor.

12 BY MR. SCHMIDT:

13 Q You see there's a cover email dated December 8th, 2010  
14 from Mr. Gillespie to Mr. Chang including you.

15 A Yes.

16 Q Is this an email you received at that time?

17 A Yes.

18 Q Is this in -- well, I'll just read the first line. David  
19 and I thought you would find the attached information helpful in  
20 your conversations with Cablevision. Did that relate to the  
21 tiering decision?

22 A Yes.

23 Q Look with me, if you would, at the last page of this  
24 document, Page Number 042. Do you see that that provides data on  
25 original broadcast hours produced?

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1 A Yes.

2 Q Were you clear in this information you gave to Mr. Chang  
3 to discuss with Cablevision who you viewed as your competitors?

4 A Yes.

5 Q Who were they?

6 A WE, Style an Oxygen, we felt, were the most comparable  
7 companies.

8 Q You were asked some questions about being on the sports  
9 tier for Time Warner.

10 A Yes.

11 Q New topic. Were you on the sports tier for Time Warner  
12 across the board, across all their systems?

13 A No, we were not.

14 Q Was it only some systems?

15 A Yes.

16 Q When you -- did you raise concerns with them about that?

17 A Continuously.

18 Q And what was their response?

19 A Part of the next deal discussion.

20 Q And did it get fixed in the next deal?

21 A It did.

22 Q You were asked some questions about DIRECTV. Do you  
23 remember that?

24 A Yes.

25 Q And just what we were looking at in terms of their

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1 discussions with Mr. Chang's, specifically, discussion with  
2 Cablevision. Look in Mr. Cohen's binder, if you would, at the very  
3 end -- GSN 99. It's at the very end.

4 MR. SCHMIDT: It's the second to last one, your Honor -  
5 GSN 99. They go first all the Cablevision exhibits and then at the  
6 very end the GSN ones.

7 JUDGE SIPPEL: What is this you've referenced in some of  
8 these documents is produced in native? The document is produced in  
9 native?

10 MR. SCHMIDT: I'm going to butcher the answer, but I think  
11 what it means, Your Honor, is it's in a data source like an Excel  
12 spreadsheet or something that doesn't neatly print out. So, we  
13 produce it in the electronic form.

14 So, if someone wants to like actually work with the  
15 numbers in the numbers in the document, they can. It's native  
16 format.

17 Maybe Mr. Cohen will correct me on that.

18 MR. COHEN: Very well done.

19 MR. SCHMIDT: A more eloquent definition of native data.

20 JUDGE SIPPEL: Note that they're in agreement.

21 MR. SCHMIDT: I suspect Mr. Cohen and I do everything we  
22 can to avoid that issue.

23 MR. COHEN: I know I have to click another tab, Your Honor  
24 to print it.

25 JUDGE SIPPEL: Okay, what the number you want?

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1 MR. SCHMIDT: Ninety-nine, Your Honor, second to last one.  
2 I should put one of our associates on the stand.

3 JUDGE SIPPEL: I've got it, just so you know.

4 MR. SCHMIDT: Okay. So, this is one we looked at  
5 yesterday, Mr. Goldhill. Yes, an email from you at the bottom,  
6 December 3, 2010 to Mr. Chang and others, do you see that?

7 THE WITNESS: Yes.

8 BY MR. SCHMIDT:

9 Q Yes, an email from you at the bottom, December 3, 2010 to  
10 Mr. Chang and others, do you see that?

11 A Yes.

12 Q At this point in time, December 2010, had you just  
13 learned about the tiering?

14 A Yes.

15 Q Prior to learning about the tiering, did you have an  
16 understanding as to whether DIRECTV should help you by giving  
17 carriage to Wedding Central?

18 A No.

19 Q What was -- I mean, may I ask my question before -- have  
20 you --

21 A Forgive me, I have --

22 Q Did you have information on that point?

23 A I only had information on the general point.

24 Q Which was what?

25 A That DIRECTV would not help us in carriage conversations.

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1 We had not had a specific conversation about that.

2 Q Got it. When you reached out to Mr. Chang, were you  
3 asking Mr. Chang to grant Wedding Central carriage so that you  
4 could get back on the higher level with Cablevision?

5 A No.

6 Q What were you asking them to do?

7 A To try to figure out what had happened.

8 Q Okay. What did he report back?

9 A He reported back that, as you can see in this email to  
10 me, that he wanted Josh Sapan, who ran Cablevision's programming  
11 company and, therefore, its cable networks to have a conversation  
12 with him as the next step.

13 Q And what came of that to your knowledge?

14 A What Derek reported to me was that at that meeting, he  
15 was told that if DIRECTV would reverse its decision as to carrying  
16 Wedding Central, Cablevision would be open to resolving the GSN  
17 issue.

18 MR. COHEN: I'm going to move to strike as hearsay. Mr.  
19 Chang's testimony is coming to evidence. It is what it is, but  
20 can't be amplified by Mr. Goldhill.

21 MR. SCHMIDT: I think Your Honor rejected that very  
22 objection yesterday. We're re-litigating?

23 MR. COHEN: We're re-asking.

24 JUDGE SIPPEL: I mean technically it is hearsay, but it's  
25 the type of hearsay that -- well, what's the point? What's he

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1 trying to establish through Mr. Chang?

2 MR. SCHMIDT: Did he have knowledge? Was he told?

3 JUDGE SIPPEL: Did Mr. Chang have knowledge?

4 MR. SCHMIDT: No, did Mr. Goldhill learn through Mr. Chang  
5 did he have the understanding that Cablevision communicated that a  
6 way for GSN to get the carriage it wanted was by DIRECTV giving  
7 Wedding Central carriage. Mr. Goldhill would have that knowledge.

8 JUDGE SIPPEL: Does he have that knowledge?

9 MR. SCHMIDT: Yes.

10 JUDGE SIPPEL: And your objection is because --

11 MR. COHEN: My objection is Mr. Chang's testified as to  
12 what he says. The words matter. Mr. Chang has testified, it's in  
13 the transcript, it's coming into evidence as to what his  
14 conversation was with Mr. Sapan.

15 JUDGE SIPPEL: Well, we're talking the more -- that may be  
16 a better form of the piece of evidence.

17 MR. COHEN: And it's the spin in the words that matter.  
18 I'm content to rest on what Mr. Chang said and I think --

19 MR. SCHMIDT: I object to the spin characterization.  
20 That's not fair.

21 JUDGE SIPPEL: That's -- well, no, he's got a point. But  
22 I mean, well, it really is slicing the cheese thin.

23 I'm going to overrule the objection in the interest of  
24 time to --

25 MR. SCHMIDT: Did you have an understanding from Mr. Chang

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1 that one way for GSN --

2 JUDGE SIPPEL: Well, be careful of how you frame this now,  
3 we're leading, I don't want it to be too leading.

4 MR. SCHMIDT: No, I'm not trying to lead.

5 JUDGE SIPPEL: Well, ask him what his understanding was  
6 from Mr. Chang?

7 MR. SCHMIDT: What was your understanding from Mr. Chang?

8 THE WITNESS: My understanding in response to this email  
9 and the conversations that we had earlier, consistently over the  
10 last few months was that if DIRECTV was willing to reconsider its  
11 decision not to carry Wedding Central, that the GSN issue would be  
12 resolved.

13 BY MR. SCHMIDT:

14 Q Did you have personal knowledge about other efforts that  
15 you made and your colleagues made to Cablevision to rethink their  
16 decision?

17 A Yes.

18 MR. SCHMIDT: Did you see any -- was there any other  
19 credible pathway that you saw to get GSN the carriage you felt it  
20 deserved other than by DIRECTV granting carriage of Wedding  
21 Central?

22 MR. COHEN: You Honor, I'm going to object in two grounds.

23 One, misleading, clearly, because it's going to be a yes  
24 or no answer.

25 And second, to the extent he's basing on conversations,

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1 as far as I understand it, Mr. Goldhill had two conversations with  
2 Cablevision.

3 If he wants to testify about those, he can. But his  
4 summation of what he heard is not admissible testimony. He's not  
5 the percipient witness.

6 JUDGE SIPPEL: Yes, okay. I'm going to sustain that  
7 objection. You can rephrase.

8 MR. SCHMIDT: Okay. Were you involved in discussions, did  
9 you have information about discussions --

10 JUDGE SIPPEL: Wait a minute, wait a minute. You're  
11 asking it two ways.

12 MR. SCHMIDT: Did you acknowledge --

13 JUDGE SIPPEL: Did he have conversations? That's the  
14 first question.

15 MR. SCHMIDT: Yes, let me ask it broadly, Judge.

16 JUDGE SIPPEL: Okay.

17 MR. SCHMIDT: Do you acknowledge about other efforts to  
18 get Cablevision to reverse their decision?

19 THE WITNESS: Yes.

20 MR. SCHMIDT: From those discussions, did you --

21 JUDGE SIPPEL: No, let's hear who he had the discussions  
22 with.

23 MR. SCHMIDT: What discussions were you aware of?

24 THE WITNESS: [REDACTED]

1 JUDGE SIPPEL: Well, wait a minute. Okay, let me do it.  
2 Who were these sources, who were these -- identify the  
3 people that had the conversations with Cablevision to the best of  
4 your knowledge. Who were they?

5 THE WITNESS: [REDACTED]  
6 [REDACTED]

7 JUDGE SIPPEL: I understand, I understand.

8 THE WITNESS: [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 JUDGE SIPPEL: All right. Let me take one at the time.  
16 Which of these individuals that you just named was the  
17 source of your information?

18 THE WITNESS: [REDACTED]

19 JUDGE SIPPEL: He told you?

20 THE WITNESS: Other than the meetings I attended, he told  
21 me about the other ones, yes, sir.

22 JUDGE SIPPEL: Other than the meetings you attended?

23 THE WITNESS: Correct.

24 JUDGE SIPPEL: Are you talking about meetings with  
25 Cablevision?

1 THE WITNESS: Yes, sir.

2 JUDGE SIPPEL: Well, I understood your testimony yesterday  
3 you hadn't talked to anybody.

4 THE WITNESS: Before the retiering.

5 JUDGE SIPPEL: Oh.

6 THE WITNESS: This is after the retiering. I think I may  
7 have asked Your Honor if I --

8 JUDGE SIPPEL: Right, yes, okay. I hear you. Okay.

9 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
10 [REDACTED]

11 MR. COHEN: Your Honor, here's my problem, if I may, of  
12 course, I'm never going to object to your questions.

13 MR. SCHMIDT: I think that's what you're doing.

14 MR. COHEN: Yes. You Honor, this is a critical issue and  
15 this is rank hearsay.

16 [REDACTED] He's not --

17 JUDGE SIPPEL: Is he going to be called?

18 MR. COHEN: No. So, now, through Mr. Goldhill, they are  
19 going to tell us about conversations that [REDACTED] apparently  
20 had with Cablevision.

21 We're really prejudiced by this. So, I mean we can't  
22 cross examine him. [REDACTED] [REDACTED] never been examined, he's  
23 never been on their witness list. If they wanted [REDACTED] to  
24 come and tell you about his conversations with Cablevision, he  
25 could have done it.

1 To the extent it's reflected in business documents that  
2 have been admitted into evidence, that's fine. But we're not going  
3 to have -- we should not have it amplified by this witness.

4 They have said that these conversations constitute an act  
5 of discrimination. If they wanted to prove it, they should have  
6 brought the people who had the conversations rather than funneling  
7 them through Mr. Goldhill.

8 I don't have notes of those conversations. We can't  
9 cross examine him as to the accuracy of his memory. The  
10 conversations were four and a half years ago. This is why we have  
11 a hearsay rule, with all due respect.

12 JUDGE SIPPEL: Well, you're absolutely right. I mean  
13 that's academically, that's well said. But I'm asking him about  
14 the source of his information, that's all. I'm not asking him to  
15 repeat a conversation.

16 MR. COHEN: Well, and I understand that. I think he's  
17 told you it's [REDACTED] and I'm objecting to anything further.

18 MR. SCHMIDT: From Your Honor?

19 JUDGE SIPPEL: No, I mean I'm concerned about that.

20 Without -- after you finished talking with [REDACTED]  
21 [REDACTED] what did you -- what conclusions did you come away  
22 with?

23 THE WITNESS: So, [REDACTED] --

24 JUDGE SIPPEL: If any?

25 THE WITNESS: [REDACTED] called me.

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1 JUDGE SIPPEL: Don't tell me what he did.

2 THE WITNESS: I'm not going to tell you what he said, but  
3 to describe his conversations and to invite me to a meeting he had  
4 set up with Cablevision.

5 JUDGE SIPPEL: Okay. So, that's basically it? He  
6 described his conversations and he invited you to a meeting at  
7 Cablevision?

8 THE WITNESS: Yes, sir.

9 JUDGE SIPPEL: Did you go?

10 THE WITNESS: Yes, sir.

11 JUDGE SIPPEL: And what transpired there?

12 THE WITNESS: At the meeting was the senior management  
13 team of Cablevision.

14 JUDGE SIPPEL: Who were they?

15 THE WITNESS: Mr. Gelwin, Mr. Rutledge, James Dolan, Tom  
16 Rutledge, the head of programming, Tom --

17 JUDGE SIPPEL: I know, Montemagno.

18 THE WITNESS: Thank you, Your Honor.

19 And I believe they had another representative present,  
20 but I'm not certain.

21 JUDGE SIPPEL: Any lawyers?

22 THE WITNESS: I don't know the answer to that, sir.

23 JUDGE SIPPEL: Okay.

24 THE WITNESS: We were -- 



1 JUDGE SIPPEL: He was there, too?

2 THE WITNESS: [REDACTED] was there as well. So, we had three  
3 people from the summary GSN side and we went out to Cablevision's  
4 headquarters.

5 JUDGE SIPPEL: And who would that be?

6 THE WITNESS: Long Island, Bethpage.

7 JUDGE SIPPEL: Really?

8 THE WITNESS: Yes, sir.

9 JUDGE SIPPEL: Really? You're on the Avenue of America's?

10 THE WITNESS: Yes, sir.

11 JUDGE SIPPEL: Your office? And they're out in Bethpage?

12 THE WITNESS: They are.

13 JUDGE SIPPEL: Okay. So be it. Now, what -- tell me what  
14 transpired in Bethpage?

15 THE WITNESS: So, [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

19 JUDGE SIPPEL: Well, he went out -- well, okay, tell me  
20 this, did he go out there to take your position? To take your side  
21 with Cablevision?

22 THE WITNESS: [REDACTED]  
[REDACTED]  
[REDACTED]

25 JUDGE SIPPEL: Okay.



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[REDACTED]

JUDGE SIPPEL: All right, okay.

THE WITNESS: [REDACTED]

[REDACTED]

[REDACTED]

And so, the meeting discussed --

JUDGE SIPPEL: [REDACTED]

[REDACTED]

THE WITNESS: [REDACTED]

[REDACTED]

JUDGE SIPPEL: Oh, okay. I see.

THE WITNESS: Yes, there's three of us representing GSN.

There may -- I don't recall --

JUDGE SIPPEL: No, no, that's okay, just continue the story.

THE WITNESS: [REDACTED]

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MR. SCHMIDT: Can I just jump in and point out, we haven't cleared the room. So, he should be careful in terms of giving out information like that.

8

JUDGE SIPPEL: Yes, we'd better do that.

9

Is anybody here who can't hear this?

10

MR. COHEN: Well, well, I think the people who are hear know where we're going. They certainly know that terms of this deal was between these two entities.

13

MR. SCHMIDT: Yes, I mean it might be a good time to clear anyway because as soon as Your Honor is done with your questions, I'm going to go to the harm.

16

JUDGE SIPPEL: Okay. Yes, okay. Can we leave please? I apologize.

18

MR. SCHMIDT: Thank you very much. I'm sorry.

19

(Whereupon, the open session ends at 3:57 p.m. and the closed session begins at 3:57 p.m.)

21

JUDGE SIPPEL: Okay, are we all set?

22

MR. SCHMIDT: Yes, thank you, Your Honor.

23

JUDGE SIPPEL: Continue.

24

THE WITNESS:

1

[REDACTED]

2

[REDACTED]

█

[REDACTED]

1

2

3

There continued to be discussions on several of those points relating to --

4

5

JUDGE SIPPEL: Well, over what period of time?

6

THE WITNESS: Your Honor, I'm going to recall two weeks. I think there's probably some emails which actually set the parameters.

8

9

But, we continued to talk to them.

10

JUDGE SIPPEL: Will that be coming into evidence? These emails?

11

12

MR. COHEN: I think I'll be able to give you a time line through the cross examination of Ms. Hopkins.

13

14

JUDGE SIPPEL: All right.

15

MR. COHEN: Unless Mr. Schmidt does it on their direct.

16

JUDGE SIPPEL: Okay.

17

THE WITNESS: And we were involved in some of those discussions.

18

19

JUDGE SIPPEL: We, now --

20

THE WITNESS: The GSN executives were involved in some of those discussions.

21

22

JUDGE SIPPEL: Being you --

23

THE WITNESS:

25

JUDGE SIPPEL: All right.

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1 with -- or the efforts on behalf of you and GSN to reverse this  
2 decision?

3 THE WITNESS: We have obviously called every few months to  
4 see if there was room to have a discussion. [REDACTED]

[REDACTED]

[REDACTED]

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 [REDACTED]

1

[REDACTED]

2

[REDACTED]

█

[REDACTED]

15

JUDGE SIPPEL: All right, okay. Okay. I've gone -- then

16

you all feel I've gone as far as I can with this?

17

MR. COHEN: I think so.

18

MR. SCHMIDT: Yeah, I think so, Your Honor.

19

JUDGE SIPPEL: Okay.

20

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]



1 JUDGE SIPPEL: The old management committee.

2 MR. SCHMIDT: -- page 32.

3 You were asked, if you recall, questions about how the ad  
4 sale numbers referenced on page 32, I believe you have an ad sales  
5 loss estimate from the tiering of [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

7 THE WITNESS: Yes.

8 BY MR. SCHMIDT:

9 Q You were asked how that tracks up with your direct  
10 testimony and, just to reference your direct testimony, it's  
11 paragraph 32, I'm sorry, 31 of your direct testimony where you give  
12 a range of [REDACTED].

13 A Yes.

14 Q Is the [REDACTED] you estimated back in -- I'm going to lose the  
15 time period -- in 2011 consistent with the range you give in your  
16 direct testimony of [REDACTED]?

17 A Yes. And, correcting just the reading, that is the [REDACTED]

20 Q Oh, I've got you, okay. I see what you're talking about.  
21 You're talking about the number in the parenthetical on the far  
22 right column?

23 A Yes, sir.

24 Q Okay. So, that's the bottom of the range. How do you  
25 get to the top of the range in your testimony?

1           A     So, there's a ramp up effect.  So, for 2011, for much of  
2 2011, Nielsen was unlikely to adjust our ratings for the change in  
3 distribution.

4           And so, from an advertiser's perspective and without  
5 being tedious about this, the way Nielsen calculates audiences,  
6 this effect was likely to only be felt a year.

7           So, for the first half of the year, it wouldn't really  
8 impact the way they calculated our ratings.  What you're looking at  
9 here is a calculation based on a -- let's assume this really hits  
10 the numbers in July because it never does right away.

11           And so, it is the same as the [REDACTED] number, it's  
12 not just annualized.

13           Q     And you gave testimony about the loss rate for ad sales  
14 going from about [REDACTED] a sub to [REDACTED] a sub over time, do you  
15 recall that?

16           A     That's roughly the number we would use today, yes, sir.

17           Q     Okay.  That growth from [REDACTED] to [REDACTED], is it your  
18 understanding that growth is consistent with what's happening  
19 across the industry?

20           A     It's mostly due to just the nature of the industry, yes.

21           Q     Okay.  Let me wrap up with questions -- there was a  
22 series of questions about strategy and how strategy changed over  
23 time and I want to be very precise on those.

24                     Did you have a strategy on your programming before 2010?

25           A     Yes.

1 Q Are you shifting your programming?

2 A Yes.

3 Q What was that strategy on shifting your programming  
4 before 2010?

5 A When I joined the network, I decided that all of our  
6 original programming dollars would be used to attract women  
7 audiences because I thought that was consistent with the network's  
8 history and that was realistically achievable. It was reversing  
9 what my predecessor had done.

10 The goal was to attract younger women, but women, and all  
11 of the original dollars, and really acquisition program we bought  
12 from that point on was to accentuate the female skew as well as to  
13 make audience a bit younger.

14 Q You executed on that strategy of accentuating the female  
15 skew in your programming in 2009 and 2010?

16 A We have consistently -- and I would say exclusively --  
17 done that in terms of our spending of programming dollars on new  
18 shows.

19 Q Including those years?

20 A Yes, sir.

21 Q Is that separate, and I'm going to come back to this one  
22 in a moment, from the approach you talked about in 2013 and 2014 of  
23 increasing your original programming? Is that separate shift in  
24 strategy of what we've just been talking about?

25 A It's --

1 Q Yes or no?

2 A No.

3 Q Okay. Did you separately have a shift in strategy to  
4 increase your original programming in 2013 and 2014?

5 A Yes.

6 Q Okay. Let's look at your direct testimony, paragraph 34.  
7 You were asked some questions by Mr. Cohen about negotiations you  
8 had with different carriers including [REDACTED]  
9 [REDACTED]. Do you see that?

10 A Yes.

11 Q And it was pointed out that you were able to negotiate  
12 new agreements with those carriers, is that correct?

13 A Yes.

14 Q Did retiering create a problem with those carriers?

15 A Yes.

16 Q Explain to the Judge how that was.

17 A Well, retiering, as I testified this morning, was brought  
18 up in every single meeting we had after the retiering and indicated  
19 weakness in our negotiating position that we were concerned about.  
20 And, you know, that what are never easy negotiations, very  
21 difficult, and [REDACTED]

22 [REDACTED]  
23 Q Can you give the Judge a sense of what you mean by  
24 [REDACTED]?

25 A Well, we -- [REDACTED]







1 MR. COHEN: I'm hoping I can do it in a half an hour, Your  
2 Honor.

3 JUDGE SIPPEL: Yes, then I think we should take a ten  
4 minute break. Ten minute break, a ten minute break.

5 MR. SCHMIDT: And I will submit that the we're asking for  
6 another five minute break.

7 JUDGE SIPPEL: They don't exist.

8 We're off the record.

9 (Whereupon, the above-entitled matter went off the record  
10 at 4:14 p.m. and resumed at 4:24 p.m.)

11 JUDGE SIPPEL: The most important person in the room is  
12 that gentleman there recording.

13 MR. COHEN: May I approach? I just want to give him two  
14 documents, Your Honor, just so he can follow along with us.

15 (Pause.)

16 May I proceed, Your Honor?

17 JUDGE SIPPEL: You certainly may.

18 MR. COHEN: These are your documents.

19 MR. SCHMIDT: Which ones?

20 MR. COHEN: I put before Mr. Goldhill GSN Exhibit 107 and  
21 GSN Exhibit 238.

22 MR. SCHMIDT: Thank you. I know what those are.

23 MR. COHEN: Right.

24 RE-CROSS-EXAMINATION

25 BY MR. COHEN:

1 Q And these are both submissions to the Cable Advertising  
2 Bureau, CAB?

3 A I think from them, no, I don't -- I don't know that.

4 Q You don't know that 107 and 238 are submissions? Didn't  
5 you testify to --

6 A I -- I -- sorry. I'm -- this is the profile which they  
7 prepared with us. Yes, sir.

8 Q Right.

9 A I'm sorry.

10 Q And this is data that GSN appraised, right?

11 A You know, I actually -- I don't know the answer. I  
12 apologize.

13 Q Okay. Now, let's look -- Mr. Schmidt showed you first  
14 107. Alright? Which I think we can tell from the cover email was  
15 created somewhere towards the end of 2010 or early 2011. Would you  
16 agree with me?

17 A Yes, sir.

18 Q Okay. And he focused you under viewer profile.

19 MR. COHEN: Do you have those, Your Honor?

20 JUDGE SIPPPEL: No, I don't think I do. But that's okay.

21 That's all right. I will -- here, I've got it right here.

22 MR. COHEN: Okay. That's the wrong 107, Your Honor.

23 JUDGE SIPPPEL: Yes. I've got it.

24 MR. COHEN: Okay.

25 BY MR. COHEN:

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1 Q Do you see on page 13825 it has Viewer Profile?

2 A Yes.

3 Q Okay. And it says female/male skew is 65/35, right?

4 A Yes.

5 Q And there is no source, correct?

6 A Not that I see. No, sir.

7 Q Right. And would you go -- let's look at these side by  
8 side. Go to Exhibit 238, which is a similar document for a later  
9 time period, and look at the viewer profile.

10 A Yes.

11 Q Okay. And do you see that there is a female/male skew  
12 and it has a footnote, Footnote 1?

13 A Yes.

14 Q MRI double base?

15 A I'm sorry, Your Honor.

16 JUDGE SIPPEL: That's all right.

17 MR. SCHMIDT: If you don't mind the fact that I've  
18 highlighted mine --

19 MR. COHEN: I don't mind at all.

20 MR. SCHMIDT: Okay.

21 BY MR. COHEN:

22 Q And if you look at 107 and 238 side by side, you would  
23 agree with me that what happens is when there's an actual source  
24 it's footnoted, correct?

25 A I have no idea.

1 Q You're not willing to testify, are you, that the source  
2 of the female/male skew in GSN 107 is from MRI? You don't know.

3 A I have no idea, sir.

4 Q No idea. Okay. Now, in each of these documents, in 2010  
5 or '11 and later, the viewer targeted is persons 25 to 54 and women  
6 25 to 54, correct?

7 A In these two documents, yes, sir.

8 Q Okay. And does it say anywhere in these documents that  
9 the primary viewer that's targeted is women as opposed to persons?

10 A No.

11 Q Now, would you please look at, in 238, Mr. Schmidt drew  
12 your attention to the language on the second page about benefits to  
13 advertisers. Do you see that?

14 A 238.

15 Q Benefits to advertisers. And he directed your attention  
16 to some language about growth in women viewers. Correct?

17 A Yes.

18 Q Okay. Now, let's just assume we hypothetically had 100  
19 viewers, and you had 10 viewers, and in the second year they had  
20 101 and you had 12. You would have greater growth than they would,  
21 right?

22 A I agree with your math, sir.

23 Q Right. And you know, do you not, that at this time you  
24 were delivering fewer 25- to 54-year old women in primetime than a  
25 number of the networks in your competitive set, right?

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1 A Yes.

2 Q And, for example, you knew how many women WE was  
3 delivering in that age group, correct?

4 A I actually don't recall that number for that time period.

5 Q Okay. You know it was higher than yours, right?

6 A I don't recall the number for that time period.

7 Q Okay. Well, we'll get it into evidence a different way.  
8 And look at, now, Exhibit 107, and look at the parallel  
9 section. This is the earlier document from late 2010 or early  
10 2011, benefit to advertisers. Do you see that?

11 A I do.

12 Q Okay. Is there anything in Exhibit 107 in benefits to  
13 advertisers that says anything about women?

14 A Just to be clear, you're asking specifically about that  
15 segment, sir, or the whole document?

16 Q I'm asking you about that segment, as Mr. Schmidt asked  
17 you about the same segment in Exhibit 238.

18 A No.

19 Q Okay. And it doesn't say anything about growth in women,  
20 right?

21 A No.

22 Q And, in fact, we know from earlier documents that in 2010  
23 you were ██████████ in women viewers 25 to 54, correct?

24 A Yes.

25 Q Okay. Now, Mr. Schmidt went back over some of the MRI

1 decks that I showed you. I don't want to go back to those -- DISH,  
2 Comcast, and the like. Do you remember that?

3 A Yes.

4 Q And you have some criticism of whether the 52/48 skew  
5 that MRI reports actually reflects your viewership, correct?

6 A Yes.

7 Q Okay. And then there is Nielsen data from 2010 and 2011  
8 that you also think misstates your viewership skew, correct?

9 A Yes.

10 Q So, anytime a source reports a viewership skew for your  
11 network under 60 or 65 percent, you just think it's wrong, right?

12 A No.

13 Q Okay. Let's look at Exhibit 314, Cablevision 314. And  
14 I want you to turn, please, to page 5 of 31, which is 25- to  
15 54-year old viewership primetime, right?

16 A Yes.

17 Q Okay. This is your target audience for your original  
18 primetime programming, correct?

19 A Yes.

20 Q Alright? And you testified in response to some of Mr.  
21 Schmidt's questions that when you skew under 60 percent women, you  
22 can't actually effectively sell women, right? Blue crabs and other  
23 crabs, got to be 60 percent --

24 A I -- I did not say that.

25 Q You didn't say that?

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1 A No.

2 Q The record will reflect what it reflects.

3 A Well, but I can tell you, if I said that, it's a  
4 completely untrue statement. What I said is, when we skew under 65  
5 percent women, there's a chance that we could price persons more  
6 attractively than women from an advertiser's perspective.

7 Q Okay. And --

8 A And depending on -- just to answer your question fully --  
9 depending on what the advertiser is paying to target women,  
10 different percentages could work. These numbers, as you know,  
11 include poker. They are blended. Doesn't look at the individual  
12 shows themselves. Poker was very heavily male, and for this entire  
13 period skews the gender balances we're looking at here.

14 Q Mr. Goldhill, Mr. Schmidt asked you if the fourth quarter  
15 2010 data was available at the time of the Cablevision decision,  
16 the one that says you were [REDACTED]  
17 correct? And you said no, right?

18 A Yes.

19 Q How about the third quarter data that said you were [REDACTED]  
[REDACTED], is that available for December?

21 A Yes.

22 Q How about the second quarter data, [REDACTED]?

23 A Yes.

24 Q Is there any quarter in this entire time period that  
25 shows a [REDACTED] for 25- to 54-year old women, your

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1 target audience?

2 A I believe fourth quarter '07, first quarter '08, shows  
3 skews greater than [REDACTED]. And as I mentioned, if you pick --  
4 if you pull poker out, which was an island on our schedule, much of  
5 this would show female skews in excess of [REDACTED].

6 Q You don't have Nielsen data to pull the poker out. We're  
7 looking -- what advertisers look out when they look at the -- and  
8 what distributors look at -- are Nielsen data for the entire  
9 network, correct? They're buying a run of the network advertising?

10 A So, that is not correct. And I thought I had made this  
11 clear, but we always sold poker separate from the rest of the  
12 network. In fact, the data we would have given advertisers for the  
13 network who didn't buy poker, which was the bulk of our  
14 advertisers, would have been run of schedule ex poker.

15 Q And you had --

16 A Nobody -- nobody, that I know, of bought both.

17 Q okay.

18 A So, in fact, that's an incorrect statement, sir.

19 Q And you testified in response to Mr. Schmidt's questions  
20 that you thought that this female skew that was being presented in  
21 CV 314 at the end of 2010, the first part of 2011, was wrong,  
22 correct?

23 A Yes.

24 Q Did Nielsen ever concede to you that the data was wrong?

25 A I don't believe Nielsen has ever conceded that to anyone,

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1 so they did not to us, sir.

2 Q Okay. And did MRI ever tell you that their reports about  
3 a 52/48 or a 53/47 skew is wrong?

4 A It's not wrong. It's just a different methodology.

5 Q Let me just show you quickly Exhibit 43. Can you find  
6 Exhibit 43, GSN 43, that Mr. Schmidt gave you? It was about Kelly  
7 Goode's email about Carnie. It's not in the book. It's this one  
8 piece of paper. I'll just put it in front of you.

9 JUDGE SIPPEL: The Carnie email.

10 MR. COHEN: The Carnie email.

11 BY MR. COHEN:

12 Q Carnie Wilson, right?

13 A Yes.

14 Q And I think you testified something along the following  
15 lines -- I'm not trying to put words in your mouth, I'm trying to  
16 move it quickly -- that Carnie was -- this was indicative of the  
17 kind of women's programming you were trying to put on the air at  
18 GSN, correct?

19 A Yes.

20 Q How many episodes did Carnie have? Seven? Eight?

21 A It was seven or eight. I don't recall.

22 Q And it was cancelled after one season, right?

23 A Correct.

24 Q Okay. You testified -- I think the word that Mr. Schmidt  
25 used was "benchmark," right? And that the benchmark for your

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1 management committee for ratings was women, right?

2 A Yes.

3 Q Okay. Now, look at Exhibit -- another management  
4 committee -- same management committee presentation, 193, the  
5 management committee presentation, page 50 of 83.

6 JUDGE SIPPEL: Is this 2011?

7 MR. COHEN: 2011, Your Honor.

8 JUDGE SIPPEL: What's the page again?

9 MR. COHEN: 50 of 83.

10 BY MR. COHEN:

11 Q Do you see that, sir?

12 A I do.

13 Q And -- I'm going to wait for the Judge.

14 JUDGE SIPPEL: I've got it.

15 MR. COHEN: Okay.

16 BY MR. COHEN:

17 Q And I think when you were shown these ratings for people  
18 and women, what you said is the reason why you presented women's  
19 ratings information, or audience information, to your board was  
20 that was your target audience, correct?

21 A Yes.

22 Q Now, go back to the 2010 management presentation,  
23 Cablevision Exhibit 143. And I'm going to direct your attention,  
24 sir, to the rating information that begins on page 39 of 57. Let  
25 me know when you have that in front of you. Alright?

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1           And just to put us in time, this management presentation  
2 was given to your board in December of 2010, correct?

3           A     Yes.

4           Q     Is there a single graph in this book, page 39, page 40,  
5 page 41, the only ratings information you present, that breaks out  
6 women as opposed to people? Where is your benchmark ratings?

7           A     What is your question?

8           Q     My question, sir, is you testified that the benchmark for  
9 your board was women, and you showed us 2011. I'm showing you  
10 2010, one year earlier.

11                   Are you with me on the page, Your Honor?

12                   JUDGE SIPPEL: No.

13           MR. COHEN: Okay. Let me slow it down. Exhibit 143,  
14 pages 39 through 41.

15                   JUDGE SIPPEL: I've got 143.

16           MR. COHEN: This is the management presentation from the  
17 end of 2010.

18                   JUDGE SIPPEL: Give me the pages again.

19           MR. COHEN: 39 through 41.

20                   JUDGE SIPPEL: All right. Go ahead. You can keep  
21 talking.

22           MR. COHEN: Okay. I'll wait for Your Honor. I think you  
23 need to see this document.

24                   JUDGE SIPPEL: Okay. Okay. I'll let you know when I'm  
25 there. The pages stick. 41?

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1 MR. COHEN: Yes. Or 40 or 39, those three pages.

2 JUDGE SIPPEL: All right.

3 BY MR. COHEN:

4 Q You testified -- let me just set it again -- in response  
5 to Mr. Schmidt's questions, that the benchmark for your board was  
6 ratings of women 25 to 54, because that was your core audience,  
7 right?

8 A Yes.

9 Q And that's what you reported in 2011, right?

10 A Yes.

11 Q And here is the 2010 deck, and the only benchmark that  
12 you show to your board of directors is people, correct?

13 A Yes.

14 Q And on page 39, you talk about people ratings on  
15 primetime.

16 A Yes.

17 Q And on page 40, you talk about jackpot ratings for  
18 people, not women, correct?

19 A Yes.

20 Q And on page 41, you project ratings for prime and fringe  
21 for people and not for women.

22 A Yes.

23 Q So it wasn't your benchmark in 2010, right?

24 A No. I'm sorry. No, it -- I'm disagreeing with your  
25 negative. Of course it was.

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1 Q Okay.

2 A As I said --

3 JUDGE SIPPEL: Of course "what" was?

4 THE WITNESS: Of course that's our benchmark. This is --

5 JUDGE SIPPEL: Wait a minute. Wait a minute. What is  
6 your benchmark?

7 THE WITNESS: It's women. We deliver women audiences.

8 JUDGE SIPPEL: In 2010 and 2011.

9 THE WITNESS: We certainly always, since I have been  
10 there, have been concerned with women. The fact that a board  
11 presentation mentions persons, it doesn't mean that a board of  
12 directors of television executives who are running a network whose  
13 shows are *Carnie Unstapled*, *Love Triangle*, *Newlywed Game*, *Baggage*.  
14 Let me see what else is there -- *Drew Carey*, *Dancing with the*  
15 *Stars*, doesn't know that this is a women's network.

16 BY MR. COHEN:

17 Q Did they know it was a women's network in 2011?

18 A Yes.

19 Q And then you reported women, not just people, right?

20 A I think this is a form over substance question.

21 Q Okay.

22 A I go to these board meetings, sir. The strategy for this  
23 network, very clearly expressed and very obvious from anything else  
24 you read in this document, is to attract female audiences.

25 Q Okay.

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1           A     If you're going to say that the fact that we reported  
2 ratings in persons, which for us would have been overwhelmingly  
3 women, as a way of comparing from quarter to quarter means very  
4 much, I don't know what to say.

5           Q     Now, let me ask you about this meeting you had with  
6 Cablevision. This is the meeting that you testified to and the  
7 Judge asked you to give a recount of. [REDACTED]

10          A     Yes, sir.

11          Q     And that was in February of 2011?

12          A     That's my recollection.

13          Q     Right. After you had been re-tiered?

14          A     Yes.

15          Q     Alright. And did Mr. Dolan say, in words or in  
16 substance, at that meeting, that the decision that Cablevision had  
17 made with respect to tiering of GSN was linked in any way to WE tv?

18          A     No.

19          Q     Okay. Did anyone else from Cablevision, at that meeting  
20 that you attended, ever say that the decision to re-tier GSN was  
21 linked to WE tv?

22          A     Of course not.

23          Q     Okay. Did anyone -- Mr. Dolan or anyone else on the  
24 Cablevision side -- at the meeting that you attended in Bethpage,  
25 in February 2011, say that the decision to re-tier GSN was linked

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1 spend a lot of time and I want to turn this over to the  
2 Enforcement Bureau.

3 [REDACTED]

1

[REDACTED]

1  
2  
3  
4  
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[REDACTED]

MR. COHEN: No further questions.

MS. KANE: We'd like to ask some questions, Your Honor.

JUDGE SIPPEL: Are you set to go?

MS. KANE: We are set to go. We do not need a break, sir.

JUDGE SIPPEL: Okay. Can we let the other people in?

MS. KANE: We can let people in. I don't think we are covering anything that's confidential, but obviously one of these guys can tell us if we are.

MR. SCHMIDT: Do you want to come up here?

MS. KANE: No, I'm fine.

1 MR. SCHMIDT: Okay.

2 JUDGE SIPPEL: Well, bring them back in.

3 MS. KANE: If people can't hear me, just let me know.

4 CLOSED SESSION ENDS/OPEN SESSION STARTS

5 BY MS. KANE:

6 Q Good afternoon, Mr. Goldhill. I'm sorry that we are  
7 keeping you continuously, but I'm hopeful to get through pretty  
8 quickly.

9 You were just having a conversation, being asked  
10 questions by Mr. Cohen, about a series of conversations that you  
11 had with Cablevision after the decision to tier Game Show to a  
12 higher tier, correct?

13 A Yes, ma'am.

14 Q Can you just clarify for the record the timing of when  
15 those conversations took place? And I'm not asking about the ones  
16 that were post-filing of a complaint, but is there a timeframe in  
17 which those conversations occurred?

18 A These conversations that we were just speaking about  
19 relate to -- began with a meeting that we had at Cablevision that  
20 I -- that the Judge had asked me about, and I specifically told him  
21 about the attendees on both sides.

22 Q Correct.

23 A [REDACTED]

[REDACTED]

[REDACTED]

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1

Q I know it's a long time ago, but do you actually remember the precise date, or at least the timeframe, month and year, of when the conversation was that you discussed with the Judge in terms of the first conversation?

2

A February 2011.

3

Q And do you recall the timeframe of the conversation that you were just referring to in your recross by Mr. Cohen about with Mr. Montemagno?

4

A I remember it being within the week of that meeting. It's possible it's a two-week window.

5

Q So we're talking approximately February 2011 and not much later than that, by your recollection?

6

A Yes, ma'am.

7

Q Thank you. Do you still have in front of you your notebook for the direct examination that Mr. Schmidt provided?

8

A It's the smaller one of the two, I think?

9

Q The smaller of the two. Correct. If I could ask you to turn to Tab 3. Do you recall being asked questions this morning about -- or maybe it was yesterday -- about this document?

10

A Yes, I do.

11

Q And if I could have you turn to what is -- I think the last two digits of the Bates number would be 66.

12

A Yes.

13

Q Do you recall being asked questions about this document?

1 A Yes.

2 Q And this particular page of this document during your  
3 testimony?

4 A Yes.

5 Q Can you explain for us how -- well, at least -- let me  
6 restart. Can you identify where this document identifies who the  
7 competitive set is that is being referred to in the title?

8 A So, there's a footnote at the bottom where we list who we  
9 view our competitive set.

10 Q And how are those companies or channels identified? How  
11 are they selected as a competitive set?

12 A It's something we do internally. We look at those  
13 networks whose audience compositions, audience targets, and  
14 programming types most resemble ours and our aspirations. So,  
15 internally, we always look at ourselves versus a competitive set.  
16 It changes a bit over time, as other networks change their  
17 programming strategy or audience compositions, but there have been  
18 some since I have been there that we've pretty consistently looked  
19 at.

20 Q How frequently is it that the company -- and when I say  
21 "the company" I mean GSN -- looks at that information and  
22 determines who its competitive set is?

23 A So, the research team looks at it on a constant basis.  
24 And when they present the management team reports about how we're  
25 doing, there is always a competitive set reference.

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1 Q Has this competitive set changed significantly over time,  
2 since your being at GSN?

3 A So, some of these networks we view as more competitive  
4 than others. Specifically, we look at those that target women 25  
5 to 54 and primarily use unscripted programming.

6 So, Hallmark bounces in and out of our competitive set,  
7 for example. Discovery Health, which is on here, became Oprah,  
8 Oprah's network, OWN. So it became much more important in the  
9 competitive set. But pretty consistently we have looked at Oxygen,  
10 WE, and Style because of the reliance on unscripted programming,  
11 and, frankly, a similar audience target in terms of original  
12 programming.

13 JUDGE SIPPEL: What did you say? Because of the reliance  
14 on unscripted programming?

15 THE WITNESS: Yes, Your Honor. That refers to  
16 programming that ranges from talk shows, reality shows, game shows,  
17 in which you actually haven't written a script for actors to  
18 follow.

19 JUDGE SIPPEL: Okay.

20 BY MS. KANE:

21 Q And looking at that footnote where the various channels  
22 are identified as a competitive set, is it clear from there where  
23 the source of this information comes from?

24 A This is Nielsen data.

25 Q So, in order to determine who your competitive set is,

1 you look at the Nielsen data?

2 A We look at all of the data we have available. As I've  
3 indicated, some means more to us than others. You know, since, for  
4 us, at the margin, the competition is about advertising dollars,  
5 which means producing the demos that advertisers buy, in our case  
6 women 25 to 54, the focus really is on 25 to 54 delivery.

7 Q And why was this particular document at Tab 3 prepared?

8 A So, this looks like what would be a regular update to an  
9 affiliate -- sorry, a distributor -- as to how we were doing. And  
10 we try at least once a year to meet with each of our major  
11 distributors and talk about the network's priorities, how we're  
12 doing, essentially what they are getting for carrying us.

13 And it's obviously a meeting in which we do some selling  
14 and they do some asking. And, frankly, you know, I think once a  
15 year is the maximum they like to do this with us. But we view it  
16 as a courtesy to all of our distributors.

17 Q Would your competitive set change depending on who you  
18 were making that pitch to? Let's say if it wasn't Cox, it was  
19 another affiliate?

20 A No, I don't see why it would. I mean, a chart like this  
21 would be fairly consistent across the year. As I say, we, from  
22 time to time, when we look at the competitive set for our internal  
23 analyses of how well we're doing, change it based on changes in  
24 strategy.

25 Obviously, TV Guide Network is on here, which is mainly

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1 for change of strategy, although it remains pretty heavily female.  
2 And I mentioned Discovery Health changed. It's more about the  
3 changes in what these networks are doing than a change in what  
4 we're doing.

5 Q Do you still have in front of you -- and I apologize, I  
6 don't remember who put it in front of you. I believe it was Mr.  
7 Schmidt. GSN Exhibit 97. It's a several-page document that's an  
8 email.

9 A It's right here.

10 Q If you could look at the last page of that document.

11 A Yes, ma'am.

12 Q It appears to identify WE, Style, and Oxygen as a --  
13 would you characterize those as a competitive set?

14 A You know, during the period we're talking about, this is  
15 what we regard as the most direct competition, because of their  
16 size, the size of the audience, and skew of the programming. All  
17 three are primarily unscripted, rely on unscripted programming the  
18 way we do.

19 So, of this set, these are the three most relevant. Some  
20 of these networks you see on our competitive set are obviously much  
21 larger, been around longer, have much bigger distribution. But  
22 these are three that are roughly similar in many matrices.

23 Q And was Exhibit 97 ever actually provided to Cablevision,  
24 to your knowledge?

25 A I do not know.

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1 Q Do you know somebody who might?

2 A We prepared this for Mr. Chang to help him in his  
3 discussions with Cablevision. So, we did not give it -- I don't  
4 believe -- I don't remember ourselves ever giving it to him. It  
5 may be that someone did. I have no idea.

6 Q In your conversations -- and I hope I'm not going into  
7 anything that's confidential -- but in your conversations with  
8 Cablevision, did you ever have a conversation with them about these  
9 three being the competitive set for GSN, the three that are  
10 identified on Exhibit 97?

11 A I don't recall anything about our competition or the  
12 profile of the network coming up in the discussions we had. They  
13 were strictly related to the deal.

14 Q You can put that aside. I believe earlier today you  
15 testified about an acronym, ADU?

16 A Mr. Cohen mentioned it, actually.

17 Q Can you explain or clarify what that ADU refers to?

18 A Well, ADU stands for Audience Deficiency Units. So, I  
19 think that's pretty self-explanatory. What an ADU is, when  
20 networks such as ourselves guarantee an audience, which we do  
21 during our general rate advertising, if we miss, we need to make it  
22 up.

23 So, let's say -- and this is very, very simplified -- We  
24 sold a single spot, single advertising avail to an advertiser and  
25 guaranteed 100,000 women 25 to 54. And we delivered 90,000 women,

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1 in actuality, in that spot. When the show ran, it only delivered  
2 90,000 women.

3 We would owe the advertiser 10,000 women 25 to 54, which  
4 would have to be made up by giving them another spot which had at  
5 least 10,000 women 25 to 54. Because for a network like ours,  
6 almost all of your advertising relationships involve long periods  
7 of time and large numbers of spots.

8 Really, what you're doing is you're guaranteeing over a  
9 quarter, or sometimes even a full season. And to the extent you  
10 fall short, you make it up to them by giving them additional spots  
11 to get to the guarantee. And those spots are referred to as ADUs.

12 Q So, if I understand correctly, there are these two  
13 different types of advertising. There's the direct response  
14 advertising and the general rate advertising, correct?

15 A Yes.

16 Q And the general rate advertising is the one that requires  
17 these guarantees.

18 A Yes.

19 Q From which if you don't meet the guarantees you have an  
20 ADU, correct?

21 A Yes.

22 Q Have there been instances in which Game Show Network has  
23 not met its guarantees?

24 A Oh, most networks try not to meet their guarantees, and  
25 the reason --

1 Q And why is that?

2 A The reason, just to be clear, is that when the reverse  
3 happens, which is you over-deliver, you get no credit. So, in that  
4 spot, if I sold you 100,000 women 25 to 54, and we delivered  
5 110,000 women, you don't pay me any more. You only pay for the  
6 100.

7 So, my interest is to set those guarantees at a level  
8 that produced some amount of ADUs. I would rather be wrong there  
9 than wrong on the other end, because if I'm wrong on the other end  
10 I've given up revenue.

11 So, in fact, when we manage our advertising inventory --  
12 it's true for every single network -- you put aside some ADUs so  
13 your guarantees can be high enough that you're not over-delivering  
14 and, therefore, losing value.

15 Q Can you just explain for the record the difference, or  
16 differences, between direct response advertising and general rate  
17 advertising?

18 A Yes. And let me start by saying many advertisers buy  
19 both. So it's not a difference necessarily of the client.

20 General rate advertising means the network is  
21 guaranteeing to the advertiser a certain number of something. In  
22 our case, it's almost always women 25 to 54. For some spots, it's  
23 18 to 49. But whatever you're selling them, you are guaranteeing  
24 that delivery. And as your previous question referenced, if you  
25 fall short, you owe them more spots than you anticipated selling

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1 them to get them to that number of what we call impressions that  
2 they pay for. So it's a business strictly about I guarantee you  
3 this exposure to this audience over this period of time on our  
4 network.

5           The direct response business strips that out completely,  
6 and all it says is, you are buying, you know, 30 seconds every day,  
7 every half hour between 4 and 6, for the next three months. Just  
8 buying the spot. And you're paying us a fixed rate for that spot,  
9 not based on delivery. We're not guaranteeing anything; just pay  
10 us a price.

11           And so they're just priced very differently. And as I  
12 say, some advertisers buy both. They serve different objectives  
13 from an advertiser's perspective.

14           Q     I believe you testified earlier that there were different  
15 criteria that were used by the advertisers in determining their  
16 direct response advertisement and the general rate advertisement,  
17 correct?

18           A     Often different buckets. You know, many advertisers are  
19 large and have literally budgets to buy different types of  
20 advertising, and there are some that they buy on the basis of  
21 women, some men, some people, and some just direct response.

22           They're trying to manage their costs, and they're trying  
23 to maximize whatever objectives they are trying to realize in terms  
24 of reaching people.

25           There's a class of direct response advertisers that care

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1 just about value. And that is actually where direct response came  
2 from. As you can imagine, if I'm guaranteeing you a part of an  
3 audience, I'm charging you more for that than if I'm not  
4 guaranteeing you.

5 So, the direct response came out of those advertisers who  
6 wanted to buy television but didn't want to pay really high prices.  
7 To this day, you will see that campaigns that are short, have a  
8 specific target, are based on trying to get fairly low value. Or  
9 they don't need the guarantee as long as the target feels good to  
10 them. They'd rather pay the lower price of the direct response  
11 than the higher price of getting us to guarantee an audience.

12 Q Didn't you testify earlier today that, in selling the  
13 direct response advertisement, it's not based on gender data?

14 A Well, so I want to be very careful. I have tried to  
15 express this a couple times, and I guess I've done a poor job.  
16 When we sell general rate, we have to specify what is being  
17 guaranteed. Right? And the advertiser frequently tells us what  
18 they are willing to buy, right?

19 So, we're not saying we have this for sale. They're  
20 saying, "I want to buy women 25 to 54. I want to buy X million  
21 impressions over some period of time. How can you sell that to  
22 me?" That's what the advertiser is buying from us.

23 In direct response, it's not that they don't use the  
24 data. It's that we don't guarantee it. So that any direct  
25 response advertiser on GSN, or on any other network, looks

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1 extensively at the data and just says, "You know what? I want to  
2 buy women. This network delivers a lot of women. I don't want to  
3 pay for the guarantee. I don't need to pay for the guarantee,  
4 because I know I'm going to get a lot of women."

5 They still use the data. They just don't pay up for us  
6 to guarantee the data. That's the difference.

7 Q And when you say data that they're referring to in terms  
8 of the direct response advertisement, what data are you referring  
9 to?

10 A So, we all subscribe to Nielsen. And depending on the  
11 advertiser and its agency, there are other sources they may use,  
12 some of which we have access to, some of which we don't. But I  
13 just want to make clear, this is not an advertiser who just says,  
14 "I don't really care what the network delivers. I'm just buying  
15 some." They're using that data to determine, you know, whether  
16 they want to be on this network or on that network, but they're not  
17 paying up for us to guarantee a specific delivery.

18 Q Again, earlier today -- I don't recall when -- I believe  
19 you testified that one of the reasons, or main reason, for GSN  
20 shifting its profits and -- or reducing its profits in order to  
21 shift increased investment in original programming was as a result  
22 of a vulnerability they felt after being re-tiered. Is that  
23 correct?

24 A Yes.

25 Q Did I accurately reflect your testimony?

1 A Yes, ma'am.

2 Q When was it that GSN was tiered on a sports network for  
3 Time Warner Cable?

4 A It was before my time. I know we have it in the  
5 documents. I'm recalling 2006, but, again, I wasn't there and  
6 wasn't part of that discussion.

7 Q Is GSN still tiered on --

8 A No.

9 Q Do you know when that changed?

10 A That changed with the next deal we did with Time Warner,  
11 which I am remembering as '10 or '11. But it was a subject of  
12 conversation from the day I showed up.

13 Q So you were aware, at the time that you started at GSN,  
14 that GSN had been tiered or was being tiered at that time on a  
15 sports network with Time Warner?

16 A In a few of their systems. Not across Time Warner, but  
17 in, if I remember right, three markets, they had tiered us.

18 Q And that tiering at that time didn't cause any concern of  
19 GSN about a vulnerability?

20 A Well, so, it caused enormous concern, and it caused a  
21 significant amount of damage, because nobody watches us on a sports  
22 tier. Right? If you're buying a sports tier -- I mean, if you  
23 look at the sports tier we're on on Cablevision, it's all sports  
24 networks that are heavily male.

25 And since you have to pay extra for that tier, what

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1 happens is you are looking at 10, 11, 12 sports networks and GSN.  
2 The customer likely to buy that is likely to be a man, not our  
3 target. So it's not just the reduction in numbers; it's now on  
4 that system. We are now basically reaching the one part of the  
5 audience that we are highly unlikely to get.

6 We had that issue with Time Warner as well. I don't  
7 remember the Time Warner sports tiers being quite as targeted as  
8 the Cablevision ones were, but it was damaging to us for several  
9 reasons. One is, obviously, we were very concerned about tiering  
10 anywhere else. And the second being the direct economic harm of  
11 reaching an audience that is the opposite of the audience you are  
12 trying to attract.

13 Q What did GSN do about the fact that they had been tiered  
14 on the sports tier for Time Warner Cable?

15 A Well, in Time Warner, as we understood it, the decisions  
16 had been made locally, which is why it wasn't across Time Warner.  
17 It had been made by a couple of systems that didn't seem to  
18 understand the network very well, according to them. And, frankly,  
19 some of that may relate to the way my predecessor was making  
20 arguments that, "I think I can gender balance us in primetime."

21 He also was heavily emphasizing interactivity on  
22 television, which he thought would be more male. So, some of it  
23 may well have been our communication from him. But from the day I  
24 showed up, this was the major issue in our discussions with Time  
25 Warner.

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1           And I would say that, from the beginning, Time Warner  
2 corporate said to us, "We agree with you, it's the wrong place for  
3 GSN to be." Obviously, you know, there is always economics  
4 involved in moving from a sports tier to broader distribution.  
5 Those economic discussions, though, happened.

6           I don't think at any point Time Warner corporate thought,  
7 "Oh, this is where you should be." And, as I said, as part of the  
8 next distribution that we did, they migrated us into expanded  
9 distribution from the sports tier.

10          Q       Did GSN feel at the time that it needed to shift any of  
11 its investment into original programming at that time?

12          A       Well, remember, this is my predecessor running the  
13 business. And so, as I said, he had a different strategy than I  
14 executed in '07. And I can't really talk to what was his  
15 motivations in some of those decisions, just because -- well, I  
16 understand what he did. I can't fully -- I don't fully know what  
17 his thinking was.

18          Q       Do you recall the timeframe in which Game Show Network  
19 was, I guess, un-tiered from the sports network and put on a  
20 broader distribution on Time Warner?

21          A       Forgive me. Would you re-ask that? I didn't follow you.

22          Q       Do you recall the timeframe in which Game Show Network  
23 was tiered on a broader coverage for Time Warner after you arrived  
24 at Game Show?

25          A       So, when I showed up at GSN, we were already on this --

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1 tiered in those systems that we were tiered in. This is something  
2 I inherited, not something that happened while I was there. So,  
3 there was no period of time until they migrated us back that I was  
4 involved in.

5 Q Okay. Perhaps I wasn't clear in my question, then. I'm  
6 sorry, I stumbled over it. But at what time period were you  
7 migrated back to a broader coverage?

8 A As soon as we did our new deal, which I am remembering as  
9 '11, but there's record to it. So I'm just remembering. But when  
10 we did our new distribution deal with Time Warner, part of that new  
11 distribution deal was they would put us in an expanded basis.

12 Q So between the time you started in 2007 and the time that  
13 you were migrated back to a broader coverage in 2011, you didn't  
14 feel that it was necessary to invest money in original programming  
15 in order to address the fact that you were on a sports tier for  
16 Time Warner Cable?

17 A Well, yeah. [REDACTED]

[REDACTED]  
[REDACTED] What we said we were going to do was to shift  
20 all of the investment priorities of the network into programming  
21 aimed at women, and women 25 to 54.

22 So, that shift had just occurred, you know, roughly  
23 starting mid-'08. It takes about a year to ramp up any effort.  
24 And I think part of what we were thinking there is that it became  
25 pretty clear that the network not only was female-oriented, but

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1 that all of the originals were female-oriented -- again, not true  
2 of my predecessor -- that this decision would be an easier one to  
3 overturn.

4 Time Warner was not discouraging us in any way. I think  
5 Time Warner made clear to us they didn't view this as necessarily  
6 punitive, and that they thought we had a good argument. It's quite  
7 different than the Cablevision discussion.

8 Q So, Cablevision had suggested to you that it was  
9 punitive?

10 A Cablevision suggested to us that they were not willing to  
11 explain why we belonged on a sports tier.

12 Q Is there any difference in your mind between the shift  
13 that you were talking about, starting in 2007 and realizing  
14 somewhat in 2008 to invest in original programming, is there a  
15 difference in that shift than the shift that you talked about  
16 earlier today that occurs in sort of the 2013/2014 timeframe that  
17 affects the GSN profits?

18 A So, yes.

19 Q Can you explain what those differences are?

20 A You want more than "yes"? Yes. When I first showed up,  
21 GSN didn't really have a history of doing much other than game  
22 shows. And the television business is, unfortunately, not a  
23 lightbulb business. It takes time to build the development  
24 resources, the relationships with talent agencies, production  
25 companies, to get a flow of product to get on the air. You simply

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1 cannot turn a network on a dime when it relates to this type of  
2 programming.

3 So, in the period of 2008/2009, you know, we were -- this  
4 was clearly our emphasis by where we were spending our money. But  
5 the steps we are taking are more evolutionary, because they have to  
6 be.

7 By 2009/2010, we have the ability to make what I think  
8 are really great women's-oriented programming, and we started to.  
9 By 2012, I would argue the shows we were making were as good as any  
10 shows on television for that audience in the unscripted world, and  
11 we were having some real success.

12 And so I'm not sure that we could have -- in 2008/2009 --  
13 have, you know, effectively tripled our amount of original  
14 television programming at anywhere near the level of quality that  
15 could have justified it based on where we were.

16 Q So, even though you were having success in 2012 with some  
17 of the original programming that originated sort of as part of your  
18 strategy when you came on board, you still felt the need, in  
19 2013/2014, to take this hit on profits to invest even more in  
20 original programming?

21 A I feel the need, because, starting in 2011, it became  
22 clear that one our two revenue streams would at best stay  
23 relatively flat for a very long period of time, and might decline,  
24 and that being the fees we were paid by distributors.

25 So, all of the growth from the network would have to come

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1 from advertising, facing competition that didn't face that problem.  
2 So, most of our competitors were able to grow their fees. We were  
3 not able to grow our fees, in great part because of the weakness  
4 that we discussed in here, forcing us to rely on an accelerated  
5 growth in advertising revenue to have any growth at all.

6 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

12 MS. KANE: Let me just check with my co-counsel and make  
13 sure we don't have any further questions. But just give us a few  
14 seconds.

15 I think that's it for us today. Thank you very much for  
16 your patience.

17 JUDGE SIPPEL: Okay. Anything more?

18 MR. SCHMIDT: No, Your Honor.

19 JUDGE SIPPEL: Going once? Going twice?

20 MR. SCHMIDT: Mutual détente. No, Your Honor.

21 JUDGE SIPPEL: That's it. You're finished, Mr.  
22 Goldhill.

23 THE WITNESS: Thank you, Your Honor.

24 JUDGE SIPPEL: Congratulations. Now, you are not to talk  
25 with anybody back at your shop about your testimony until this is

1 all over. Of course, you've got counsel, and you're going to have,  
2 I guess, in-house counsel. You can talk with lawyers, but don't  
3 talk to any other employee or officers about it. Just apologize,  
4 say, "The Judge told me I can't talk to you about it."

5 THE WITNESS: Yes, sir.

6 JUDGE SIPPEL: And you'll like that.

7 THE WITNESS: Yes, sir. Okay. Thank you.

8 JUDGE SIPPEL: Thank you.

9 We are going to be here at 10:00 tomorrow?

10 MR. COHEN: Sounds good, Your Honor.

11 MS. KANE: Before we break, I wanted to respond to your  
12 question from yesterday. I don't know if you still are interested  
13 in the Bureau's -- or want the Bureau's impression of that Footnote  
14 71 of HDO, but I didn't want you to think we hadn't heard your  
15 question.

16 JUDGE SIPPEL: And?

17 MS. KANE: Well, we've looked at it, Your Honor, and we  
18 do believe that the factual question of whether Game Show Network  
19 has met the statute of limitations in the timing of filing its  
20 complaint is not something that has been designated specifically to  
21 Your Honor for the purposes of this hearing.

22 That being said, we do believe you have complete  
23 authority to address issues as necessary in order to address any  
24 sort of evidentiary rulings, as you have had to do as the case goes  
25 on. So I don't think it restricts you in the way that I think

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1 maybe you were concerned about yesterday.

2 But in terms of actually making a factual finding with  
3 regard to whether the statute of limitations was met or not met,  
4 that would be outside the purview of this hearing. And anything,  
5 obviously, that you -- you can say whatever you would want, but we  
6 would suspect that that would have less bearing and less value on  
7 the Commission.

8 JUDGE SIPPEL: Well, am I to understand that there has  
9 been a determination in the hearing designation order?

10 MS. KANE: Correct, Your Honor. In the hearing  
11 designation order -- and I can show the particular paragraph if you  
12 are concerned -- but the Media Bureau has addressed the concerns  
13 that had been raised by Cablevision about whether or not the  
14 statute of limitations would be an issue. And it concluded that  
15 that was not an issue, and, therefore, did not designate it to the  
16 HDO.

17 They did, however, reserve the right for Cablevision to  
18 make an issue of that on appeal, or in exceptions, et cetera. But  
19 it has not been an issue that has been designated as necessary for  
20 a factual finding by Your Honor.

21 JUDGE SIPPEL: I'm sorry. I understand it has not -- I  
22 understand it has not been designated as a specific issue. But I'm  
23 trying to determine, have they actually made a ruling on it? Have  
24 they analyzed the issue and made a ruling?

25 MS. KANE: It would appear from the HDO that, yes, in

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1 fact, the Media Bureau did make that determination.

2 JUDGE SIPPEL: All right. Do you have the paragraphs, by  
3 any chance?

4 MS. KANE: I believe -- late in the day. I believe it's  
5 -- I believe it's paragraph 13, page 10, of the HDO, Your Honor.

6 JUDGE SIPPEL: Okay.

7 MS. KANE: And the Media Bureau affirmatively says that  
8 they disagree with Cablevision that GSN's complaint is barred by  
9 the statute of limitations.

10 JUDGE SIPPEL: All right. Well, I'll take a look at it.

11 MS. KANE: Thank you, Your Honor.

12 JUDGE SIPPEL: I'll take a look at it. Thank you very  
13 much.

14 MR. COHEN: Your Honor?

15 MR. KNOWLES-KELLETT: Don't hold it against us, Your  
16 Honor.

17 (Laughter.)

18 MS. KANE: We didn't write that paragraph, Your Honor.

19 JUDGE SIPPEL: I pointed that out very clearly, that this  
20 was not an Enforcement Bureau HDO.

21 MS. KANE: It was not, Your Honor.

22 JUDGE SIPPEL: I worry about -- well, that's okay.

23 MR. KNOWLES-KELLETT: Different day, we'll take the  
24 blame.

25 JUDGE SIPPEL: That's fine.

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1 Yes, sir.

2 MR. COHEN: Your Honor, we were just having some  
3 discussion at lunch. The 10-K that you want from Cablevision, do  
4 you want a current one or back in 2010 or 2011?

5 JUDGE SIPPEL: Well, I do want a current one. I just  
6 want to find out -- I want to find out how they report things and  
7 how their business is and what kind of --

8 MR. COHEN: Okay. We'll supply --

9 JUDGE SIPPEL: Just for general information.

10 MR. COHEN: We'll supply Your Honor with one tomorrow  
11 morning.

12 JUDGE SIPPEL: If I feel the need for, you know, for --

13 MR. COHEN: Just a designated piece of it or the entire  
14 thing?

15 MR. SCHMIDT: I'd have to go back and look. But Your  
16 Honor might want to get one from 2010 as well, just because of the  
17 spinoff. I think it was in 2011, the channels that Cablevision  
18 owned were spun off.

19 JUDGE SIPPEL: Why don't you tell Mr. Cohen what you  
20 think I might want.

21 MR. COHEN: Your Honor, this is worth a second, because  
22 I think this would come up in a couple days if --

23 JUDGE SIPPEL: Go ahead.

24 MR. COHEN: What Mr. Schmidt was referring to is in 2010  
25 when we had this testimony, there was Cablevision corporate, and

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1 then there was the cable company as one subsidiary, and it was then  
2 called Rainbow.

3 In 2011, Cablevision spun out Rainbow and it became AMC  
4 Networks, a separate public company, which is I think what --

5 MR. SCHMIDT: Still subject to common ownership.

6 MR. COHEN: Subject to some common ownership, but a  
7 separate public company.

8 So, the Dolan family -- you'll help me if I get this  
9 wrong, Mr. Shapiro. The Dolan family I think has effective  
10 control, a controlling interest, in both entities, but there are  
11 two separate public companies with it that each have actually  
12 public shareholders, and they're traded separately.

13 MR. SCHMIDT: Correct.

14 MR. COHEN: That's a 2011 decision. So I'm happy to give  
15 you one of each if you want to see.

16 JUDGE SIPPEL: Well, yeah. But are they going to show  
17 how the financials are reported? The two separate ones, now. I  
18 mean, in other words, is the financial reporting the same for AMC  
19 as it was for Rainbow? You don't know that.

20 MR. COHEN: I just don't know, Your Honor.

21 JUDGE SIPPEL: Well, I don't want to have to make that  
22 determination. Give me the -- yes, let me have the one that  
23 explains the conclusion of the new breakout, and a current one.  
24 Okay?

25 MR. COHEN: Alright. We'll figure out the right one.

1 Okay.

2 JUDGE SIPPEL: But I do want a current one, though.

3 MR. COHEN: Tomorrow morning, Your Honor.

4 JUDGE SIPPEL: Thank you.

5 MR. SCHMIDT: And just one other point of housekeeping.

6 I think we mentioned this in the hall, Your Honor. We have  
7 conferred about streamlining remaining objections. I think we're  
8 both concerned about time. I'm hopeful that we can report back in  
9 the morning that we will have resolved remaining objections.

10 We are both giving that final consideration, and then I  
11 think that will affect some of the objections to the direct  
12 testimony that have been lodged as well.

13 MR. COHEN: That's correct.

14 JUDGE SIPPEL: Okay. So we're just going to leave these  
15 objections, we'll leave it as they are until we hear further from  
16 you.

17 MR. COHEN: We will streamline. We will resolve, I  
18 think, the overwhelming majority, if not all of the document  
19 objections. And we will streamline down to a very handful of  
20 issues, the written direct, so we won't have to confront something  
21 as we did with Mr. Goldhill where there was multiple objections.

22 JUDGE SIPPEL: Amazing. Just amazing how these things  
23 happen. You've been very patient, Mr. Goldhill. You've probably  
24 have made the rest of the case a lot more pleasant for all of us.

25 MR. GOLDHILL: I'm glad I've helped, Your Honor.

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1 JUDGE SIPPEL: So go back to the Health Room and get, you  
2 know, fixed up and be on the road. Are you going back to New York?

3 MR. GOLDHILL: I am, sir. Yes.

4 JUDGE SIPPEL: Are you going to see any Yankee games?

5 MR. GOLDHILL: I won't see tonight's, unfortunately. I  
6 was with you last night, though.

7 JUDGE SIPPEL: You were there?

8 MR. GOLDHILL: I was there. I saw Luis Tiant.

9 JUDGE SIPPEL: Luis Tiant. It was Luis Tiant.

10 MR. GOLDHILL: It was remarkable.

11 JUDGE SIPPEL: How did you like that?

12 MR. GOLDHILL: It was extraordinary.

13 JUDGE SIPPEL: I thought the same thing, too.

14 MR. GOLDHILL: He reminded me so much of Lou Gehrig, whom  
15 I loved growing up.

16 JUDGE SIPPEL: You grew up with him?

17 MR. GOLDHILL: Well, no.

18 (Laughter.)

19 Sir, I grew up a Yankee fan, and he pitched for us for  
20 two years after the Red Sox.

21 JUDGE SIPPEL: We're off the record.

22 (Whereupon, the above-entitled matter recessed at 5:23  
23 p.m.)

24

25

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In the matter of: GSN v Cablevision

Before: FCC

Date: 07-08-15

Place: Washington, DC

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